

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.515 & 516/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2018-2019 & 2022-2023)

Orissa Rural Housing and Development Corporation Limited (ORHDC) 3 rd Floor, Surya Kiran Market Building, Saheed Nagar, Bhubaneswar-751017	Vs	DCIT, Circle-1(1), Bhubaneswar
PAN No. : AAACO 2574 N		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri B.R.Pattnaik, AR
राजस्व की ओर से / Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	02/12/2025
घोषणा की तारीख / Date of Pronouncement	:	02/12/2025

आदेश / ORDER

Per Bench :

These two appeals are filed by the assessee against the separate orders passed by the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, both dated 17.07.2025 for the assessment years 2018-2019 & 2022-2023.

2. It was submitted by the Id. AR that the assessee is an undertaking owned by the Government of Odisha. Certain loans were given by the Government to the assessee. As the assessee was incurring substantial losses, the interest had not been paid to the Government. It was the submission that in the course of assessment the AO disallowed the interest shown to be due to the Government by applying the provision for section 43B of the Act. It was the submission that the interest payable to the Government was not hit by the provisions of section 43B of the Act. It was

the submission that the assessee, admittedly, did not file any appeal against the assessment orders. It was the submission that the penalty under section 270A of the Act had been levied on the assessee on account of the said disallowance. It was the submission that, on appeal against the order under section 270A of the Act, the Id. CIT(A) without considering the submissions of the assessee, has confirmed the penalty levied. It was the submission that as the disallowance made by the AO itself was unsustainable, in so far as the provisions of section 43B of the Act did not apply to the interest payable to the government, tThe penalty under section 270A of the Act was not called for.

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

4. We have considered the rival submissions. A perusal of the decision of the Hon'ble Allahabad High Court in the case of UP Rajya Vidyut Utpadan Nigam Limited, reported in [2013] 37 taxmann.com 164 (Allahabad) clearly shows that the Hon'ble Allahabad High Court has categorically held that the provision of section 43B of the Act is not applicable to the interest on Government loans. Once it is found that the provision of section 43B of the Act does not apply to the interest on Government loans, just because the assessee has accepted the disallowance made by the AO, would not lead to an automatic levy of penalty under section 270A of the Act. The fact that the addition itself is not called for, it is evident from the fact that the AO also recognizes that the interest disallowed by invoking the provisions of section 43B of the Act, was interest payable to the government of Odisha.

This being so, as the disallowance itself was not called for and considering the fact that the provisions of section 43B of the Act would not apply to the interest payable to the Government, the penalty levied for both the years under consideration as the consequence of the said disallowance, would not survive and consequently the same stands cancelled.

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

Order dictated and pronounced in the open court on 02/12/2025.

Sd/-

(राजेश कुमार)
(RAJESH KUMAR)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

(जार्ज माथन)
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

दिनांक Dated 0212/2025

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