

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, 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.227/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2017-2018)

AM SB Infra Private Limited, Plot No.31(P), Khata No.54, Pokhariput, Bhubaneswar	Vs	DCIT, Circle-1(1), Bhubaneswar
PAN No. :AAKCA 2169 F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri P.K.Mishra, Advocate
राजस्व की ओर से /Revenue by	:	Shri S.C.Mohanty, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	18/07/2024
घोषणा की तारीख/Date of Pronouncement	:	18/07/2024

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 20.03.2024, passed by the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, in DIN & Order No.ITBA/NFAC/S/250/2023-24/1062977166(1) for the assessment year 2017-2018.

2. It was submitted by the Id. AR that the AO had made disallowance u/s.40(a)(ia) of the Act without treating the assessee as an assessee in default. It was the submission that most of the additions are made in respect of the items which were shown as stock in trade and this relates to the earlier years. It was the submission that admittedly the assessee had not appeared before the AO in the course of assessment and this has caused the assessment to be done ex-parte. It was the submission that the Id. CIT(A) also did not consider the explanation of the assessee,

especially in view of the fact that the evidences were not properly placed before the AO. It was the prayer that if the issues in this appeal are restored to the file of AO, the assessee would be able to substantiate its claim.

2. In reply, Id. Sr. DR submitted that the assessee has been non-cooperative not only before the AO but even before the Id. CIT(A), insofar as, out of the seven notices, the assessee has complied with only two of the notices. He, thus, vehemently supported the orders of the Id. AO and the Id. CIT(A).

3. We have considered the rival submissions. As it is noticed that the assessee has been not providing all the details before the AO and this has led to the ex-parte assessment, in view of the submissions of the Id. AR and in the interest of justice, the issues in this appeal are restored to the file of AO for readjudication after granting the assessee adequate opportunities of being heard. Should the assessee be non-cooperative before the AO in second round of proceedings, liberty is granted to the AO to draw adverse inference.

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

Order dictated and pronounced in the open court on 18/07/2024.

Sd/-
(MANISH AGARWAL)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 18/07/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
AM SB Infra Private Limited,
Plot No.31(P), Khata No.54,
Pokhariput, Bhubaneswar
2. प्रत्यर्थी / The Respondent-
DCIT, Circle-1(1), Bhubaneswar
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