

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.255/CTK/2024

(निर्धारण वर्ष / Assessment Year : 2020-2021)

Sitaram Fruits Co., At-Church Road, PO/PS:Brahmapur, Ganjam	Vs	Assessment Unit, Income Tax Department, NFAC, Delhi
PAN No. :ACAFS 0733 Q		

(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से / Assessee by	:	Shri P.K.Mishra, Advocate
राजस्व की ओर से / Revenue by	:	Shri Sanjay Kumar, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	01/08/2024
घोषणा की तारीख/Date of Pronouncement	:	01/08/2024

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order dated 12.04.2024, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi, passed in I.T.Appeal No.ITBA/NFAC/S/250/2024-25/1064068913(1), for the assessment year 2020-2021.

2. It was submitted by the Id. AR that the assessee is engaged in the business of Whole Sale and Retail Trading of fruits at Church Road, Berhampur, Ganjam. It was the submission that the assessee obtained fruits from various growers, sells the fruits on behalf of the growers and then pays the growers after taking commission. It was the submission that the return had also been filed by the assessee along with the report under Section 44AB of the Act. It was the submission that there has been some failure in providing details in the course of assessment. It was the submission that the various notices issued by the AO had not been

received by the assessee. It was the submission that the issues may be restored to the file of Id. AO for readjudication and the assessee would cooperate in the set aside proceedings.

3. In reply, Id. CIT-DR vehemently supported the orders of the authorities below.

4. We have considered the rival submissions. In regard to the submission of the Id. AR of the assessee, during the course of hearing, Id. AR was asked to provide the email address of the assessee to which notices have to be sent. In this regard, Id. AR drew our attention to Form 35 filed before the Id. CIT(A), wherein the email address of the assessee is mentioned as sridhara.paanigrahy@gmail.com. It was the further submission that the main dispute is in regard to the salary and wages paid. It was the submission that as the assessee has to get the product sold. The assessee was paying the salary and wages in cash. It was the submission that the AO had not accepted these facts. This claim of the assessee is also to be considered by the AO when completing the readjudication of assessment afresh. This being so, in the interest of justice and to grant the assessee adequate opportunities to substantiate his case, the issues in this appeal are restored back to the file of Id. AO for readjudication after granting the assessee adequate opportunity of being heard. It would also be worthwhile to mention here that the AO could also send physical notice to the assessee in the event that the assessee is not cooperating in the set

aside proceedings. Should the assessee not cooperate in the set aside proceedings, liberty is granted to the AO to take adverse views.

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

Order dictated and pronounced in the open court on 01/08/2024.

**Sd/-
(MANISH AGARWAL)**

लेखा सदस्य/ ACCOUNTANT MEMBER

**Sd/-
(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 01/08/2024

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Sitaram Fruits Co.,
At-Church Road,
PO/PS:Brahmapur, Ganjam
2. प्रत्यर्थी / The Respondent-
Assessment Unit, Income Tax Department,
NFAC, 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