

आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER
आयकर अपील सं/ITA No.288/CTK/2023

(निर्धारण वर्ष / Assessment Year : 2007-2008)

Kedia Lifespace Developers Pvt. Ltd Mangalam Tower, 3 rd Floor, Sarbahal Road, Jharsuguda	Vs	DCIT, Sambalpur
PAN No. : AACCJ 1155 A		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारित की ओर से / Assessee by	:	None
राजस्व की ओर से / Revenue by	:	Dr. Abani Kanta Nayak, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	30/11/2023
घोषणा की तारीख/ Date of Pronouncement	:	30/11/2023

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order of the Id CIT(A)-2, Bhubaneswar, dated 30.05.2023, passed in I.T.Appeal No.Sambalpur/10066/2015-16, for the assessment year 2007-2008.

2. None represented on behalf of the assessee. Shri Charan Dass, Sr. DR appeared on behalf of the revenue.

3. An adjournment application received by the Registry on 28.11.2023, was filed by the Id. AR of the assessee, thereby seeking 30 days time as the Chartered Accountant of the assessee is pre-occupied in some social function. However, looking to the facts of the case as also the impugned order is an ex-parte order on account of non-appearance of the assessee before the Id. CIT(A), we reject the adjournment application and proceed to dispose of the appeal on merits.

4. Facts emanate from the assessment order are that there was a search on the premises of M/s Jharsuguda Construction Pvt. Ltd. on 24.05.2012. M/s Jharsuguda Constructions Pvt. Ltd. was the earlier name of impugned assessee. Consequent to search for the assessment year 2007-2008, notice u/s.153A of the Act came to be issued and the assessment came to be completed on 31.03.2015, wherein the AO has invoked the provisions of Section 50C of the Act for the purpose of making the addition in respect of the property which has been sold during the assessment year 2007-2008.

5. Ld. DR vehemently supported the orders of the lower authorities.

6. We have considered the submission of Id.CIT-DR. A perusal of the assessment order clearly shows that the addition as made in the assessment is by invoking the provisions of Section 50C of the Act. There is no incriminating material referred to in the assessment order, which has been found in the course of search. This being so, respectfully following the decision of the Hon'ble Supreme Court in the case of *Abhisar Buildwell (P.) Ltd.*, reported in [2023] 149 taxmann.com 399(SC)/[2023] 454 ITR 212(SC), the assessment order passed u/s.153A r.w.s.143(3) of the Act for the assessment year 2007-2008 in the case of the assessee, stands quashed.

7. In the result, appeal of the assessee is allowed.

Order dictated and pronounced in the open court on 30/11/2023.

**Sd/-
(GIRISH AGRAWAL)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / **JUDICIAL MEMBER**

कटक Cuttack; दिनांक Dated 30/11/2023

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
Kedia Lifespace Developers Pvt. Ltd
Mangalam Tower, 3rd Floor,
Sarbahal Road, Jharsuguda
2. प्रत्यर्थी / The Respondent-
DCIT, Sambalpur
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कटक** / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack