

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

(THROUGH VIRTUAL HEARING)

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

AND

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.60/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2015-2016)

Debadatta Priyadarshan C/O: CA Sunil Kumar Das & Associates Surya Vihar, Link Road, Cuttack- 753012	Vs	ITO, Ward-Khurda
PAN No. : COGPP 7427 F		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri M.R.Sahu, AR
राजस्व की ओर से / Revenue by	:	Shri Sanjay Kumar, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	09/04/2025
घोषणा की तारीख / Date of Pronouncement	:	09/04/2025

आदेश / ORDER

Per Bench :

This is an appeal filed by the assessee against the order of the Id. Pr.CIT, Bhubaneswar-1, dated 11.01.2025, passed in DIN & Order No.ITBA/REV/RV5/2024-25/1072096062(1) for the assessment year 2015-2016.

2. It was the submission that the assessment year is 2015-2016, however, Id. Pr.CIT vide order u/s.263 of the Act has directed the Assessing Officer to apply rate of 60% under the provision of Section 115BBE of the Act. It was the submission that rate of 60% under the provision of Section 115BBE of the Act was not available for the assessment year 2015-2016. Id. AR placed reliance on the decision of

the Hon'ble Madras High Court in the case of SMILE Microfinance Limited, passed in W.P.(MD) No.2078 of 2020, dated 19.11.2024 wherein the Hon'ble High Court has held in para 17 that the provision of Section 115BBE of the Act levying a rate of 60% came into effect from 01.04.2017. It was the submission that the impugned assessment year is 2015-2016. As the levy of 60% came w.e.f.01.04.2017, therefore, levy of 60% could not levied on the assessee.

3. In reply, Id. CIT-DR vehemently supported the order of the Id. Pr.CIT.

4. We have considered the rival submissions. A perusal of the provisions of Section 115BBE of the Act clearly shows that the rate of 60% has been brought to the statute w.e.f.01.04.2017, however, in the case of assessee the assessment year is 2015-2016. As the rate of 60% was not available in the statute book under the provisions of Section 115BBE of the Act for the assessment year 2015-2016, the direction given by the Id. Pr.CIT in his order u/s.263 of the Act is unsustainable in law and consequently, the order u/s.263 of the Act stands quashed.

5. In the result, appeal of assessee is allowed.

Order dictated and pronounced in the open court on 09/04/2025.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

दिनांक Dated 09/04/2025

Prakash Kumar Mishra, Sr.P.S.

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
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