



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

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

ITA No.120/CTK/1996

Assessment Year : 1992-93

DCIT, Spl. Range, Cuttack (Presently ACIT, Circle-2(1), Cuttack	Vs.	M/s. Durga Films and Trades Pvt Ltd., Town Hall Road, Cuttack
PAN/GIR No.N.A		
(Appellant)	..	(Respondent)

C.O..No.23/CTK/1996

(in ITA No.120/CTK/1996)

ITA No.422/CTK/1998

Assessment year: 1995-96

M/s. Durga Films and Trades Pvt Ltd., Town Hall Road, Cuttack	Vs.	DCIT, Spl. Range, Cuttack (Presently ACIT, Circle-2(1), Cuttack
PAN/GIR No.N.A		
(Appellant)	..	(Respondent)

Assessee by : Shri B.V.R.Swamy, Adv
Revenue by : Shri Charan Dass, Sr. DR

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

ORDER

Per Bench

ITA No.120/CTK/1996 is filed by the revenue against the order of the Id CIT(A), Orissa, Cuttack for the assessment year 1992-93.

2. **C.O.23/CTK/1996** is filed by the assessee in the appeal filed by the revenue in ITA No.120/CTK/1996, which is in support of the order of the Id CIT(A).

3. **ITA No.422/CTK/1998** is filed by the assessee against the order of the Id CIT(A), Cuttack for the assessment year 1995-96.

4. Shri B.V.R Swamy, Id AR appeared for the assessee and Shri Charan Dass, Id Sr. DR appeared for the revenue.

5. Originally, all these appeals had been disposed off by the Co-ordinate bench of this Tribunal in ITA No.207/CTK/1997 read with C.O.No.67/CTK/1997 and ITA No.422/CTK/1998 for the assessment year 1993-94 and 1995-96, respectively order dated 15.5.2006. The said order of the Tribunal was subject matter of appeal before the Hon'ble Jurisdictional High Court in ITA Nos.189 & 190 of 2004. The Hon'ble High Court vide its order dated 8.8.2019 set aside the order of the Tribunal and remitted back to the Tribunal for fresh adjudication insofar as the Tribunal had not considered the factual matrix of the case and had not given any cogent reason while passing the impugned order. The impugned order of the Hon'ble High Court was brought to the attention of the Tribunal vide a

letter dated 5.6.2023 by the assessee. At this point, it had been directed that the appeal folders be reconstructed. The assessee has submitted copies of the assessment order and Id CIT(A)'s order but Form No.35, statement of facts and grounds of appeal as also Form No.36 and grounds of appeal have not been brought on record by either sides even after several opportunities given for the assessment year 1992-93. For the assessment year 1995-96, grounds of appeal and Form No.36 has been produced by the assessee. When the revenue has been asked to produce the records that are available to them, it was submitted that these are very old matters and, therefore, not traceable. This being so, we are compelled to adjudicate these appeals without the said grounds of appeal for the assessment year 1992-93 and Form No.36 and grounds of appeal for the assessment year 1995-96.

5. We have considered the rival submissions and perused record placed before us.

6. First, we take up the appeal of the revenue for A.Y. 1992-93 in ITA No.120/CTK/1996 and C.O.23/CTK/1996 filed by the assessee.

7. A perusal of the facts clearly shows that for the assessment year 1992-93, the revenue's appeal is hit by the circular issued by CBDT in regard to tax effect. Consequently, the appeal of the revenue stands dismissed. The cross objection filed by the assessee is in support of the

order of Id CIT(A). As we have already dismissed the appeal of the revenue on account of low tax effect and as the cross objection is only in support of the order of the Id CIT(A), the cross objection filed by the assessee also stands dismissed.

8. In regard to the appeal in ITA No.422/CTK/1998 for A.Y. 1995-96, the Id CIT(A) has given relief Rs.10,09,832/- as against the total addition of Rs.33,96,470/-. How the Id CIT(A) has arrived at this figure is not coming out of the order of the Id CIT(A). In these circumstances, the issues in this appeal are restored to the file of the AO for readjudication after granting the assessee an opportunity of being heard.

9. In the result, appeal of the revenue in ITA No.120/CTK/1996 and cross objection of the assessee in C.O.No.23/CTK/1996 are dismissed and appeal of the assessee in ITA No.422/CTK/1996 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 Assessee : M/s. Durga Films and Trades
Pvt Ltd., Town Hall Road, Cuttack
2. The Revenue: DCIT, Spl. Range, Cuttack
(Presently ACIT, Circle-2(1), Cuttack
3. The CIT(A)- Cuttack
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack