



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK
(Through virtual hearing)**

**BEFORE S/SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.24/CTK/2023: Assessment Year-2012-13
ITA No.25/CTK/2023: Assessment Year-2014-15
ITA No.26/CTK/2023: Assessment Year-2018-19
ITA No.27/CTK/2023: Assessment Year-2019-10**

Guru Maharaj Construction, Prativa Niwas, Arunodaya Nagar, Badambadi, Cuttack	Vs.	ACIT, Circle-2(1), Cuttack
PAN/GIR No.AAFGF 1016 L		
(Appellant)	..	(Respondent)

Assessee by : Shri K.K.Bal, Adv
Revenue by : Shri M.K.Gautam, Pr. CIT(OSD)/ S.C.Mohanty, Sr DR

**Date of Hearing : 28 /06/2023
Date of Pronouncement : 28 /06/2023**

ORDER

Per Bench

ITA No.24/CTK/2023 is the appeal filed by the assessee against the order of the Id CIT(A)-2, Bhubaneswar dated 23.11.2022 in Appeal No.Cuttack/10070/2017-18 for the assessment year 2012-13 and ITA Nos.25 to 27 are the appeals filed by the assessee against the common order dated 30.11.2022 in Appeal Nos.10364/2016-17, in Appeal No. Bhubaneswar-2/11253/2017-18 and in Appeal No.Bhubaneswar-

2/110540/2018-19 for the assessment years 2014-15, 2018-19 & 2019-20, respectively.

2. Shri K.K.Bal, Id AR appeared for the assessee and Shri M.K.Gautam, Pr. CIT (OSD) / S.C.Mohanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR that the notices issued by the Id CIT(A) are uploaded through the portal and now a days the portal of the assessee is managed by Id AR, who files the return of the assessee. It was the submission that due to communication gap between the assessee and Id AR, who files the return, written submissions and other evidences in response to the notices issued by Id CIT(A) could not be filed. It was the submission that due to non-available of required materials/evidences, the Id CIT(A) has disposed of the appeals on merits without affording reasonable opportunities to the assessee. He submitted that the Id CIT(A) has simply upheld the findings of the Assessing Officer in the absence of supporting evidences, violating the principles of natural justice. However, Id AR submitted that in the assessment year 2018-19, the Id CIT(A) has allowed the penalty on TDS and for the assessment year 2019-20, the Id CIT(A) has allowed the claim of the assessee towards expenses u/s.10(2A) of the Act on the basis of facts on record. In respect of other ground u/s.43B, Id AR submitted that this issue has been decided without considering any materials. It was the submission that if one more opportunity is given, the assessee would furnish the required materials/evidences and co-operate

with the Id CIT(A) in disposal of appeals. He requested to remit the matter back to the file of the Id CIT(A).

4. In reply, Id Pr. CIT(OSD) and Sr DR supported the orders of the lower authorities.

5. We have considered the rival submissions. A perusal of impugned orders of the Id CIT(A) clearly show that the Id CIT(A) has disposed of the appeals concurring with the findings of the Id AO without giving proper opportunities to the assessee. It was the contention of Id AR that due to communication gap between the assessee and Id AR, who files the return, evidences in support of the claim of the assessee could not be filed. His prayer was that one more opportunity be given, for which, assessee can produce all the evidences and materials required for disposal of the appeals except the ground already decided in favour of the assessee on TDS for the assessment year 2018-19 and u/s.10(2A) of the Act for the assessment year 2019-20. We are therefore of the view that in order to impart substantial justice, the matter requires fresh adjudication by the Id CIT(A). Consequently, we set aside the orders of the Id CIT(A) and restore the matter back to his files for fresh adjudication. The assessee is also directed to co-operate with the set aside the proceedings and produce all evidences and required materials before the Id CIT(A) for early disposal of the appeals. With these directions, the appeals are remitted back to the file of the Id CIT(A).

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

Order dictated and pronounced in the open court on 28/06/2023.

SD/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

SD/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 28/06/2023
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Guru Maharaj Construction,
Prativa Niwas, Arunodaya Nagar,
Badambadi, Cuttack
2. The Respondent: ACIT, Circle-2(1),
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