



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

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.312/CTK/2023: Assessment Year : 2013-14
ITA No.313/CTK/2023: Assessment Year : 2013-14

Indu Devi Tibarewal, C/O. Raj Kumar Tibarewal, Nayasarak, Cuttack-753002	Vs.	ACIT, Central Circle-1, Cuttack
PAN/GIR No.ACXPT 4424 E		
(Appellant)	..	(Respondent)

Assessee by : Shri K.K.Bal, Adv
Revenue by : Shri Sanjay Kumar, CIT DR

Date of Hearing : 25/04/2024
Date of Pronouncement : 25/04/2024

ORDER

Per Bench

ITA No.312/CTK/2023 is an appeal filed by the assessee against the order u/s. 153A of the Income Tax Act, 1961 of the Id CIT(A)-2, Bhubaneswar dated 22.6.2023 in Appeal No. Bhubaneswar-2/101101/2012-13 for the assessment year 2013-14.

2. ITA No.313/CTK/2023 is an appeal filed by the assessee against the order of the Id CIT(A)-2, Bhubaneswar dated 22.6.2023 in Appeal

No.Bhubaneswar-2/10102/2012-13 confirming the levy of penalty u/s.271(1)(c) of the Act for the assessment year 2013-14.

3. Shri K.K.Bal, Id AR appeared for the assessee and Shri Sanjay Kumar, Id CIT DR appeared for the revenue.

4. It was submitted by Id AR that in respect of quantum assessment though the remand report has been issued to the assessee, the appellant did not get adequate time to respond to the same. It was the submission that it was on account of the absence of the documents in respect of agricultural income that the additions have been confirmed. It was the prayer that if the issues in this appeal are restored to the file of the Assessing Officer, the assessee would be in a position to convince the AO in respect of the agricultural income. It was the prayer that the issue may be restored to the file of the AO to grant the assessee another opportunity to substantiate his case.

5. In reply, Id CIT DR submitted that the assessee had made submission before the Id CIT(A) and when the Id CIT(A) called for remand report, the assessee had no reply to the remand report because he had no evidence. It was the submission that the issues must not be restored to the file of the AO as the assessee had been granted adequate opportunities.

6. We have considered the rival submissions. A perusal of the page 6 of the order of the Id CIT(A) clearly shows that the Id CIT(A) has rejected

the assessee's appeal on the ground that there was absence of any other document justifying the agricultural income as claimed by the appellant. Ld AR has admittedly submitted that he is in a position to prove the agricultural income if an opportunity is allowed. This being so, the issues in this appeal are restored to the file of the Assessing Officer for re-adjudication after granting the assessee adequate opportunity of being heard.

7. As we have restored the issue in quantum appeal to the Assessing Officer for re-adjudication, the penalty order passed by the AO and confirmed by the Id CIT(A) in respect of penalty levied u/s.271(1)(c) of the Act no more survive and is to be redone by the AO, if required, in the set aside proceedings.

8. In the result, appeal in ITA No.312/CTK/2023 is partly allowed and the appeal in ITA No.313/CTK/2023 is allowed.

Order dictated and pronounced in the open court on 25/04/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 25/04/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Indu Devi Tibarewal, C/O.
Raj Kumar Tibarewal, Nayasarak, Cuttack-
753002
2. The Respondent: ACIT, Central Circle-1,
Cuttack
3. The CIT(A)-2, Bhubaneswar
4. Pr.CIT2, Bhubaneswar
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack