

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.187/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2013-2014)

Anil Kumar Patra, Laxmi Bazar, Jobra College Sqr District – Cuttack-753003	Vs	AO, Income Tax Department, National Faceless Assessment Centre, Delhi
PAN No. : ALKPP 5252 E		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri Natabar Panda, Advocate
राजस्व की ओर से /Revenue by	:	Shri Charan Dass, Sr.DR
सुनवाई की तारीख / Date of Hearing	:	25/06/2024
घोषणा की तारीख/Date of Pronouncement	:	25/06/2024

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 29.02.2024, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2023-24/1061740050(1) for the assessment year 2013-2014.

2. It was submitted by the Id. AR that the assessee is an individual, who is a mobile recharge agent. It was the submission that the assessee is registered under the Orissa Value Added Tax Act, 2004. The total turnover of the assessee was Rs.1,84,23,851/-. The actual income of the assessee was less than Rs.2 lakhs. It was the submission that the notices have been sent by the AO in the course of assessment to the email address in itmishraman@gmail.com and the same was the email address of the assessee's counsel. The assessee had changed the counsel and had also updated his IT Profile to the assessee's own email being

anilpatra19610@gmail.com. It was the submission that the assessee has not received any of the compliance sent by the AO during the course of the assessment. It was only when physical notice received, the assessee immediately responded the same. It was the submission that only against the show cause notice the assessee could reply and the AO has recorded the same in para 10 of his order. It was the submission that, however, admittedly as the assessment was getting time barred the AO has to comply the assessment and the assessment was done ex-parte. It was the submission that on appeal, the Id. CIT(A) without even calling for a remand report confirmed the assessment. It was the submission that in the interest of justice, if the issues are restored to the file of AO the assessee would be able to prove that the assessee did not have any income and the complete turnover was substantially paid to the mobile agency on whose behalf the assessee was dealing in the vouchers.

3. In reply, Id. Sr. DR vehemently supported the orders of the AO and CIT(A). It was the submission that the assessee should be careful.

4. We have considered the rival submissions. A perusal of the assessment order shows that the assessee has cooperated in the assessment proceedings when the physical notice have been sent. The assessee has also categorically admitted that the notices were sent to the email address of the counsel. The assessee has also given the details of Odisha Government VAT Returns files. This being so, in the interest of justice, the issues in this appeal are restored to the file of AO for readjudication after granting adequate opportunity of being heard.

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

Order dictated and pronounced in the open court on 25/06/2024.

Sd/-
(MANISH AGARWAL)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 25/06/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Anil Kumar Patra,
Laxmi Bazar, Jobra College Sqr
District – Cuttack-753003
2. प्रत्यर्थी / The Respondent-
AO, Income Tax Department, National
Faceless Assessment Centre, Delhi
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