

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.11/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2013-2014)

Orissa Ferro Techs. Joda, Keonjhar-758034	Vs	DCIT, Cir-1(1), Cuttack
PAN No. :ADKPJ 8724 H		

(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से / Assessee by	:	Shri Anoop Bhatia, CA
राजस्व की ओर से / Revenue by	:	Shri Sanjay Kumar, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	14/05/2024
घोषणा की तारीख / Date of Pronouncement	:	14/05/2024

आदेश / ORDER

Per Bench :

This is an appeal filed by the assessee against the order dated 08.12.2023, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2023-24/1058579173(1) for the assessment year 2013-2014.

2. It was the submission by the Id. AR that the assessee is a partnership firm, it has filed its return of income disclosing an income of Rs.31.22 lakhs and the assessment came to be completed wherein the total income of the assessee has been determined at Rs.3.84 crores. It was the submission that the additions were on account of four sundry creditors and on account of interest paid to one of the sundry creditors. Ld. AR drew our attention to the assessment order page 2 para 3, wherein the AO has provided a chart of the four sundry creditors. It was submitted by the Id. AR that in respect of AM Fincap Pvt. Ltd., the amount

of Rs.24 lakhs was in fact an advance for supply of materials. The Id. AR drew our attention to the letter dated 24.09.2012 addressed by AM Fincap Pvt. Ltd. to the assessee in regard to the purchase of iron ore fines. The Id. AR also drew our attention to the ledger account of both the assessee and AM Fincap Pvt. Ltd.. It was on this point, pointed out to the Id. AR that the payments have been made between 30.09.2012 and 23.10.2012 and till the year ending 31.03.2013 material has not been supplied though the contract terms provide for supply and payment as per the schedule. Ld. AR on this point was also asked to prove that the material has been supplied by the assessee to AM Fincap Pvt. Ltd. to which the Id. AR submitted that the evidence is not immediately available with him. In regard to the next sundry creditor being Manish Shyam Sharma for an amount of Rs.11 lakhs, the Id. AR drew our attention to page 63 of the paper book which is a copy of the ledger account of Manish Shyam Sharma, which showed opening balance as on 01.04.2012 at Rs.14 lakhs and closing balance as on 31.03.2013 at Rs.14 lakhs. It was submitted by the Id. AR that there must be a mistake in the audit report at para 24(a) Manish Shyam Sharma's name has been shown at Rs.11 lakhs having been received during the year. Ld. AR was specifically asked as to whether the auditor of the assessee has clarified in respect of the said mistake, if any. To this, Id. AR submitted that he has not yet received any letter to such effect. It was then pointed out to the Id. AR as to what and how the Id. CIT(A) has rejected the contentions of the assessee, the Id. AR drew our attention to para 5.1 of the order of the Id. CIT(A) and

submitted that the Id. CIT(A) has taken a stand that “the bank account of all the above persons has also been provided which shows credit entry in cash in all the accounts just before the debit of the unsecured loan to the assessee”. It was the submission that the assessee has never provided the bank accounts of the creditors and all that the assessee has provided the confirmation letters along with PAN account numbers and addresses. It was further submitted that the AO also categorically has mentioned that the creditors have not responded directly to the AO. It was the submission that how the Id. CIT(A) has made the said statement in his order is not coming out of any of the evidence. Ld. AR further placed before us copies of the acknowledgements of three submissions along with evidences filed before the Id. CIT(A), NFAC through online portal. The same are extracted herein below :-

Acknowledgement Number : 606391861030522

e-Proceedings Response Acknowledgement				
INCOME TAX DEPARTMENT				
PROCEEDING DETAILS				
PAN/TAN	AABFO7910J			
Name	ORISSA FERRO TECHS			
Financial Year	2012-13			
Assessment Year	2013-14			
Proceeding Name	First Appeal Proceedings			
Notice/Communication Reference ID	100029447068			
Notice Section	250			
Description	[ITBA]Hearing Notice u/s 250of Income Tax Act 1961.			
Notice Issue Date				
Due Date for Submission	31-Dec-2020			
Communication Sent date				
Document Reference ID	ITBA/NFAC/F/APL_1/2020-21/1029190833(1)			
RESPONSE SUBMITTED				
Remarks	We are enclosing herewith Written Submission along with the supporting documents and Form 35, Statement of Facts and Ground of Appeal for your perusal and kind consideration.			
Hash * Value Of Remarks	6c9c22870abfb439205ae7c95b61e4d90759a3e7294156b48d345c980b0d5853			
Sl No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
1	Confirmation - Manish Shyam Sharma.pdf	Loan Documents - Party 2	1834218	cef5c3c23e554c0e23a131e3a0f37d26ff00be690853d749f1ea714ee3fef59e
2	Confirmation - AM Fincap Pvt. Ltd..pdf	Loan Documents - Party 1	4717221	d90ea9795930a6de6c22a25a04ed673076c6bfc2bd3e56657d69b910a1fce7e7
3	Confirmation - Orissa Ferro Alloys Pvt. Ltd..pdf	Loan Documents - Party 3	3805069	97ee3682ae4c8b9fee9747404f73e15f73b9bc12cb0718923643668a411bf7e1

Sub on 3/5/2022

Sl No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
4	Confirmation - Arun Kumar Gupta.pdf	Loan Documents - Party 4	1073224	bffae9ada4ed04cf984d06e539815a9d9c439a1d0d54c36c95cd40d7d665b31a
5	Form 35, Statement of Facts & Ground of Appeal.pdf	Form 35, Statement of Facts and Ground of Appeal	3274278	3106d69ae68e3304687e116a29c6eb79391333f0e4c90c3b7522e62e0723d1d0
6	143(3) Order.pdf	Assessment Order U/s 143(3)	1942401	4c25906c50d97e85997202c27b4035b1693539d1f9f5e8ab721e202eba59f5ab
This is a system generated acknowledgement and does not require signature				
* Hash : This value will uniquely identify the uploaded files and remarks.				

Acknowledgement Number : 800296201111122

e-Proceedings Response Acknowledgement				
INCOME TAX DEPARTMENT				
PROCEEDING DETAILS				
PAN/TAN	AABFO7910J			
Name	ORISSA FERRO TECHS			
Financial Year	2012-13			
Assessment Year	2013-14			
Proceeding Name	First Appeal Proceedings			
Notice/Communication Reference ID	100029447068			
Notice Section	250			
Description	[ITBA]Hearing Notice u/s 250of Income Tax Act 1961.			
Notice Issue Date				
Due Date for Submission	31-Dec-2020			
Communication Sent date				
Document Reference ID	ITBA/NFAC/F/APL_1/2020-21/1029190833(1)			
RESPONSE SUBMITTED				
Remarks	ATTACHING HEREWITH THE WRITTEN SUBMISSIONS ALONGWITH SUPPORTING ENCLOSURES, IN SUPPORRT OF GROUNDS TAKEN IN MEMORANDUM OF APPEAL, PLEASE CONSIDER THE SAME AND OBLIGE.SHOULD YOU REQUIRE ANY FURTHER DETAIL/ EXPLANATION THE SAME MAY PLEASE BE COMMUNICATED.			
Hash * Value Of Remarks	a9b0747cc12f86bd2a5604203454385b7cf6eaff1ce66d8fc0a9a52ced457ce6			
Sl No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
	BALANCE SHEET- FY-2012-13 AM FINCAP.pdf	DETAILS OF M/S A M FINCAP (P) LTD	4846762	70b1554fc55703c1460429273d809cda cb4effa395874ad819b637e60ebfcc2
	orissa ferro techs final ws.pdf	WRITTEN SUBMISSION	427160	a94239377d71e6f5df5f564ffc264115e05015698eb7e82b3d662c737f722bc6
	Confirmation - Manish Shyam	DETAILS OF MANISH SHYAM	1830158	de1101bac22238836840ab78c81a7f6630

Submitted on 11/11/2022

Sl No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
	Sharma (1) (1).pdf	SHARMA		2f4dfbff4e329dddb d29fecf44ddb5
4	orissa ferro alloys(p) ltd.pdf	DETAILS OF ORISSA FERRO ALLOYS (P) LTD	806114	ad3837593be0f602 2e677b5e59d5523e 70d84f3ecad05c7b f07894ae083648a6
5	Confirmation - Arun Kumar Gupta (1) (1)_compressed.pdf	DETAILS F ARUN KUMAR GUPTA(JHARKHAND ROADWAYS)	306376	30848a36ee796235 912950948bea1359 8cc46698223c013c9 f1e5cbc999eb8bf
6	VOUCHER & CHQ COPIES PAYMENT TO JHARKHAND ROADWAYS_compres sed.pdf	DETAILS F ARUN KUMAR GUPTA(JHARKHAND ROADWAYS)	602298	51a7d7f616be8f51 2d3ce909987a351d 0fb8b44f7ce65c04a 4a799d6322e3dec
7	BALANCE SHEET - 2012-13.pdf	Balance sheet / statement of affairs along with detailed schedules	1471404	edc599d30b42462e 81feb5c5135529494 4789a12776003fa8 6ad530da9c379c84
8	ITR-5 OFAY 2013-14.pdf	ITR	202607	5e16c7cec939afbde 8f119c1f28ca1038c 2a4dc54a857bdeef5 de8b4f93320f3
9	Confirmation - AM Fincap Pvt. Ltd. (1)_compressed.pdf	DETAILS OF M/S A M FINCAP (P) LTD	240911	aad747f1cef3ceee 4bb35457d28c2ad2 6dcaa60547ed18a5 e92de1d4809eadfd
10	PURCHASE ORDER_compressed .pdf	DETAILS OF M/S A M FINCAP (P) LTD	152498	d67b9bd067c208c9 d3afead2cea18a4e 3d58a65924c23644 e0e1a49be7a3eea1
This is a system generated acknowledgement and does not require signature				
* Hash : This value will uniquely identify the uploaded files and remarks.				

Acknowledgement Number : 526445461241123

e-Proceedings Response Acknowledgement				
INCOME TAX DEPARTMENT				
PROCEEDING DETAILS				
PAN/TAN	AABFO7910J			
Name	ORISSA FERRO TECHS			
Financial Year	2012-13			
Assessment Year	2013-14			
Proceeding Name	First Appeal Proceedings			
Notice/Communication Reference ID	100070230643			
Notice Section	250			
Description	[ITBA]Hearing Notice u/s 250of Income Tax Act 1961.			
Notice Issue Date	22-Nov-2023			
Due Date for Submission	04-Dec-2023			
Communication Sent date				
Document Reference ID	ITBA/NFAC/F/APL_1/2023-24/1058149333(1)			
RESPONSE SUBMITTED				
Remarks	Respected Sir/Madam The assessee has already submitted the Response on this portal Dated 03/05/2022 and 11/11/2022 in context of notice issued vide DIN No. ITBA/NFAC/F/APL_1/2020-21 /1029190833(1) along with supporting documentary evidences. We are attaching all 2 Acknowledgements please, consider the same. Thanks			
Hash * Value Of Remarks	8fdef7d870d474e219029cab2b4e26d4182bf2cca09f87a52e63d d78d2441255			
Sl No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
1	Acknowledgement 1.pdf	Acknowledgement	326861	3744dde5187b22fd 8438eb01b1c808e2 e9ba5d90f804ebd6 ee5212a22a8e23b3
2	Acknowledgement 2.pdf	Acknowledgement	329572	87bcc9c0b84be354 50c7c164e14bd80d e7cb66a24f534341 7e7c72de0bd34605
This is a system generated acknowledgement and does not require signature				

Submitted on 24/11/2023

* Hash : This value will uniquely identify the uploaded files and remarks.

3. It was the submission that the Id. CIT(A) has not considered any of the evidence produced by the assessee. It was then put to the Id. CIT-DR that the Id. CIT(A) having not discussed any of the written submission or evidences produced by the assessee and has recorded facts which are not supported by the evidences, the issues in this appeal would have to be restored to the file of the Id. CIT(A) for readjudication after granting the assessee adequate opportunity of hearing to substantiate his case and after considering the evidence and written submissions filed before him by the assessee. To this, Id. CIT-DR did not raise any serious objections.

4. We have considered the rival submissions of both the sides. Admittedly, the Id. CIT(A) has not discussed any of the written submissions as submitted by the assessee from where the Id. CIT(A) has obtained the bank account of the said creditors is not coming out of the evidences submitted by the assessee or from the assessment order. This being so, in the interest of justice, the issues in this appeal are restored to the file of Id. CIT(A) for readjudication after granting the assessee adequate opportunity of being heard. In the event that the Id. CIT(A) is in possession of any evidence which he proposes to use against the assessee, Id. CIT(A) shall provide such evidence to the assessee for his rebuttal.

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

Order dictated and pronounced in the open court on 14/05/2024.

**Sd/-
(MANISH AGARWAL)**

लेखा सदस्य/ ACCOUNTANT MEMBER

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 14/05/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Orissa Ferro Techs.
Joda, Keonjhar-758034
2. प्रत्यर्थी / The Respondent-
DCIT, Cir-1(1), Cuttack
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