



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.38/CTK/2024
Assessment Year : 2014-15

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|---|------------|-----|-------------------------------|
| Riddhi Sidhi Gases Pvt Ltd.,At-Bhadrasahi, Barbil, Dist: Keonjhar | Pvt PO: | Vs. | DCIT, Circle-1(1), Cuttack |
| PAN/GIR No.AADCR 1309 P | | | |
| (Appellant) | | .. | (Respondent) |

Assessee by : Shri P.K.Mishra, Adv
Revenue by : Shri S.C.Mohanty, Id Sr DR

Date of Hearing : 27/03/2024
Date of Pronouncement : 27/03/2024

ORDER

This is an appeal filed by the assessee against the order of the Id
CIT(A), NFAC, Delhi dated 2.1.2024 in Appeal No.CIT(A),
Cuttack/10329/2016-17 for the assessment year 2014-15.

2. Shri, P.K.Mishra, Id AR appeared for the assessee. Shri S.C.Mohanty,
Id Sr DR represented on behalf of the revenue.

3. It was submitted by Id AR that the issues in this appeal is in regard
to the addition representing unexplained share application money to an
extent of Rs.3,17,705/- received from Shri Saroj Kumar Dash. It was the
submission that on the ground that notice issued u/s.133(6) of the Act to
Shri S.K.Dash came to be returned by the postal department with the

remark 'not found', the Assessing Officer treated the same as unexplained cash credit in the hands of the assessee. It was the submission that on appeal, the Id CIT(A) without appreciating that Shri Saroj Kumar Dash was brother-in-law of the Director of the assessee company and was directly involved in the day today activities of the assessee company and that the AO had completed the assessment in clear violation of the principles of natural justice made the disallowance, confirmed the disallowance made by the Assessing Officer. It was the submission that if the issues are restored to the file of the Assessing Officer, the assessee would be in a position to produce all the evidences, as required by the Assessing Officer to substantiate its case.

4. In reply, Id Sr DR vehemently supported the order of the Assessing officer and Id CIT(A).

5. I have considered the rival submissions. A perusal of the order of the Id CIT(A) in para 'Decision' shows that he has taken the stand that the assessee has failed to prove the genuineness and creditworthiness of the share applicants. A perusal of the assessment order shows that the notice issued u/s.133(6) of the Act was issued after 21.10.2016 to Shri Saroj Kumar Dash and the assessment order has been passed on 23.11.2016 clearly shows that adequate opportunity had not been granted to the assessee to substantiate its claim of share application money. This being so, in the interest of justice, the issues are restored to the file of the Assessing

Officer to pass fresh assessment order after granting the assessee adequate opportunity of being heard.

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

Order dictated and pronounced in the open court on 27/03/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 27/03/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Rishi Sidhi Gases Pvt Ltd.,At-Bhadrasahi, PO: Barbil, Dist: Keonjhar
2. The Respondent: DCIT, Circle-1(1), Cuttack
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack