

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.74/CTK/2024

(निर्धारण वर्ष / Assessment Year :2014-2015)

Shyam Thakur, Plot No.A/9/1, Kalunga Industrial Estate, Kalunga, Sundargarh	Vs	ITO, Ward-3, Rourkela
PAN No. :AACCF 0554 F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri S.K.Agarwalla, CA
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	29/04/2024
घोषणा की तारीख/ Date of Pronouncement	:	29/04/2024

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 12.01.2024 in DIN & Order No.ITBA/NFAC/S/250/2023-24/1059667854(1) for the assessment year 2014-2015.

2. It was submitted by the Id. AR that the assessee is a scrap dealer. It was the submission that the assessee had taken advances from the customers to an extent of Rs.15 lakhs and Rs.8,56,514/- being amounts received from various sundry debtors. It was the submission that the AO had issued notices u/s.131 of the Act to the creditors and debtors, who did not appear but had filed confirmation letters. It was the submission that though the confirmation letters have been produced, the AO on the ground that the parties did not appear, made the disallowance of both creditors to an extent of Rs.15 lakhs and recovery from the debtors to the extent of Rs.8,56,514/-. It was the submission that the Id. CIT(A) without considering the explanation of the assessee confirmed the order of the

AO. It was the prayer that the addition made by the Id. AO and confirmed by the Id. CIT(A) may be deleted.

3. In reply, Id. Sr. DR submitted that the show cause notice was issued to the assessee and the assessee did not respond to the same. It was the submission that filing of the confirmation letters does not prove the genuineness of the transaction. It was the submission that the addition as made by the AO and confirmed by the Id. CIT(A) is liable to be upheld.

4. I have considered the rival submission. Considering the fact that the creditors and debtors have filed their confirmation letters in regard to the transaction of the assessee and also considering the fact that the number of creditors are more than 75 and the number of debtors are more than 20, it shows that if a physical verification is to be done, then the AO will be stuck with the more than nearly 100 people. This would in fact to be an absolute difficulty. It is an admitted fact that the confirmation letters have been received from both the creditors and debtors. This being so, in the interest of justice, issues in this appeal are restored to the file of AO for readjudication. The AO shall direct the assessee to produce sample number of creditors and debtors as chosen by the AO for verification. If the sample confirms with the confirmation letters which have been submitted then the AO shall proceed thereafter in accordance with law. In these circumstances, the issues in this appeal are restored to the file of Id. AO for readjudication afresh after granting the assessee sufficient opportunity of being heard to substantiate its case.

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

Order dictated and pronounced in the open court on 29/04/2024.

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

कटक Cuttack; दिनांक Dated 29/04/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Shyam Thakur,
Plot No.A/9/1, Kalunga Industrial
Estate, Kalunga, Sundargarh
2. प्रत्यर्थी / The Respondent-
ITO, Ward-3, 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