

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

BEFORE SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM

आयकर अपील सं./ITA No.81/CTK/2018 (A.Y.2012-2013)

HCIL Adhikarya ARSS JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AAEFH 3757 R	Vs.	DCIT, Bhubaneswar	Circle-4(1),
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AND

आयकर अपील सं./ITA Nos.82 & 112/CTK/2018

(A.Y.2013-2014 & 2012-2013)

M/s ARSS ATLANTA JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AAQFA 8726 P	Vs.	ITO Bhubaneswar	Ward-4(3),
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AND

आयकर अपील सं./ITA Nos.83 & 113/CTK/2018

(A.Y.2013-14 & 2012-13)

M/s ARSS ANPR JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AABAA 1158 M	Vs.	ITO Bhubaneswar	Ward-4(3),
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AND

आयकर अपील सं./ITA Nos.84 & 116/CTK/2018

(A.Y.2013-14 & 2012-13)

M/s ARSS TRIVENI JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AABAA 1081 H	Vs.	DCIT, Bhubaneswar	Circle-4(1),
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AND

आयकर अपील सं./ITA No.85/CTK/2018 (A.Y.2013-14)

M/s ARSS-GVR JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AACAA 1049 A	Vs.	ITO Bhubaneswar	Ward-4(3),
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AND

आयकर अपील सं./ITA Nos.86 & 111/CTK/2018

(A.Y.2013-2014 & 2012-2013)

M/s Niraj ARSS JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AAAAN 5116 B	Vs.	ITO Bhubaneswar	Ward-4(3),
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AND**आयकर अपील सं./ITA Nos.87 & 117/CTK/2018**

(A.Y.2013-2014 & 2012-2013)

M/s Patel ARSS JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AAAAP 8266 E	Vs.	ITO Bhubaneswar	Ward-4(3),
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AND**आयकर अपील सं./ITA Nos.88, 122 & 123/CTK/2018**

(A.Y.2013-2014, 2012-2013 & 2014-2015)

M/s Backbone ARSS JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AAAAB 7056 Q	Vs.	ITO Bhubaneswar	Ward-4(3),
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AND**आयकर अपील सं./ITA Nos.89 & 115/CTK/2018**

(A.Y.2013-2014 & 2012-2013)

M/s ARSS HCIL Consortium Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AAOFA 4460 D	Vs.	ITO Bhubaneswar	Ward-4(3),
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AND**आयकर अपील सं./ITA No.114/CTK/2018 (2012-2013)**

M/s Atlanta ARSS JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AABAA 0048 E	Vs.	ITO Bhubaneswar	Ward-4(3),
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AND**आयकर अपील सं./ITA No.118-121/CTK/2018**

(AY 2009-2010 to 2012-2013)

M/s Som Datt Builders ARSS JV Plot No.38, Sector-A, Mancheswar Industrial Estate, Bhubaneswar-751010 PAN No.AADAS 6434 L	Vs.	ITO Bhubaneswar	Ward-4(3),
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निर्धारिती की ओर से /Assessee by : Shri P.S.Panda, AR

राजस्व की ओर से /Revenue by : Shri Saad Kidwai/A.Tigga, DR

सुनवाई की तारीख / Date of Hearing : 24/04/2018

घोषणा की तारीख/Date of Pronouncement 27/04/2018

आदेश / ORDER**Per Bench:**

These are the appeals filed by the different assessees against the separate orders of the CIT(A)-2, Bhubaneswar for the abovementioned assessment years under consideration.

2. Out of the above 21 appeals, 12 appeals have been filed before the Tribunal belatedly, details of which are as under :-

Sl. No.	ITA No.	Assessee	A.Ys.	Days in Delay
1.	ITA No.112/CTK/18	ARSS Atlanta JV	2012-13	294
2.	ITA No.113/CTK/18	ARSS ANPR JV	2012-13	294
3.	ITA No.116/CTK/18	ARSS Triveni JV	2012-13	294
4.	ITA No.111/CTK/18	Niraj ARSS JV	2012-13	294
5.	ITA No.117/CTK/18	Patel ARSS JV	2012-13	294
6.	ITA No.112/CTK/18	Backbone ARSS JV	2012-13	353
7.	ITA No.115/CTK/18	ARSS HCIL Consortium	2012-13	294
8.	ITA No.114/CTK/18	Atlanta ARSS JV	2012-13	294
9.	ITA No.118/CTK/18	Som Datt Builders ARSS JV	2009-10	294
10.	ITA No.119/CTK/18	Som Datt Builders ARSS JV	2010-11	294
11.	ITA No.120/CTK/18	Som Datt Builders ARSS JV	2011-12	357
12.	ITA No.121/CTK/18	Som Datt Builders ARSS JV	2012-13	357

Ld. AR of the assessee has filed applications for condonation of delay along with affidavits for the above appeals explaining the reasons for respective delays. The contents in one of the affidavits, dated 28th March,2018 filed in the case of M/s ARSS Atlanta JV for the assessment year 2012-2013 in ITA No.112/CTK/2018, are as under :-

NOTARY PUBLIC, BHUBANESWAR

AFFIDAVIT

I, Rachit Ranjan Das, S/o Gyana Ranjan Das, Plot No-38, Sector-A, Zone-D, Mancheswar Industrial Estate, iubaneswar, Odisha-751010, Power of Attorney holder of M/s ARSS ATLANTA JV, on behalf of the JV do hereby solemnly affirm & state as follows :

1. *That I am the key person of the JV and deal with all finance and taxation matter.*
2. *That due to shut down/ closure of the work most of the supporting staff has left the organization.*
3. *That since there was no staff in the fiancé department, the further decision of filing second appeal against the order received from the Id. CIT(A) could not be taken.*
4. *That while filing the second appeal for the A.Y. 2013-14 against the order of Id. CIT (A) our tax consultant M/s. P. A. & Associates noticed the above lapses of non filing of second appeal for the A.Y. 2012-13.*
5. *That the delay in filing of the appeal before the Hon'ble ITAT, Cuttack Bench is bonafide and is beyond my control.*
6. *That I am swearing is this affidavit to produce it before the Hon'ble ITAT, Cuttack Bench, Cuttack for the condonation of delay.*

The facts stated above are true to the best of my knowledge and belief.

Deponent

Therefore, Id. AR of the assessee submitted that delay for the above appeals may be condoned and appeals of the assessee may be heard on merits.

3. On the other hand, Id. DR has no serious objection to the condonation of delay.

4. We have gone through the applications along with affidavits filed for condonation of delay in respective appeals. We found that in some of the appeals there are 294 days delay and in some of appeals there are 357 delay in filing the appeals. The reason of delay stated in the affidavits has been explained by the assessee, which in our opinion, is plausible. Our view is supported by the judgment of Hon'ble Supreme Court in the case of Collector, Land Acquisition Vs. Mst. Katiji [1987] 167 ITR 471 (SC), wherein the Hon'ble Apex Court in paragraph 4 held as under :

"4. And such a liberal approach is adopted on principle as it is realized that :

1. *Ordinarily, a litigant does not stand to benefit by lodging an appeal late.*
2. *Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.*
3. *"Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay ? The doctrine must be applied in a rational common sense and pragmatic manner.*
4. *When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
5. *There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk." (underlines supplied)"*

Therefore, considering the facts and circumstances of the case and judicial decision, we condone the delay in aforesaid appeals and all the appeals along with other appeals are heard on merits.

5. Though the assesseees in all these appeals are different, however, issues involved in these appeals are common, therefore, they are heard altogether and are being disposed off by this consolidated order. For the sake of convenience, we shall take up the facts narrated in the case of M/s HCIL Adhikarya ARSS JV in ITA No.81/CTK/2018 (AY : 2012-13).

6. Firstly, the common ground raised in appeals for the assessment years 2009-2010, 2010-11, 2011-12, 2012-13, 2013-2014 & 2014-15 in ITA Nos.81 & 82, 84 to 89 and 111 to 123/CTK/2018 is directed against

the order of CIT(A) in confirming the following disallowances for the respective assessment years in the above appeals :-

Sl. No.	ITA No.	Assessee	Assessment Year	Disallowance confirmed by CIT(A)
1.	81/CTK/18	HCIL Adhikarya ARSS JV	2012-13	11,03,711/-
2.	82/CTK/18	ARSS Atlanta JV	2012-13	30,89,604/-
3.	84/CTK/18	ARSS Triveni JV	2013-14	5,83,797/-
4.	85/CTK/18	ARSS GVR JV	2013-14	3,92,588/-
5.	86/CTK/18	Niraj ARSS JV	2013-14	4,87,606/-
6.	87/CTK/18	Patel ARSS JV	2013-14	9,96,048/-
7.	88/CTK/18	Backbone ARSS JV	2013-14	6,28,640/-
8.	89/CTK/18	ARSS HCIL Consortium	2013-14	34,000/-
9.	111/CTK/18	Niraj ARSS JV	2012-13	17,69,883/-
10	112/CTK/18	ARSS Atlanta JV	2012-13	41,39,060/-
11	113/CTK/18	ARSS ANPR JV	2012-13	1,36,380/-
12	114/CTK/18	Atlanta ARSS JV	2012-13	2,24,01,370/-
13	115/CTK/18	ARSS HCIL Consortium	2012-13	10,07,960/-
14	116/CTK/18	ARSS Triveni JV	2013-14	5,83,797/-
15	117/CTK/18	Patel ARSS JV	2012-13	1,73,64,383/-
16	118/CTK/18	Som Datt Builders ARSS JV	2009-10	17,27,940/-
17	119/CTK/18	Som Datt Builders ARSS JV	2010-11	15,70,850/-
18	120/CTK/18	Som Datt Builders ARSS JV	2011-12	61,87,528/-
19	121/CTK/18	Som Datt Builders ARSS JV	2012-13	40,97,910/-
20	122/CTK/18	Backbone ARSS JV	2012-13	1,28,91,540/-
21	123/CTK/18	Backbone ARSS JV	2014-15	11,79,965/-

7. Brief facts of the case are that the assessee is an Association of Person and engaged in execution of work contract and filed the return of income electronically for the respective assessment years. Subsequently, the case was selected for scrutiny through CASS and notice u/s.143(2) of the Act was issued. In compliance to the same, Id. AR of the assessee appeared from time to time and filed the details and also produced relevant documents, balance sheet, profit and loss account. The AO on verification of the financial statements filed by the assessee found that the assessee has claimed exemption u/s.80IA of the Act. The AO dealt on the

provisions of Section 80IA of the Act and is of the opinion that the assessee does not qualify for the deduction as he has engaged to executing the work as contractor with the Government organization, therefore, disallowed the claim of the assessee. Similarly on perusal of the profit and loss account, the AO found that the assessee claimed sub-contract and operating expenses as per scheduled 07 under head of "Expenditure" in the profit and loss account during the year under consideration and also considered the written submissions in respect of the sub-contract expenses. The AO found that the assessee has not deducted TDS on such payments and made addition and passed order u/s.143(3) of the Act.

8. On appeal, the CIT(A) considered the submissions of the assessee and made distinction of the cases relied by the assessee and finally confirmed the addition.

9. On further appeal before the Tribunal, Id. AR submitted that the assessee executes the contract as a developer and a joint venture and the assessee is persistently continuing the work from the earlier years. Ld. AR supported his arguments and relied on the coordinate bench of Tribunal decision in assessee's own case and referred to the paper book and further submitted that for the earlier assessment years, the Tribunal has allowed the deduction claimed by the assessee u/s. 80IA(4) of the Act and prayed for allowing the appeal

10. Contra, Id. DR objected to the submissions and relied on the orders of lower authorities.

11. We have heard rival submissions and perused the materials on record. On the first disputed issue of claim of deduction u/s.80IA of the Act, though the Id. DR has objected that the CIT(A) was correct in relying on the decisions, we found as a judicial precedence, the coordinate bench of the Tribunal has dealt on the similar issue in assessee's own case in ITA Nos.121 to 126/CTK/2018, dated 11.01.2016 for the assessment year 2009-2010. On the query from the Bench to the Id. DR as to whether in earlier year the department has challenged the order of the Tribunal before the Hon'ble High Court, there was no proper explanation from the Revenue. We perused the order of the coordinate bench of the Tribunal in ITA No.121 to 126/CTK/2013, dated 11.01.2016, wherein the Tribunal has held as under:-

"8. We have considered rival contentions and carefully gone through the orders of the authorities below and also deliberated on the judicial pronouncements referred by lower authorities in their respective orders as well as cited by Id. AR and DR in the context of factual matrix of the case. From the record - we found that the assessee has undertaken infrastructure project. As per the terms and conditions of the infrastructure project so awarded, we found that assessee has worked as a developer of infrastructure project and not merely as a contractor. As per the detailed scope of the work undertaken by the assessee, it can be safely concluded that on the facts and circumstances of the case, the assessee has worked as a developer and not merely as a contractor. Accordingly, we do not find any merit in the action of the AO for declining the claim of deduction u/s.80IA(4). The assessee has not adversely hit by the Explanation below Section 80IA inserted by the Finance Act, 2009 with retrospective effect from 1-4-2009, insofar as the assessee is not working merely as a contractor but as a developer. Even as per Explanation to Section 80IA(4), infrastructure facility includes roads including toll road, bridge or rail system. We found that assessee has fulfilled all the conditions for entitlement of deduction, even viewing from the point of view of Explanation so inserted by the Finance Act, 2009. This issue is also covered by the decision of Hon'ble Bombay High Court in the case of ABG Heavy Industries Ltd., 322 ITR 323, wherein the Hon'ble Bombay High Court held as under :-

"Right from 1996, the CBDT was seized with the question, as to whether infrastructure facilities developed under a BOLT project would qualify for exemption under section 80-IA. The first circular in that regard was issued on 23-1-1996, which specifically dealt with whether section 80-IA(4A) would be applicable to a BOLT Scheme involving an infrastructure facility for the Indian Railways. The circular clarified that an infrastructure facility set up on a BOLT basis for Railways would qualify for deduction. That was followed by the two circulars of the CBDT dated 23-6-2000 and 16-12-2005. The first of those circulars recognized that structures for storage, loading and unloading, etc., at a port built under a BOT and BOLT scheme would qualify for deduction. Now there is no question of an enterprise operating a facility in a BOLT Scheme because such a scheme contemplates that the enterprise would build, own, lease and eventually transfer the facility to the authority for whom the facility is constructed. The subsequent circular dated 16-12-2005 once again clarified the position of the CBDT that structures, which have been built, inter alia, under a BOLT Scheme up to the assessment year 2001-02, would qualify for a deduction under section 80-IA. In fact, from the assessment year 2002-03, the process was further liberalized, consistent with the basic purpose and object of granting the concession. In this background, particularly in the context of the objective sought to be achieved and in the absence of any challenge on the part of the revenue on the applicability of the binding circulars of the CBDT, the condition as regards development, operation and maintenance of an infrastructure facility was contemporaneously construed by the authorities at all material times, to cover within its purview the development of an infrastructure facility under a scheme by which an enterprise would build, own, lease and eventually transfer the facility. This was perhaps a practical realisation of the fact that a developer may not possess the wherewithal, expertise or resources to operate a facility, once constructed. The Parliament eventually stepped in to clarify that it was not invariably necessary for a developer to operate and maintain the facility. The Parliament when it amended the law was obviously aware of the administrative practice resulting in the circulars of the CBDT. The fact that in such a scheme, an enterprise would not operate the facility itself was not regarded as being a statutory bar to the entitlement to a deduction under section 80-IA. The Court could not be unmindful in the instant case of the underlying objects and reasons for a grant of deduction to an enterprise engaged in the development of an infrastructure facility. The provision was intended to give an incentive to investment for infrastructural growth in the country. In *Bajaj Tempo v. CIT* 119921 196 ITR 188/62 Taxman 480, the Supreme Court emphasized that a provision in a taxing statute granting incentives for promoting growth and development should be construed liberally. In the instant case, the administrative

circulares issued by the CBDT proceeded on that basis by adopting a liberal view of the scope and ambit of the provisions of section 80-IA. The Tribunal having only followed these provisions, there was no just reason to interfere in the Court's appellate jurisdiction. [Para 21]

As regards the revenue's contention that the enterprises must start operating and maintaining the infrastructure facility on or after 1-4- 1995, the Tribunal had entered a finding that the assessee was operating the facility. That the assessee was maintaining the facility was not in dispute. The facility was commenced after 1-4-1995. Therefore, the requirement was, in fact, met. Moreover, as a matter of law, what the condition essentially means is that the infrastructure facility should have been operational after 1-4-1995. After section 80-IA was amended by the Finance Act, 2001, the section applies to an enterprise carrying on the business of (i) developing or. (ii) operating and maintaining or (iii) developing, operating and maintaining any infrastructure facility which fulfils certain conditions. Those conditions are : (i) ownership of the enterprise by a company registered in India or by a consortium: (ii) an agreement with the Central or the State Government, local authority or statutory body; and (iii) the starting of operation and maintenance of the infrastructure facility on or after 1-4-1995. The requirement that the operation and maintenance of the infrastructure facility should commence after 1-4-1995 has to be harmoniously construed with the main provision under which a deduction is available to an assessee who develops or operates and maintains or develops, operates and maintains an infrastructure facility. Unless both the provisions are harmoniously construed, the object and intent underlying the amendment to the provision by the Finance Act, 2001 would be defeated. A harmonious reading of the provision in its entirety would lead to the conclusion that the deduction is available to an enterprise which fi) develops or (ii) operates and maintains or (iii) develops, maintains and operates that infrastructure facility. However, the commencement of the operation and maintenance of the infrastructure facility should be after 1-4-1995. In the instant case, the assessee clearly fulfilled that condition. [Para 22]

The subsequent amendment to section 80-IA(4A) to clarify that the provision would apply to an enterprise engaged in (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining an infrastructure facility was reflective of the position which was always construed to hold the field. The amendment made by the Parliament to section 80-IA(4) set the matter beyond any controversy by stipulating that the three conditions for development, operation and maintenance were not intended to be cumulative in nature. [Para 23]

Therefore, the Tribunal was justified in holding that the assessee had carried on the business of developing, maintaining and operating an infrastructural facility so as to entitle it to a deduction under section 80-1 A. [Para 23]

In the instant case, the work of the assessee is in the nature of infrastructure development. From the above order of Hon'ble High Court, looking to the nature of work of the assessee, we found that the assessee is entitled for deduction u/s.80IA(4). Accordingly, we do not find any merit in the action of AO in declining assessee's claim of deduction u/s.80IA(4) of the Income Tax Act.

12. We, respectfully follow the judicial precedence and direct the AO to delete the additions made for the respective assessment years under consideration in the appeals mentioned at para 6 above. Accordingly, we allow the grounds of appeal with respect to claim of the assessee u/s.80IA(4) of the Act in the above mentioned appeals.

13. On the second disputed issue raised in ITA No.81/CTK/2018 for the assessment year 2012-2013 regarding disallowance made u/s.40(a)(ia) of the Act, the AO, in respect of payments made to one of the JV constituents M/s Harish Chandra India Ltd. and observed such payment is in violation of provisions of Section 40(a)(ia) of the Act. On appeal the CIT(A) confirmed the addition. Ld. AR submitted that this issue is covered in favour of the assessee by the order of Tribunal in assessee's own case for the assessment year 2009-2010 in IT(SS)A No.13/CTK/2014. We have perused the order of the Tribunal and the relevant observations of the Tribunal are as under :-

"10. We heard the rival submissions and perused the orders of lower authorities, materials available on record and judicial decisions. The sole crux of the issue is that the assessee is an Association of Persons and joint venture. As per the agreement entered into between the parties and the assessee, the amounts were transferred and the recipients have paid their income tax, which is not in dispute. The contention of the Assessing officer that there exist a contract and contratee relationship, therefore, TDS provisions u/s.194C of the Act have come into existence. We find the CIT(A) has dealt exhaustively on the provisions on legal issue, the amendments and provisions of section 201(1) of the Act. Prima facie, we find that the transactions made by the

assessee with joint venture are purely in the nature of business necessity and there is no contract and contractee relationship as CIT(A) observed in his order considering the amended provisions in Finance Act, 2012, recipient has disclosed this fact and offered the income in their independent assessment and the CIT(A) dealt on the findings of the Assessing Officer, written submission of the assessee, judicial decisions and interpretation of amendment and after thorough discussion concluded that the provisions of section 40(a)(ia) are not applicable. We find that the CIT(A) has examined and dealt exhaustively on the provisions vis-à-vis explanation of the assessee in the order. We are of the opinion that the revenue could not establish the contractual relationship as they alleged in the assessment proceedings whereas the CIT(A) considered the findings, submissions and judicial decision and partly allowed the appeal. We are of the opinion that the provisions of section 40(a)(ia) and section 201(1) have been dealt and we support our view on the decision of Hon'ble Delhi High Court in the case of CIT vs. Ansal Land Mark Township (P) Ltd., . 377 ITR 635 (Delhi), wherein, the amended provisions have been considered as under:

“It is seen that the second proviso to Section 40(a) (ia) was inserted by the Finance Act 2012 with effect from 1st April 2013. The effect of the said proviso is to introduce a legal fiction where an Assessee fails to deduct tax in accordance with the provisions of Chapter XVII B. Where such Assessee is deemed not to be an assessee in default in terms of the first proviso to sub-Section (1) of Section 201 of the Act, then, in such event, “it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee referred to in the said proviso”.

11. Considering the apparent facts and materials on record, and the ratio of judicial decision, we are not inclined to interfere with the order of the CIT(A), which is hereby confirmed and dismiss the ground of appeal of the revenue.”

We considering the apparent facts and material on record, and the ratio of judicial decision, are of the opinion that the payee is a JV and an assessee under the Income Tax Act, 1961 and filed its return of income disclosing the income and, therefore, we direct the AO to delete the addition and this ground of appeal of the assessee is allowed.

14. Next ground is with respect to addition of Rs.3,11,695/- for non disclosure of gross contract receipt for the assessment year 2013-2014 in

ITA No.83/CTK/2018. Similarly in ITA No.82/CTK/2018, the assessee is aggrieved by the addition made on account of difference between gross contract receipt reflected in Form No.26AS. Similar ground has been raised in ITA No.123/CTK/2018 for the assessment year 2014-2015, wherein the assessee is aggrieved for the addition made on account of difference between the gross contract receipt received from EEPI Unit, OSRP as reflected in Form No.26AS.

15. We find that the assessee has raised these grounds in the aforesaid appeals for the first time before the Tribunal and also filed the details of the contract receipts and ledger account to substantiate the gross receipts received by the assessee. Further Id. AR argued in ITA No.82/CTK/2018 that if any addition is made then the assessee shall be entitled to deduction u/s.80IA of the Act on such income. We find that this issue was not raised before the CIT(A) and therefore, we remit this issue to the file of CIT(A) and direct the assessee to put forth its case before the CIT(A) in respect of above ground and it is nevertheless to mention here that the assessee should be provided adequate opportunity of hearing. Accordingly, this ground of appeal of the assessee in the above appeals i.e. ITA No.82&83 & 123/CTK/2018 (AY : 2013-2014 & 2014-2015) are allowed for statistical purposes.

16. In the result, appeals of the assessee i.e. ITA Nos.81, 84 to 89 and 111 to 122/CTK/2018 are allowed, ITA No.82 & 123//CTK/2018 are partly allowed for statistical purposes and ITA No.83/CTK/2018 is allowed for statistical purposes.

Order pronounced in the open court on this 27/04/2018.

Sd/-

(N. S. SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 27/04/2018

प्र.कु.मि/PKM, Senior Private Secretary

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

1. Appellant-
2. 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,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack