

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)

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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

आयकर अपील सं/ITA No.265 & 266/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2016-2017 & 2020-2021)

Kalavikas Kendra, AT : KVK Building, KVK Marg Buxibazar, Cuttack-753001	Vs	ITO(Exemption), Cuttack
PAN No. : AAATK 3918 R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri P.R.Mohanty, Advocate
राजस्व की ओर से /Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	11/08/2025
घोषणा की तारीख/ Date of Pronouncement	:	11/08/2025

आदेश / O R D E R

Per Bench :

These two appeals are filed by the assessee against the separate orders passed by Id. Addl/JCIT(A), Prayagraj, both dated 31.03.2025, for the assessment years 2016-2017 & 2020-2021.

2. It was the submission of the Id. AR that when filing the return of income there was a delay in filing form 10B. It was the submission that consequently the CPC had issued an intimation u/s.143(1) of the Act bringing to tax the entire receipts as income of the assessee. It was the submission of the Id. AR that this is not permissible under an intimation u/s.143(1) of the Act and if at all the CPC to make adjustments it was the denial of the benefit u/s.11 & 13 of the Act, that could have been done.

3. In reply, Id. Sr. DR submitted that the assessee has an option to file application for condonation of delay in filing Form 10B. It was the submission that liberty may be granted to the assessee to file application for condonation of delay in filing Form 10B of the Act.

4. We have considered the rival submissions. When the assessee has not complied with the requirement of the Act being not filed Form 10B of the Act if an intimation u/s.143(1) is to be issued, then obviously the income of the assessee would be treated as business income and his business income is liable to be assessed. Non-filing of Form 10B would lead to non-granting of the exemption as required u/s.11 & 13 r.w.s.12A of the Act. In both the appeals of the assessee, it is noticed that the CPC has not assessed assessee's business income but has brought to tax the entire receipts as the total income of the assessee. This is not permissible in an intimation issued u/s.143(1) of the Act. This being so, the intimation issued u/s.143(1) of the Act is bad in law and does not fall within the adjustments as prescribed u/s.143(1) of the Act. Consequently, the intimation issued u/s.143(1) for both the assessment years under consideration is hereby quashed.

5. In the result, both appeals of the assessed are allowed.

Order dictated and pronounced in the open court on 11/08/2025.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

दिनांक Dated 11/08/2025

Prakash Kumar Mishra, Sr.P.S.

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