

**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.280/CTK/2024**

**(निर्धारण वर्ष / Assessment Year : 2017-2018)**

Jai Matadi Associates, Majestic Apartment, Flat No.402 Near Jharpara Jail Road, Shantinagar, Bhubaneswar	Vs	NFAC, Delhi/ ITO, Ward-2(1), Bhubaneswar
<b>PAN No. :AALFJ 2819 H</b>		

<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
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<b>निर्धारिती की ओर से /Assessee by</b>	:	Shri P.K.Mishra, Advocate
<b>राजस्व की ओर से /Revenue by</b>	:	Shri S.C.Mohanty, Sr. DR
<b>सुनवाई की तारीख / Date of Hearing</b>	:	27/08/2024
<b>घोषणा की तारीख/Date of Pronouncement</b>	:	27/08/2024

**आदेश / O R D E R**

**Per Bench :**

This is an appeal filed by the assessee against the order dated 03/06/2024, passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2024-25/1065345750(1) for the assessment year 2017-2018.

2. It was submitted by the Id. AR that the assessee has purchased machineries in the form of JCB for excavation purpose in mines. The assessee has neither explained the source of purchase nor produced the evidences before the AO. It was the submission that on appeal, the assessee had produced the evidences before the Id. CIT(A) with his submissions dated 24.05.2024. It was the submission that the purchase invoices and registration certificate of the JCB machinery were admittedly fresh evidence but no application under Rule 46A of the IT Rules has

been filed before the Id. CIT(A). The Id. CIT(A) has not considered such evidences and confirmed the assessment order. It was the prayer that if the issues are restored to the file of Id. AO, the assessee will be able to produce all the evidences before the AO for readjudication.

3. In reply, Id. Sr. DR did not raise any serious objection.

4. We have considered the rival submissions. A perusal of the facts of the present case clearly shows that the assessee has produced all the evidences in the appellate proceedings. Admittedly, the assessee has produced these evidences without the necessary application under Rule 46A. The evidences have not been produced before the AO but produced for the first time before the Id. CIT(A), thus, require an application under Rule 46A of the IT Rules. This being so, in the interest of justice, as it is noticed that the assessee has got the evidences to explain the source of purchase of machineries, therefore, the issues in this appeal are restored to the file of Id. AO for readjudication after granting the assessee 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 27/08/2024.

Sd/-

**(MANISH AGARWAL)**

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

**(GEORGE MATHAN)**

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 27/08/2024

*Prakash Kumar Mishra, Sr.P.S.*

**आदेश की प्रतिलिपि अद्येषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-  
Jai Matadi Associates,  
Majestic Apartment, Flat No.402  
Near Jharpara Jail Road,  
Shantinagar, Bhubaneswar
2. प्रत्यर्थी / The Respondent-  
NFAC, Delhi/  
ITO, Ward-2(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