



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

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND ARUN KHODPIA, ACCOUNTANT MEMBER**

**ITA Nos.383 to 390 /CTK/2010**  
Assessment Years : 1987-88 to 1994-95

Samantaraj Films Pvt Ltd., Rajabagicha, Cuttack	Vs.	ACIT, Range-2, Cuttack
PAN/GIR No. AAHCS 0496 C		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Jagabandu Sahoo, Sr. Adv/Miss Kajal Sahoo, Adv.  
Revenue by : Shri S.C.Mohanty, Sr. DR

**Date of Hearing : 2/02/2023**  
**Date of Pronouncement : 2/02/2023**

**ORDER**

**Per Bench**

These are appeals filed by the assessee against the common order of the Id CIT(A), Cuttack, all dated 24.8.2010 in Appeal Nos.0093/2010-11 for the assessment years 1987-88 to 1994-95, respectively.

2. Shri Jagabandu Sahoo, Sr. Adv/Miss Kajal Sahoo, Adv appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id Sr AR that against the orders of the Id CIT(A), the assessee had preferred appeals to the Tribunal and the Tribunal had originally disposed off these appeals vide its order dated 13.5.2011. It was the submission that as the issue of reopening had not been adjudicated by the Tribunal at that point of time, the assessee had filed appeals to the

Hon'ble Jurisdictional High Court of Cuttack and vide order in ITA Nos.52 to 59/2011 dated 31.7.2019, the Hon'ble High Court had restored the issue to the file of the Tribunal to re-adjudicate the issue in the line with the decision of the Hon'ble High Court. The order of the Hon'ble High Court was received in ITAT, Cuttack on 28.3.2022 and the appeals were posted for hearing on 26.7.2022, 29.9.2022, 11.10.2022, 15.12.2022 and again today i.e. on 2.2.2023. Today when the matter was called for hearing, Id Sr counsel for the assessee submitted that in the order of the CIT(A), in para 5, the Id CIT(A) has mentioned that the original orders in respect of assessment years 1989-90, 1990-91, 1991-92 & 1992-93 as also 1994-95 were passed u/s.143(1)(a) of the Act. It was the submission that the original orders for the assessment years 1989-90 and 1990-91 had been passed u/s.143(3) of the Act on 29.2.1992 and 16.8.1994, respectively. It was the submission that for the assessment year 1992-93, original assessment had already been completed u/s.144 of the Act on 16.8.1994 and for the assessment year 1994-95 on 26.11.1996. It was thus the submission that the recording of the facts in the order of the Id CIT(A) itself was erroneous. Id AR further took us through the order of the Id CIT(A) to submit that he has not considered the arguments of the assessee that the reassessment has been done beyond the four years period and there is no recording that there is failure on the part of the assessee to disclose fully and truly all material facts required for his assessment. It was the

submission that the order of the Id CIT(A) was non-speaking order and bald order and the assessment must be restored to the file of the Id CIT(A) for passing a speaking order after recording the correct facts.

4. In reply, Id Sr DR submitted that the orders which are being mentioned by the Id AR are not available on record. Id Sr Counsel of the assessee has filed all the relevant assessment orders passed u/s.143(3) and u/s.144 in respect of the assessment years 1989-90, 1990-91, 1992-93, 1993-94 and 1994-95. Admittedly, the intimations passed u/s. 143(1)(a) have not been filed. It was the submission by Id Sr DR that he has no objection to the issues being restored to the file of the Id CIT(A) for recording all the correct facts and proper adjudication of the appeals.

5. We have considered the rival submissions. A perusal of para 5 of the orders of Id CIT(A) categorically shows that he has wrongly recorded that intimation have been passed u/s.143(1)(a) of the Act, whereas, the facts shows that scrutiny assessment and exparte assessment have been done for many of the years. Further, on perusal of paras 5.2 to 5.6 of the order of the Id CIT(A) does not give any reasons for the specified adjudication. This being so, we find that the submission by Id Sr Counsel is on right footing and issues in these appeals are restored to the file of the Id CIT(A) for readjudication on merits and passing a speaking order after recording the correct facts. Id CIT(A) shall keep in mind the decision of the Hon'ble Jurisdictional High Court referred (supra) when adjudicating the issues.

6. In the result, appeals filed by the assessee are partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 02/02/2023.

Sd/-

**(Arun Khodpia)**

**ACCOUNTANT MEMBER**

Cuttack; Dated 02/02/2023

B.K.Parida, SPS (OS)

sd/-

**(George Mathan)**

**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant : Samantaraj Films Pvt Ltd.,Rajabagicha, Cuttack
2. The Respondent: ACIT, Range-2, Cuttack
3. The CIT(A)-, Cuttack
4. Pr.CIT-, Cuttack.
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**