

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.243/CTK/2023

(निर्धारण वर्ष / Assessment Year : 2013-2014)

Manju Devi Bagaria, KK-24, Civil Township, Rourkela	Vs	ITO, Ward-1, Rourkela
PAN No. : ABBPB 8915 B		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri S.K.Agarwalla, CA
राजस्व की ओर से / Revenue by	:	Shri Charan Dass, Sr.DR
सुनवाई की तारीख / Date of Hearing	:	28/11/2023
घोषणा की तारीख / Date of Pronouncement	:	28/11/2023

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 20.06.2023, passed in ITBA/NFAC/S/250/2023-24/1053823281(1), for the assessment year 2013-2014.

2. It was submitted by the Id. AR that the appeal filed by the assessee against the assessment order has been disposed off by the Id. CIT(A) without hearing the assessee. It was the prayer that the assessee may be granted another opportunity of being heard.

3. In reply, Id. Sr. DR submitted that the assessee had been granted sufficient opportunities by the Id. CIT(A) and the assessee has not produced the evidence before the Id. CIT(A). Consequently, the Id. CIT(A)

had adjudicated the issue considering the evidence as available. It was the submission that the order of the Id. CIT(A) is liable to be upheld.

4. We have considered the rival submissions. A perusal of the order of the Id. CIT(A) at page 11 at the end of para 5, shows that the assessee failed to furnish evidence in support of her claim before the AO. Even the assessee could not prove her contention of sundry debtors either before the AO or before the CIT(A). The relevant observations of the Id. CIT(A) read as under :-

The assessee has failed to furnish evidence in support of her claim that she had received the cash from HUF business. Detailed documentary evidence in respect of the cash book of M/s Grihasthi Udyog has not been produced before AO or in appeal. Further, the entire chain of circumstances around the purported transaction has been examined by the AO. On the touchstone of preponderance of probability, the entire sequence of transactions fails the test of preponderance of probability. When, the banking facility was available at doorstep in the modern society, the necessity of receipt of cash and deposits in the bank account after four months of receipt, if the cash was available with the HUF business on 31.05.2012 then why the amount was not given through banking channel and why cash was given, if the cash was given on 31.05.2012, then why assessee could not deposit huge amount of cash in the bank account as soon as possible, taking into account the fear of theft and also earning of interest on such deposits. Nor could the assessee prove her contention of sundry debtors before either the AO or in appeal.

5. It is further noticed that the assessee has not produced the cash book before the AO for verification. In these circumstances, so as to grant the assessee another opportunity to rectify its failure and produce its books of accounts before the Id. AO and to explain the transactions, the issues in this appeal are restored to the file of the Id. AO for readjudication after granting the assessee adequate opportunity of being heard.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

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

**Sd/-
(GIRISH AGRAWAL)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / **JUDICIAL MEMBER**

कटक Cuttack; दिनांक Dated 28/11/2023

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Manju Devi Bagaria,
KK-24, Civil Township, Rourkela
2. प्रत्यर्थी / The Respondent-
ITO, Ward-1, Rourkela
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