



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK 'SMC' BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

**ITA No.141/CTK/2024**

Assessment Year : 2018-19

Viabale Infrastructure and Logistics Pvt Ltd., At-4 <sup>th</sup> floor, OSL Tower-II, Link Road, Cuttack	Vs.	Income Tax Officer, Ward 3(5), Bhubaneswar
PAN/GIR No.		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Sandeep Kumar Jena, Adv  
Revenue by : Shri Charan Dass, Id Sr DR

**Date of Hearing : 27/05/2024**

**Date of Pronouncement : 27/05/2024**

**ORDER**

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 15.1.2024 in Appeal No.NFAC/2017-18/10020799, for the assessment year 2018-19.

2. Shri Sandeep Kumar Jena, Id AR appeared for the assessee. Shri Charan Dass, Id Sr DR represented on behalf of the revenue.

3. It was submitted by Id AR that since the assessee did not make any submission before the Id CIT(A), NFAC despite number of opportunities

granted, the Id CIT(A), NFAC dismissed the appeal filed by the assessee. It was the submission that since the books of account is not rejected, the adhoc disallowance made is on the basis of suspicion alone. It was the submission that that the Id CIT(A) has not discussed the appeal on its own merits but has dismissed the appeal for want of prosecution. He prayed that if one more opportunity is given, the assessee would cooperate in the set aside proceedings.

4. In reply, Id Sr DR supported the order of the Id CIT(A).

5. We have considered the rival submissions. It is an admitted fact that despite number of opportunities granted by the Id CIT(A), NFAC, the assessee did not file any submissions for which, Id CIT(A), NFAC sustained the adhoc addition made by the Assessing officer. As per the grounds of appeal, it is the contention of the assessee that the Assessing officer has made adhoc addition of Rs.25,30,108/- @ 5% of the expenses without giving any basis. We find Id CIT(A), NFAC has dismissed the appeal on the ground of non-prosecution by the assessee and also the written submission in support of the grounds of appeal. Therefore, in the interest of natural justice, the issues in this appeal are restored back to the file of the Id CIT(A) with the direction to give one more opportunity to the assessee to substantiate his case and decide the issue as per facts and law.

8. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 27/05/2024.

Sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 27/05/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Viable Infrastructure and Logistics Pvt Ltd., At-4<sup>th</sup> floor, OSL Tower-II, Link Road, Cuttack
2. The respondent: Income Tax Officer, Ward 3(5), Bhubaneswar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT,
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**