

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

**BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT (KZ)**  
**AND**  
**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

आयकर अपील सं/ITA Nos.526 & 527/CTK/2025  
(निर्धारण वर्ष / Assessment Year : 2017-18)

Samasti Infrastructures Pvt Ltd., 85/A, Samasti Arcade, Ashok Nagar, Bhubaneswar.	Vs	ITO, Ward-1(1), Bhubaneswar.
PAN No. : <b>AAICS 0023 J</b>		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Ambika Prasad Mohanty, CA
राजस्व की ओर से /Revenue by	:	Shri Ashim Kumar Chakraborty, CIT DR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	23 /12/2025
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	23 /12/2025

**आदेश / O R D E R**

**Per Duvvuru RL Reddy, Vice President (KZ)**

This is an appeal filed by the assessee against the separate orders dated 13.9.2025 passed by Id CIT(A), NFAC, Delhi in Appeal No.NFAC/16-17/10310105 in the matter of assessment year u/s.143(3) r.w.s 263 and in Appeal No.NFAC/2016-17/10310104 and in the matter of penalty u/s.270A of the Act for the assessment year 2017-18.

2. At the outset, Id AR of the assessee submitted that the Id CIT(A) has dismissed both the appeals on account of delay of more than 9 months in filing the appeals. It was the submission that the delay in filing

the appeals was due to pendency of the rectification petition filed u/s.154 of the Act. It was the submission that the assessee acted in good faith, seeking correction of a prima facie mistake apparent from the record, i.e. incorrect revenue recognition under ICDS-III. The rectification petition was pursued diligently and the same was rejected only on 15.1.2024, upon which the appeals were filed immediately. It was the request of Id AR that the delay in filing the appeals may be condoned and the Id CIT(A) be directed to readjudicate the issue on merits.

3. In reply, Id CIT DR opposed the request of Id AR of the assessee and consequently supported the orders of Id CIT(A).

4. We have considered the rival submissions and perused the record of the case. It is an admitted fact that the assessee had filed rectification petition u/s.154 of the Act to correct the revenue recognition under ICDS-III. Therefore, there was delay in filing the appeal before the Id CIT(A). In the rectification petition, the assessee has categorically mentioned that the litigation was pending before the Assessing Authority and, therefore, on disposal of the petition u/s.154 of the Act, the appeal was filed. This plea of the assessee has not been found to be false.

5. We also observe that by delaying the appeals, the assessee would not get any advantage rather will suffer financial loss. The Supreme Court, especially in cases like [Collector, Land Acquisition v. Mst. Katiji \(1987\)](#), (167 ITR 471) mandates a liberal, justice-oriented approach for condoning delays, emphasizing that technicalities shouldn't defeat substantial justice, particularly when the delay isn't deliberate and

prevents meritorious cases from being heard. The core idea is to prefer substance over form, allowing courts to consider the merits of the case rather than just the delay, especially since the party seeking delay condonation doesn't gain from the delay itself. In view of this discussion. we are of the view that the first appellate authority was wrong in presuming deliberate negligence or malafide intention in the delay in filing the appeals. Hence, we condone the delay of more than 9 months in filing the appeals before the first appellate authority and direct him to decide the issues on merits, after giving effective opportunity of hearing to the assessee. The assessee is also directed to cooperate with the first appellate authority without seeking any adjournment on flimsy grounds/reasons. Since, we have restored the assessment made u/s.143(3) r.w.s 263 of the Act to the file of the Id CIT(A) for fresh adjudication, the consequential penalty levied u/s.270A of the Act is also restored to his file for fresh adjudication on merits after deciding the issue u/s.143(3) rw.s. 263 of the Act.

6. In the result, both the appeals of the assessee are partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 23/12/2025.

Sd/-  
**(RAJESH KUMAR)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(DUVVURU RL REDDY)**  
**VICE PRESIDENT**

दिनांक Dated 23/12/2025  
*b.k.Parida , Sr.P.S.(OS)*

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

1. अपीलार्थी / The Appellant- Samasti Infrastructures Pvt Ltd., 85/A, Samasti Arcade, Ashok Nagar, Bhubaneswar
2. प्रत्यर्थी / The Respondent- ITO, Ward-1(1), Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A), NFAC, Delhi
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