

## आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री अरुण खोड़पिया लेखा सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

AND

SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.156 - 158/CTK/2022

(निर्धारण वर्ष / Assessment Year :2015-2016 to 2017-2018)

Arvind Purseth, Shop No.3, Anita Complex, Bye Pass Road, Main Road, Jharsuguda, Cox Colony, Bombay Chowk, Near ST Marys School, Jharsuguda-768203	Vs	CIT(A), Delhi
PAN No. :AGZPP 3457 F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	None
राजस्व की ओर से /Revenue by	:	Shri Charan Dass, Sr.DR
सुनवाई की तारीख / Date of Hearing	:	12/12/2022
घोषणा की तारीख/Date of Pronouncement	:	12/12/2022

### आदेश / O R D E R

#### Per Bench :

These are the appeals filed by the assessee against the order of the Id CIT(A), National Faceless Appeal Centre (NFAC), Delhi dated 29.07.2022 in Appeal No.ITBA/NFAC/S/250/2022-23/1044301043(1), in appeal No.ITBA/NFAC/S/250/2022-23/1044395029(1), dated 01.08.2022 and in appeal No.ITBA/NFAC/S/250/2022-23/1044395135(1) for the assessment years 2015-2016, 2016-2017 & 2017-2018.

2. At the outset, we found that ITA No.156/CTK/2022 is barred by 13 days and ITA Nos.157&158/CTK/2022 are barred by 10 days. However, looking to the facts and circumstances, we condone the respective delays occurred in the respective appeals and appeals are admitted for hearing.

3. None represented on behalf of the assessee, however, an

adjournment letter has been filed stating therein that Shri S.S.Poddar, CA is out of state to attend the family marriage function. The adjournment request is not reasonable and consequently the same stands rejected and the appeals are being disposed of on merits.

4. It was submitted by the Id. Sr. DR that the only issue in the appeal of the assessee was that TDS had not been deducted in respect of payments made to M/s Sundaram Finance Ltd. and M/s Gulshan Freight Carrier. It was the submission that Form 26A had been produced before the Id.CIT(A) but had not been produced before the AO. Consequently, the Id. CIT(A) had refused to admit the Form No.26A on the ground that it was in the nature of fresh evidence. It was the submission that the order of the Id. CIT(A) is liable to be upheld.

5. We have considered the rival submission and the grounds of appeals. A perusal of the facts and present case clearly show that the assessee has categorically admitted that he was suffering from ailment, which resulted in not being able to produce the evidence before the AO. Admittedly, form No.26A has also been produced before the Id. CIT(A). Once Form 26A is produced before the lower authorities, then levy u/s.201 of the Act would not be called for. Admittedly, this Form 26A has not been produced before the AO. The availability of the form 26A is also not in dispute. The proceeding before the Id. CIT(A) is an extension of the proceedings before the AO. This being so, as it is only a technical breach, in the interest of justice, issues in these appeals are being restored to the

file of the AO so as to enable the assessee to produce the evidences before the AO to substantiate its claim.

6. Thus, the issues in the appeals are restored to the AO for readjudication after granting opportunity to the assessee to substantiate its case.

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

Order dictated and pronounced in the open court on 12/12/2022.

**Sd/-**  
(अरुण खोड़पिया)  
**(ARUN KHODPIA)**

**Sd/-**  
(जार्ज माथन)  
**(GEORGE MATHAN)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

न्यायिक सदस्य / **JUDICIAL MEMBER**

**कटक** Cuttack; दिनांक Dated 12/12/2022

*Prakash Kumar Mishra, Sr.P.S.*

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

1. अपीलार्थी / The Appellant-  
Arvind Purseth, Shop No.3, Anita Complex,  
Bye Pass Road, Main Road, Jharsuguda, Cox Colony,  
Bombay Chowk, Near ST Marys School, Jharsuguda-  
768203
2. प्रत्यर्थी / The Respondent-  
ITO, TDS Smabalpur
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.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**(Assistant Registrar)**  
आयकर अपीलीय अधिकरण,  
**कटक/ITAT, Cuttack**