

**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.348/CTK/2023

(निर्धारण वर्ष / Assessment Year :2016-2017)

Lok Bikash, Haridaspur, Jajpur, Odisha	Vs	ITO, Exemption, Cuttack
PAN No. :AAATL 4892 M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri S.K.Jena, Advocate
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	25/04/2024
घोषणा की तारीख/Date of Pronouncement	:	25/04/2024

**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 08.11.2021, passed in DIN & Order No.ITBA/NFAC/S/250/2021-22/1036757443(1) for the assessment year 2016-2017.

2. The appeal of the assessee is time barred by 684 days. In this regard, Id. AR has filed a condonation petition along with affidavit stating therein that due to medical ailments of the assessee during the Covid 19 pandemic period, the appeal could not be filed within the stipulated time. The reason given by the assessee in its affidavit for delay is not proved to be false. In view of the above, the delay of 684 days in filing the present appeal is condoned and the appeal is disposed off on merits.

3. It was submitted by Id AR that this is an appeal against the order u/s.143(1) of the Act issued by the CPC. It was the submission that as per the provisions of section 143(1) of the Act, before making any

adjustment, a show cause notice has to be issued to the assessee. It was the submission that no show cause notice has been issued to the assessee, therefore, the intimation issued u/s.143(1) is liable to be quashed.

4. At the time of hearing, Ld.Sr. DR was asked to show the show cause notice issued as per the proviso to Section 143(1) of the Act before issuance of the intimation u/s.143(1) of the Act. The Sr. DR was unable to show the copy of the show cause notice as required under the first proviso to Section 143(1) of the Act before making any adjustments in the intimation u/s.143(1) of the Act.

5. I have considered the rival submission. A perusal of intimation u/s.143(1) of the Act also does not show of any show cause notice being issued to the assessee. The very same issue has already been decided by the coordinate bench of the Tribunal in the case of Sikshya Bharat Trust, passed in ITA No.240/CTK/2023, dated 21.09.2023, wherein it has been held as under :-

*6. I have considered the rival submissions. A perusal of provisions of section 143(1) of the Act shows that it is compulsory for the revenue to issue show cause notice before making any adjustment in the intimation u/s.143(1) of the Act. The letter received from CPC, Bengaluru also clearly admits that no show cause notice has been issued to the assessee. This being so, as no show cause notice under the provisions of section 143(1) has been issued before making adjustment, the intimation issued u/s.143(1) stands quashed.*

6. Respectfully following the above observations of the coordinate bench of the Tribunal, as in the present case no show cause notice has been issued to the assessee before making adjustment in the intimation u/s.143(1) of the Act for the assessment year under consideration, the

intimation issued u/s.143(1) of the Act in present the appeal under consideration stand quashed.

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

Order dictated and pronounced in the open court on 25/04/2024.

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

**कटक** Cuttack; दिनांक Dated 25/04/2024

*Prakash Kumar Mishra, Sr.P.S.*

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

1. अपीलार्थी / The Appellant-  
Lok Bikash,  
Haridaspur, Jajpur, Odisha
2. प्रत्यर्थी / The Respondent-  
ITO, Ward-1, Baripada
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**