



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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.06/CTK/2024**

Assessment Year : 2012-13

Kalinga Metallics and Power Pvt Ltd., Plot No.475/878, Khata No.176/258, Magurgadia, keonjhar	Vs.	DCIT, Cuttack
PAN/GIR No.AACCK 8976 E		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Chitrasen Parida, Adv  
Revenue by : Shri Sanjay Kumar, CIT DR

**Date of Hearing : 12/06/2024**  
**Date of Pronouncement : 12/06/2024**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id  
CIT(A), NFAC, Delhi dated 9.11.2023 in Appeal No. CIT(A),  
Cuttack/10042/2020-21 for the assessment year 2012-13.

2. Shri Chitrasen Parida, Id AR appeared for the assessee and Shri  
Sanjay Kumar, Ld CIT DR appeared for the revenue.

3. It was submitted by Id AR that the Id CIT(A) has passed the order ex parte without affording reasonable opportunity of hearing to the assessee, which is in clear violation of natural justice. He prayed that the appeal is restored to the file of the AO and the assessee would cooperate to the Assessing Officer for adjudication of the issues in the appeal.

4. In reply, Id CIT DR vehemently opposed the prayer of Id AR of the assessee in remitting the matter to the file of the AO.

5. We have considered the rival submissions. It is an admitted fact that due to non appearance by the assessee before the CIT(A), the Ld. CIT(A) decided the appeal ex parte and dismissed the appeal of the assessee due to non-prosecution and also reproduced the contents of the assessment order without discussing the issue on merits. It is also noticed that the assessee has not responded to the specific questionnaires raised by the AO, therefore, the AO has passed the order u/s.144 of the Act on the basis of materials available before him and after personal hearing. It is the submission of the Ld. Counsel for the assessee that if an opportunity is given, he would be in a position to substantiate his case before the AO . Considering the totality of the facts of the case and in the interest of justice .we deem it proper to restore the issue to the file of the AO with a direction to grant one final opportunity to the assessee to substantiate his case. The assessee is also hereby directed to appear before the AO without seeking

any adjournment under any pretext failing which the Ld. AO is at liberty to pass appropriate order as per law.

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

Order dictated and pronounced in the open court on 12/06/2024.

Sd/-  
**(Manish Agarwal)**  
ACCOUNTANT MEMBER  
Cuttack; Dated 12/06/2024  
B.K.Parida, SPS (OS)

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

**Copy of the Order forwarded to :**

1. The Appellant : Kalinga Metallics and Power Pvt Ltd., Plot No.475/878, Khata No.176/258, Magurgadia, keonjhar
2. The Respondent: DCIT, Cuttack
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

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