

आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.63/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2015-2016)

Alok Agarwal, Bungalow No.4C, OCL Colony, Rajgangpur-770017	Vs	CIT(A), NFAC, Delhi/ACIT, Circle Rourkela, Rourkela
PAN No. :AFKPA 2367 R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri K.K.Bajoria, CA
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	23/04/2024
घोषणा की तारीख/Date of Pronouncement	:	23/04/2024

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 22.12.2023, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2023-24/1059014605(1) for the assessment year 2017-2018.

2. It was submitted by the Id. AR that there was a direction u/s.144A of the Act by the JCIT, Rourkela in the present case and no opportunity was given by the Id. JCIT, Rourkela before passing the order u/s.144A of the Act. It was the submission that he had no objection if the assessment is set aside to the point where the error has taken placed being the order passed u/s.144A of the Act by the Id. JCIT, Rourkela. It was the submission that the Id. JCIT may be directed to grant the assessee an opportunity of being heard before giving direction u/s.144A of the Act.

3. In reply, Id. Sr. DR submitted that this was nothing but the delay tactics has been adopted by the assessee. It was the submission that the assessee has deposited Rs.5 crores in ICICI Bank and earned nearly Rs.52 lakhs of income. It was the submission that the assessee has taken an OD facility on the said fixed deposit and has invested in shares and has earned dividend income. It was the submission that the AO had denied the assessee's claim of expenditure of Rs.52 lakhs to be netted off against the interest received on the fixed deposit. It was the submission that there was no actual requirement of direction u/s.144A of the Act itself and the appeal of the assessee is liable to be dismissed.

4. We have considered the rival submissions. Admittedly, the direction u/s.144A of the Act has been issued by the Id. JCIT, Rourkela without granting the assessee an opportunity of being heard. Admittedly, this is a technical default and rectifiable one. This being so, in the interest of justice, the assessment order is set aside and the issues are restored to the file of AO for re-adjudication *de novo* after obtaining the direction from the Id. JCIT u/s.144A of the Act. The Id. JCIT before issuing directions u/s.144A of the Act, shall grant the assessee an opportunity of being heard.

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

Order dictated and pronounced in the open court on 23/04/2024.

**Sd/-
(MANISH AGARWAL)**

लेखा सदस्य/ ACCOUNTANT MEMBER

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 23/04/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Alok Agarwal,
Bungalow No.4C, OCL Colony,
Rajgangpur-770017
2. प्रत्यर्थी / The Respondent-
CIT(A), NFAC, Delhi/ACIT, Circle Rourkela,
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