

**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA Nos.100 to 105/CTK/2017

Assessment Years : 2007-08 to 2012-2013

Shasanka Sekhar Sarangi,, Ward No.5, Ambika Sahi, Baripada, Mayurbhanj.	Vs.	ACIT, Central Circle, Shelter Chhak, Cuttack
PAN/GIR No.AITPS 7120 G		
(Appellant)	..	(Respondent)

Assessee by : Shri A.K.Tiberwala, AR
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 18 /09/ 2017
Date of Pronouncement : 18 /09/ 2017

ORDER

Per N.S.Saini, AM

These are appeals filed by the assessee against separate orders of the CIT(A)-3, Bhubaneswar dated 30th November, 2016 for the assessment years 2007-08, 2008-09 and 2012-13 and dated 9th November, 2016 for the assessment years 2009-10| 2010-11 & 2012-12, respectively.

2. The sole issue involved in these appeals is that the CIT(A) erred in confirming the action of the Assessing Officer in confirming the levy of penalty u/s.271(1)(c)of the Act of Rs.8,51,935/- for the assessment year 2007-08, Rs.11,63,691/- for the assessment year 2008-09, Rs.6,33,655/- for the assessment year 2009-10, Rs.2,00,087/- for the assessment year

2010-11, Rs.1,07,785/- for the assessment year 2011-12 and Rs.4,04,626/- for the assessment year 2012-13.

3. At the outset, Id Authorised Representative of the assessee filed before us copy of notices issued u/s.271(1)(c) of the Act dated 30th March, 2015, for the assessment years under appeal, copies of which are placed on record and pointed out therefrom that in the said notices, except variance of assessment year, the Assessing Officer has stated as under:

"Whereas in the course of proceedings before me for the assessment year, it appears to me that you:-

have concealed the particulars of your income or..... furnished inaccurate particulars of such income."

4. He submitted that it is not clear from the said notices issued u/s.271(1)(c) of the Act by the Assessing Officer whether the show cause is issued to the assessee for concealment of particulars of income or for furnishing inaccurate particulars of income.

5. He submitted that the Hon'ble Supreme Court in the case of CIT vs. SSA's. Emarld Meadows dated 11th January, 2017 passed in Special Leave to Appeal (CC No.11485/2016)/, (2016) 73 *taxmann.com* 248(SC) has held that Omission by the Assessing Officer to explicitly specify in the penalty notice as to whether penalty proceedings are being initiated for furnishing of inaccurate particulars or for concealment of income makes the penalty order liable for cancellation. Hence, he submitted that the order dated 30th March, 2015 levying penalty of Rs.8,51,935/- for the

assessment year 2007-08, Rs.11,63,691/- for the assessment year 2008-09, Rs.6,33,655/- for the assessment year 2009-10, Rs.2,00,087/- for the assessment year 2010-11, Rs.1,07,785/- for the assessment year 2011-12 and Rs.4,04,626/- for the assessment year 2012-13 imposed by the Assessing Officer u/s.271(1)(c) are, therefore, liable to be cancelled.

6. The Departmental Representative except relying on the orders of lower authorities could not controvert the above submission of Id Authorised Representative of the assessee.

7. We find that the facts in the present appeal are not in dispute and the Assessing Officer, in all the notices u/s.271(1)(c) dated 30th March, 2015 for the assessment years 2007-08 to 2012-13, has stated as under:

"Whereas in the course of proceedings before me for the assessment year, it appears to me that you:-

have concealed the particulars of your income..... For the above assessment year and furnished inaccurate particulars of such income."

8. The facts of the present appeals are identical to the facts of the case before the Hon'ble Supreme Court in the case of SSA's. Emarld Meadows(supra) and, therefore, the decision of Hon'ble Supreme Court squarely applies to the case of the assessee. Hence, respectfully following the same, we cancel the orders of the Assessing Officer all dated 30.9.2015 levying penalty of Rs.8,51,935/- for the assessment year 2007-08, Rs.11,63,691/- for the assessment year 2008-09, Rs.6,33,655/-

for the assessment year 2009-10, Rs.2,00,087/- for the assessment year 2010-11, Rs.1,07,785/- for the assessment year 2011-12 and Rs.4,04,626/- for the assessment year 2012-13.- u/s.271(1)(c) and allow the ground of appeal of the assessee.

9. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on 18 /09/2017.

Sd/-

sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 18 /09/2017

B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Shasanka Sekhar Sarangi,,
Ward No.5, Ambika
2. The Respondent. ACIT, Central Circle, Shelter
Chhak, Cuttack
3. The CIT(A)-3, Bhubaneswar
4. Pr.CIT- Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack