

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.219/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2018-2019)

T R Chemicals Limited, Main Road, Subash Chowk, Rajgangpur, Odisha-770017	Vs	Pr.CIT, Sambalpur
PAN No. : AABCT 1919 M		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri K.K.Bajoria & Shri Yogesh Banka, ARs
राजस्व की ओर से / Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	01/12/2025
घोषणा की तारीख / Date of Pronouncement	:	01/12/2025

आदेश / ORDER

Per Bench :

This is an appeal filed by the assessee against the order passed by the Id. Pr.CIT, Sambalpur, dated 15.01.2025 for the assessment year 2018-2019.

2. It was submitted by the Id. AR that the return filed by the assessee came to be processed and the assessment came to be completed u/s.147 of the Act wherein the purchases from M/s Mideast Integrated Steel Ltd. were disallowed by invoking the provisions of Section 37(1) of the Act. It was the submission that the Id. Pr.CIT invoked his power u/s.263 of the Act on the ground that the disallowances made by the AO u/s.37(1) of the Act instead of Section 69C of the Act, is erroneous and prejudicial to the interest of revenue. It was submitted that the issue is now squarely covered by the decision of the coordinate bench of the Tribunal in the case of Bajrang Steel & Alloys (P) Ltd., passed in ITA No.553/CTK/2024, order dated

22.09.2025/(2025) 39 NYPTTJ 2034 (Cuttack), wherein the coordinate bench of the Tribunal in para 4 has held as under :-

4. We have considered the rival submissions. A perusal of the order of the Principal CIT shows that, at the outset, the addition of Rs. 60,33,481 as raised in the assessment, has been challenged by the assessee in appeal before the CIT(A). Whether the same is to be assessed under s. 37(1) or under s. 69(C) of the Act, was well within the purview of the learned CIT(A), insofar as, obviously the AO should also have been granted another opportunity to represent its case before the learned CIT(A). It is admitted fact the learned AO in the show-cause notice has referred to the provision of s. 69C of the Act in respect of said addition but the AO wisdom had applied his mind and has made the addition under s. 37(1) of the Act. The act of learned Principal CIT in invoking its powers under s. 263 of the Act to direct the AO to assess the said amount under s. 69C of the Act, is nothing but a change of opinion, insofar as, he is proposing to impose his views over that of the AO. This is not permissible under the provisions under s. 263 of the Act. The AO having taken a view on the issue and applied a particular section the action of the learned Principal CIT in directing that another section is to apply is not permissible and on this ground, we find that order passed under s. 263 of the Act is unsustainable and consequently we quash the same.

3. It was the submission that the order u/s.263 of the Act passed by the Id Pr.CIT is liable to be quashed.

4. In reply, Id. CIT-DR submitted that the transactions were clearly bogus in respect of M/s Mideast Integrated Steel Ltd. It was the submission that admittedly the AO should have invoked the provisions of Section 69C of the Act which he had erroneously not done. It was the submission that this has caused prejudicial to the interest of revenue and the Id. Pr.CIT has rightly invoked his power u/s.263 of the Act.

5. We have considered the rival submissions. A perusal of the original assessment order clearly shows that the expenses in respect of purchases of raw materials have been disallowed by the AO by invoking the provisions of Section 37(1) of the Act. This is because the assessee was not able to

prove the transactions with M/s Mideast Integrated Steel Ltd. A perusal of the provisions of Section 69C of the Act shows that it is in respect of unexplained expenditure. It is a case where the assessee offered no explanation about the source(source) of such expenditure or part thereof. The case before the AO is not in respect of the explanation for the sources for the payment to M/s Mideast Integrated Steel Ltd. It is in regard to the purchases from M/s Mideast Integrated Steel Ltd. Admittedly, it is for the assessee to prove that he has made purchases from M/s Mideast Integrated Steel Ltd. This issue is in any case pending in appeal before the Id. CIT(A). The AO having taken a stand of making disallowance by invoking the provisions of Section 37(1) of the Act, we are of the view that the provisions of Section 69C of the Act does not apply to the facts of the case. Respectfully following the decision of the coordinate bench of the Tribunal, referred to supra, the order of the Id. Pr.CIT passed u/s.263 of the Act is found to be unsustainable and consequently the same stands quashed.

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

Order dictated and pronounced in the open court on 01/12/2025.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

दिनांक Dated 01/12/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रहित/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