

**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.452/CTK/2025  
(निर्धारण वर्ष / Assessment Year : 2013-2014)

Motwani Constructions Pvt. Limited At:- Ground Floor, Samabaya Bhawan, Janpath, Khurda 751022	Vs	DCIT, Circle-1(1), Cuttack
PAN No. : <b>AAGCM 2496 K</b>		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri S.K.Sarangi, AR
राजस्व की ओर से / Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	24/09/2025
घोषणा की तारीख/Date of Pronouncement	:	24/09/2025

**आदेश / O R D E R**

**Per Bench :**

This is an appeal filed by the assessee against the Ld.CIT(A), National Faceless Appeal Centre(NFAC), Delhi order dated 13/08/2025 passed in Appeal No. NFAC/2012-13/10027542 for the assessment year 2013-2014.

2. It was submitted by the Id. AR that in the course of assessment, the AO had disallowed the salary paid to the director to an extent of Rs.15 lakhs on the ground that there is a delay in deduction of TDs and payment of the same to the credit of the Government. It was the submission that the returns of the directors have also been filed wherein the TDS has been claimed and the credits have been allowed. It was the submission that no disallowance is called for in view of the decision of the Hon'ble

Supreme Court in the case of Hindustan Coca Cola Beverage (P.) Ltd., reported in [2007] 163 Taxman 355 (SC), wherein the Hon'ble Supreme Court in para 10 has held as follows :-

*10. Be that as it may, the circular No. 275/201/95- IT(B) dated 29.1.1997 issued by the Central Board of Direct Taxes, in our considered opinion, should put an end to the controversy. The circular declares "no demand visualized under Section 201 (1) of the Income- tax Act should be enforced after the tax deductor has satisfied the officer-in-charge of TDS, that taxes due have been paid by the deductee-assessee. However, this will not alter the liability to charge interest under Section 201 (1A) of the Act till the date of payment of taxes by the deductee-assessee or the liability for penalty under Section 271C of the Income-tax Act."*

3. It was further submitted that the AO has disallowed Rs.52,000/- towards rent as no TDS has been deducted. It was the submission that on house rent of Rs.52,000/-, no TDS is called for, insofar as the threshold limit was Rs.1,80,000/- during the year.

4. In reply, Id. Sr. DR vehemently supported the order of the Id. AO and Id. CIT(A).

5. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that TDS has been deducted but there is a delay in payment of the same to the extent of Rs.15 lakhs to the Central Government. Admittedly, the director of the assessee company has also been filed their returns and have claimed the benefit of TDS and the same have also been granted to the directors. Thus, in view of the principle laid down by the Hon'ble Supreme Court in the case of Hindustan Coca Cola Beverage (P.) Ltd., referred to supra, the addition as made by the AO and as confirmed by the Id. CIT(A) of Rs.15 lakhs representing remuneration paid to the directors, stands deleted.

6. Coming to the disallowance of house rent paid of Rs.52,000/-, as it is evident that the threshold limit for deduction of TDS in respect of house rent during the year was Rs.1,80,000/- and the rent paid by the assessee company does not reached the threshold limit for the purpose of deduction of TDS, therefore, the addition of Rs.52,000/- made by the AO and confirmed by the Id.CIT(A) is unsustainable and consequently the same stands deleted.

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

Order dictated and pronounced in the open court on 24/09/2025.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

दिनांक Dated 24/09/2025

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant- Motwani Constructions Pvt. Limited  
At:- Ground Floor, Samabaya Bhawan, Janpath, Khurda  
751022
2. प्रत्यर्थी / The Respondent- DCIT, Circle-1(1), Cuttack
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