

आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं/ITA No.356/CTK/2023

(निर्धारण वर्ष / Assessment Year :2017-2018)

Ramamani Tripathy, Fandi Bazar, Balasore	Vs	ACIT, Circle Balasore, Balasore
PAN No. :AEIPT 5716 N		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Natabar Panda, Advocate
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	14/03/2024
घोषणा की तारीख/Date of Pronouncement	:	14/03/2024

आदेश / O R D E R

This is an appeal filed by the assessee against the order of the Id CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 16.10.2023, passed in DIN & Order No.ITBA/NFAC/S/250/2023-24/1057080721(1) for the assessment year 2017-2018.

2. Shri Natabar Panda, Advocate appeared on behalf of the assessee. Shri S.C.Mohanty, Sr. DR appeared on behalf of the revenue.

3. When the appeal was called for hearing, an adjournment application has been filed by the assessee, wherein it is mentioned that the assessee is suffering from cold and fever, hence unable to provide the documents in support of the hearing. No medical certificate has been produced.

4. As the facts in the present case are clear and this is a case of non-compliance before the AO and non-production of evidence before the AO, the adjournment application filed by the assessee is rejected and appeal is disposed off.

5. It was submitted by the Id. Sr. DR that the assessee is a teacher and is also holding the licence of running a foreign liquor shop in Balasore. In the course of assessment as there were substantial cash deposits during the year, the notices have been sent to the assessee, however, there was continuous non-cooperation and non-compliance by the assessee. This has resulted into to bring the tax by the AO the difference of sales turnover and the cash deposit made in the bank. It was submitted that the cash deposit in the bank exceeded the sales turnover by an amount of Rs.20,93,460/- and the same was treated by the AO as unexplained cash deposit. It was the submission that before the Id. CIT(A) also no documents have been produced, no evidence have been submitted and only a written submission was filed wherein it is claimed that cash deposits were on account of certain transactions relating to Smt. Sasmita Tripathy, who was also in the same business of the assessee. It was submitted that no details were produced. It was the prayer that the order of the Id. CIT(A) and that of the AO is liable to be upheld.

6. I have considered the submissions of Id. Sr. DR. Admittedly, the assessment is 144 assessment on account of non-compliance by the assessee. Before the Id. CIT(A) also no evidence have been produced to substantiate the claim of the assessee. The adjournment letter filed by the assessee also talks of the assessee being sick and hence unable to produce the relevant documents. The fact that the evidence and the documents have not been produced before the lower authorities, clearly would show that these documents cannot be produced before the Tribunal as it would constitute fresh evidence. This being so, in the

interest of justice and to grant the assessee an opportunity to rectify its mistake and produce the evidence before the lower authorities, the issues in this appeal are restored to the file of AO for rejudication after granting adequate opportunity of being heard to the assessee.

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

Order dictated and pronounced in the open court on 14/03/2024.

Sd/-
(जार्ज माथन)
(GEORGE MATHAN)
न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 14/03/2024

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Cop.y of the Order forwarded to :

1. अपीलार्थी / The Appellant-
Ramamani Tripathy,
Fandi Bazar, Balasore
2. प्रत्यर्थी / The Respondent-
ACIT, Circle Balasore, Balasore
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