



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK
(through virtual hearing)**

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA Nos.150 to 154/CTK/2023

Assessment Years : 2006-2007, 2007-2008, 2008-2009, 2009-
2010 & 2010-2011

Sambalpur Development Authority, The Secretary (CFO), Near Lions Club, Salia Bagicha, Sambalpur	Vs.	Deputy Commissioner of Income Tax, Circle-1(1), Sambalpur
PAN/GIR No.AAALS 3934 P		
(Appellant)	..	(Respondent)

Assessee by : Shri D.Parida, CA and Shri Chitrasen Parida , Adv
Revenue by : Dr.Abani Kanta Nayak, CIT DR

**Date of Hearing : 28/11/2023
Date of Pronouncement : 28/11/2023**

ORDER

Per Bench

These are appeals filed by the assessee against the separate orders of the Id CIT(A), NFAC, Delhi all dated 28.2.2023 in Appeal No.CIT(A), Sambalpur/ 10382/2016-17, Sambalpur/ 10383/2016-17, Sambalpur/10384/2016-17,Sambalpur/10385/2016-17 and Sambalpur/10386/2016-17 for the assessment years 2006-07 to 2010-2011, respectively.

2. Shri D.Parida, CA and Shri Chitrasen Parida, Ld AR appeared for the assessee and Dr. Abani Kanta Nayak, Id CIT DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is a local authority, which is entrusted by the Government of Odisha in respect of development of area of Sambalpur, Odisha. The assessee had not been filing its return of income as it was a local authority. In view of the amendment made in the Finance Act, 2002, the income of the local authorities were no longer exempt from taxation and accordingly, notice u/s.148 of the Act came to be issued on 18.2.2013 on the assessee to file its return of income for all the assessment years i.e. 2006-07 to 2010-2011. In response to notice u/s.148 of the Act for all the assessment year, the assessee had filed its return of income on 26.2.2014. The assessments came to be completed u/s.143(3) r.w.s 147 originally on 21.3.2014. Against the said assessment orders, the assessee had filed revision petition u/s.264 of the Act before the Pr. CIT, Sambalpur, who vide his order dated 22.3.2016 set aside the assessment and had directed the Assessing Officer to make fresh assessment. On 4.12.201, the assessee filed revised returns for the assessment years 2008-09 to 2010-2011. On 29.12.2016, fresh assessment order came to be passed u/s.147/264 r.w.s. 143(3) of the Act. The appeal before the Id CIT(A) had been filed on 8.2.2017 and on 28.2.2023, the Id CIT(A) has passed the orders rejecting the appeals of the assessee on the ground that tax on the returned income has not been paid in respect of returns filed on

26.2.2014. It was the submission that the returns filed on 22.2.2016, the income had been offered on provisional basis and was not on the final accounts. It was the submission that in the returns filed on 4.12.2016, same were after accounts were audited by the Accountant General, Orissa and the taxes have been paid on such returns. It was the submission that the Assessing Officer has not considered the returns filed on 4.12.2016. It was the further submission that the returns filed on 26.2.2014 were in fact invalid returns insofar as the returns were not filed within the period provided in the notice u/s.148 of the Act nor were the returns on the basis of audited accounts which are audited by the Accountant General, Orissa. It was the submission that the assessee has no objection if the issues in the appeals are restored to the file of the Assessing Officer for readjudication and to consider the returns filed on 4.12.2016 in view of the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd. v. CIT (2006) 284 ITR 323 (SC), wherein, it is held that the assessee can make a claim for deduction, which has not been claimed in the return, only by filing a revised return within the time allowed but the appellate authority can direct for consideration of the same.

4. In reply, Id CIT DR vehemently supported the order of the Assessing Officer and Id CIT(A). It was the submission that in respect of returns filed originally, same having not been rejected by the AO, the same are to be treated as valid returns. It was the submission that the self assessment tax

on the said returns having not been paid by the assessee, the Id CIT(A) could not admit the appeals filed by the assessee. It was the submission that as the taxes having not been paid, the appeals had been rightly rejected by the Id CIT(A). It was the submission that the order of the Id CIT(A) is liable to be upheld.

5. We have heard the rival submissions. A perusal of the facts in the present case clearly shows that vide order u/s.264 of the Act passed by the Pr. CIT, Sambalpur, the original assessment orders passed on the returns filed by the assessee on 26.2.2014 were set aside. After the order u/s.264 of the Act, by the Pr. CIT and before completion of the assessments u/s.147/264 r.w.s 143(3) of the Act, the assessee has filed the returns of income. Even assuming that the Assessing Officer has not rejected the returns originally filed on 26.2.2014, still the returns filed by the assessee on 4.12.2016 is at best to be considered as the revised computation. The assessee having filed a return/revised computation of its income, it was incumbent upon the Assessing Officer to consider such returns/computation of total income, especially considering the fact that the same was submitted after the necessary audit by the A.G. Orissa. This having been not done is in fact travesty of justice on the assessee. This being so and considering the fact that the taxes on the returns filed on 4.1.2016 have been paid, we are of the view that these returns are to be considered and accordingly, set aside the orders of Id CIT(A) and direct the Assessing Officer to redo the

assessments by considering the returns filed on 4.12.2016 by applying the principles laid down by Hon'ble Supreme Court in the case of Goetze (India) Ltd.(supra).

6. In the result, all the appeals filed by the assessee stand partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 28/11/2023.

Sd/-
(Girish Agrawal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 28/11/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The appellant :Sambalpur Development Authority, The Secretary (CFO), Near Lions Club, Salia Bagicha, Sambalpur
2. The Respondent: Deputy Commissioner of Income Tax, Circle-1(1), Sambalpur
3. The CIT(A)-NFAC, Delhi
4. Pr.CIT-, Sambalpur
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack