

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.280/CTK/2023

(निर्धारण वर्ष / Assessment Year : 2017-2018)

Udala Regional Cooperative Marketing Society Limited, S.O. Udala, Mayurbhanj	Vs	ITO, Ward-BBN-W-(9)(91), Bhubaneswar
PAN No. :AAAAU 5101 B		

(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
-------------------------	----	---------------------------

निर्धारित की ओर से / Assessee by	:	Shri Mohit Sheth, Advocate
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 05.06.2023, passed in ITBA/NFAC/S/250/2023-24/1053558701(1), for the assessment year 2017-2018, thereby confirming the levy of penalty u/s.271F of the Act.

2. It was submitted by the Id. AR that the assessee is a Semi Govt. Organization (AOP), whose accounts are audited by CAG. It was the submission that as the CAG could not complete the audit of the books of accounts of the assessee in time, the assessee could not file its return of income in the prescribed time limit. It was the submission that the AO levied penalty u/s.271F of the Act on the failure of the assessee to file its return of income u/s.139(1) of the Act. It was the submission that as the

accounts of the assessee have not been audited, the return filed by the assessee itself would have been an invalid return. It was the submission that the audit was not yet completed and the assessee is yet to file its return and the assessment had also been completed. The audit report has been sent to CAG for signature as early as in 2020 but till date it has not been received by the assessee and the return has not been filed till date. It was the submission that on account of reasonable cause, the penalty as levied by the AO and as confirmed by the Id.CIT(A) may be deleted.

3. In reply, Id. DR vehemently supported the order of the AO and Id. CIT(A).

4. We have considered the rival submissions. A perusal of the facts of the present case clearly shows that non-filing of the return u/s.139(1) of the Act was on account of non-completion of audit of the books of accounts by the CAG. The assessee has no control over the CAG and admittedly the delay is attributable to an auditor appointed by the CAG. This admittedly is a reasonable cause. This being so, the reasonable cause given by the assessee is accepted and the penalty as levied by the AO and confirmed by the Id. CIT(A) is hereby deleted.

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

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-
Udala Regional Cooperative Marketing Society
Limited, S.O. Udala, Mayurbhanj
2. प्रत्यर्थी / The Respondent-
ITO, Ward-BBN-W-(9)(91), Bhubaneswar
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