



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

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

**ITA Nos.21 & 22/CTK/2022**

Assessment Years : 2012-13 & 2013-14

Smt. Pramila Patra, Friends Colony, Lunahar, Salipur, Cuttack	Vs.	Income Tax Officer, Ward-1(1), Cuttack
PAN/GIR No.BZYPP 3594 A		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

**ITA Nos.110 to 115/CTK/2023**

Assessment Years : 2009 -10 to 2014-15

Trilochan Patra, Friends Colony, Lunahar, Salipur, Cuttack	Vs.	Income Tax Officer, Ward-1(1), Cuttack
PAN/GIR No.ANEPP 0666 L		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Saswat Acharya & Abhijeet Agarwal, Advs  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 30/07/2024**

**Date of Pronouncement : 30/07/2024**

**ORDER**

**Per Bench**

**ITA Nos.21 & 22/CTK/2022-Pramila Patra**

These are appeals filed by the assessee against the separate orders of the Id CIT(A), NFAC, Delhi dated 28.12.2021 in Appeal No.

CIT(A),Cuttack/10423/2016-17 and CIT(A),Cuttack/10424/2016-17 for the assessment years 2012-13 & 2013-14, respectively.

2. Shri Saswat Acharya and Shri Abhijeet Agarwal, Id ARs appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. It was submitted by Id AR tht the case has been reopened within a period of 4 years from the end of the relevant previous year, thus the approval was obtained from JCIT, Range-1, Cuttack. However, there were specific reasons recorded before initiating the proceedings u/s.148 of the Act. For this, he placed reliance on the copy of the order sheet available on record. Further, according to Id AR no enquiry/investigation was carried out and the ITO simply proceeded with the half hazard information stated to have been received from DDIT (Inv) Unit -2, Bhubaneswar. It was submitted by Id AR that the sanction/approval by the JCIT, Range-1, Cuttack in respect of reasons recorded were un-substantiable insofar as there was no reasons recorded and there was no information on the basis of which, the reopening could have been done.

4. In reply, Id Sr DR has placed before us the copy of the order sheet entries which are as follows:

"28.3.2016


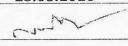
Information received from the DDIT (Inv.) Unit-2(1), Bhubaneswar reveals that Smt. Pramila Patra and her husband Sri Trilochan Patra has made huge investments during the F.Y. 2011-12 relevant to A.Y.

2012-13 which is not in commensurate with the income shown in the income tax return filed by the assessee for the year.

As income chargeable to tax has escaped assessment for the A.Y. 2012-13, action u/s.147 of the Income tax Act, 1961 for the A.Y. 2012-13 is suggested in this case, if approved."

5. It was the submission by Id AR the order sheet entry on 28.3.2016 as extracted above is the reasons recorded. He also placed before us the copy of the approval alongwith proposals, which reads as follows:

**Proposal for obtaining the approval of the Joint Commissioner of Income Tax for issuance of notice u/s. 148**

01.	Name and address of the assessee	Smt. Pramila Patra, W/o-Shri Trilochan Patra, Lunahar, Salepur, Cuttack
02.	PAN	BZYPP3594A
03.	Status	Individual
04.	District/Circle/Range	ITO, Ward-1(1), Cuttack
05.	Assessment Year in respect of which it is proposed to issue notice u/s.148	A.Y.2013-14
06.	The quantum of income which has escaped assessment	
07.	Whether the provisions of Sec.147 are applicable	Yes
08.	Whether the assessment is proposed to be made for the first time. If the reply is in the affirmative please state	Yes
	a) Whether any voluntary return had already been filed and ;	Yes
	b) If so, the date of filing of the said return.	03.08.2013
09.	If the answer to item 8 is in the negative please state.	-
	a) The income originally assessed	NA
	b) Whether it is a case of under assessment, assessment at too low rate, assessment which had been the subject of excessive loss or depreciation.	NA
10.	Whether the provisions of Sec. 150(1) are applicable. If the reply is in the affirmative, the relevant facts may be stated against Item No.11 and it may also be brought out that the provisions Sec.150(2) would not stand in the way of initiating proceedings under section 147.	No
11.	Reasons for the belief that income has escaped assessment.	INVESTMENT MADE DURING THE YEAR IS NOT IN COMMENSURATE WITH THE INCOME SHOWN IN THE IT RETURN FILED FOR THE YEAR.
	Date	28.03.2016
	Signature of the Officer	
	Name of the Officer	Sri Ranjan Mohanty
	Designation of the Officer	Income Tax Officer, Ward-1(1), Cuttack
12.	Whether the Joint Commissioner is satisfied on the reasons recorded by the AO. That it is a fit case for issue of notice u/s. 148	Yes, I am satisfied with reasons recorded by the A.O. for issuance of Notice u/s.148 of the I. T. Act, 1961
	Date	28.03.2016
	Signature of the Officer	
	Name of the Officer	( M. L. Sardar )
	Designation of the Officer	Joint CIT, Range-1, Cuttack



भारत सरकार/Government of India  
कार्यालय आयकर अधिकारी/Office of the Income Tax Officer  
वार्ड-1/WARD-1(1), आयकर भवन/Aayakar Bhawan  
रूम नं-107/Room No-107, प्रथम तल/1<sup>st</sup> Floor,  
कटक/Cuttack-753008, Ph. No. - 0671-2339813

सं/No.ITO/Ward-1(1)/CTC/2015-16/

दि.Dated, कटक/Cuttack the 28<sup>th</sup> March, 2016.

To

The Joint Commissioner of Income Tax,  
Range-1, Cuttack.

Sir,

Sub: Proposal for initiation of proceeding u/s. 147 of the I. T. Act, 1961 -Matter reg.

I am submitting herewith the Proposals for initiation of proceeding u/s. 147 in the following cases for your kind perusal and necessary approval.

Sl no	Name of the assessee	Asst. Year
01.	Shri Ajay Kumar Mohapatra, PAN- AEQPM9570F	2011-12 2012-13 2013-14 2014-15
02.	Shaikh Abdul Kadir, PAN- BBLPK3510L	2011-12 2012-13 2013-14
03.	Smt. Shruti Das, PAN-AATPD6457D	2011-12
04.	Shri Sasanka Sekhar Nayak, PAN- ACAPN0714G	2011-12 2012-13
05.	Shri Trilochan Patra, PAN- ANEPP0666L	2011-12 2012-13 2013-14 2014-15
06.	Smt. Pramila Patra, PAN- BZYPP3594A	2011-12 2012-13 2013-14 2014-15
07.	Shri Dhira Sahoo, PAN-AVXPS0677B	2011-12 2012-13 2013-14

Yours faithfully,

( Ranjan Mohanty )  
Income Tax Officer,  
Ward-1(1), Cuttack.

Received  
Date: 28/3/2016

6. It was the submission that the JCIT, Range-1, Cuttack has categorically mentioned that he is satisfied with the reasons recorded by the Assessing Officer for issuance of notice u/s.148 of the Act. He further drew our attention to the information referred to as the basis for the reasons recorded, which were at pages 14 to 18 of paper book, as follows"

Sl No	Year.	Document No.	Value
Sl No	Year.	Document No.	Value
1)	2008	813,	Rs 3 87500/-
2)	2009.	2084	Rs 12 07000/-
3)	2009	2146.	Rs 2 28625/-
4)	2011.	524	Rs 2 47500/-
5	2011.	525	Rs 2, 14500/-
6	2011	528	Rs 35000/-
7	2011	1088.	Rs 14440/-
8	2011	1822.	Rs 12, 20000/-
9	2011	1090	Rs 2-63500/-
10	2011,	1091,	Rs 2 63500/-
11	2011	1121.	Rs 263500/-
12	2011,	1122	Rs 2-63500/-
13	2011,	1233	Rs 2-56000/-
14	2011,	1448	Rs 2, 70000/-
15	2011,	1540	Rs 2-71000/-
16	2012	83	Rs 9 81000/-
17		690,	Rs 46500/-
18		1689,	Rs 50200/-
19		1690,	Rs 25, 85000/-
20		2301,	

Agreement to 2008/10  
 Rs 12,00,000/-  
 ADV 12,00,000/-

CERTIFIED TO BE TRUE COPY

श्री.के. कानुंगो / P.K. Kanungo  
 आयकर अधिकारी / Income Tax Officer  
 वार्ड-1(1), कटक Ward-1(1), Cuttack

Sl No	Year	Document No.	Value
Sl No	Year	Document No.	Value
1)	2008	813,	R 387500/-
2)	2009	2084	R 1207000/-
3)	2009	2146	R 228625/-
4)	2011	524	R 247500/-
5	2011	525	R 2,14500/-
6	2011	528	R 35000/-
7	2011	1088	R 14440/-
8	2011	1822	R 12,20000/- Adv 12000000/-
9	2011	1090	R 263500/-
10	2011	1091	R 263500/-
11	2011	1121	R 263500/-
12	2011	1122	R 263500/-
13	2011	1233	R 256000/-
14	2011	1448	R 2,70000/-
15	2011	1540	R 271000/-
16	2012	83	R 991000/-
17		690,	R 46500/-
18		1689,	R 50200/-
19		1690,	R 35,85000/-
20		2301,	

CERTIFIED TO BE TRUE COPY

पी.के. कानुंगी / P.K. Kanungo  
 आयकर अधिकारी / Income Tax Officer  
 वार्ड-1(1), कटवा Ward-1(1), Cuttack

Date: \_\_\_\_\_

1	2	3	Reference to document entry				7
			4	5	6	Number and Year	
18.6.2012	Vendors		2				1689/2012
21.9.2012	Vendors	₹0	2				2301/2012
21.9.2012	Vendors	₹0	2				1065/2013
31.12.2012	₹0	₹0	2				829/2013
2.5.2013	₹0	₹0	2				410/2013
10.4.2013	2nd party		2				1824/2013
22.2.2013	Vendors	₹0	2				414/2013
19.8.2013	₹0	₹0					79/13
	₹0	₹0					R.O
	₹0	₹0					301/2008

श्री. अशोक / P.K. Kanungo  
 भारत सरकार / Income Tax Officer  
 Section-1(1), कक्षा Ward-1(1), Cuttack.

CERTIFIED TO BE TRUE COPY

1	2	3	Reference to document entry				7
			4	5	6	Number and Year	
21.8.2012	Vendor	paramela peeta	D	-	-	1478/2012	
14.9.2012	RD	RD	D	-	-	1658/2012	
18.9.2012	RD party	RD	D	-	-	1659/2012	
8.9.2012	RD	RD	D	-	-	201/2013	
15.9.2012	Vendor	RD	D	-	-	858/2013	
5.4.2013	RD	RD	D	-	-		
approved by - <i>[Signature]</i> 5.12.2013							

18  
 Page :  
 CERTIFIED TO BE TRUE COPY  
 श्री. अ. राजेश / P.K. Kanungo  
 आयकर अधिकारी / Income Tax Officer  
 ब्लॉक-1(1), कटक/वार्ड-1(1), कटक

7. It was the submission that this was the information on the basis of which, reopening has been initiated. It was the submission that in pages 14

& 15, the values of the various purchases and the document Nos. are there. It was the submission that pages 16 & 18 showed the assessee's name. It was the submission that this information was obtained from the Sub-Registrar office through RTI by a third party and provided to the department.

8. At this point, Id Sr DR was specifically asked as to whether there is any other documents or records other than that what is mentioned in the order sheet recording for the purpose of showing the reasons recorded. Ld Sr DR specifically submitted that there is no other document other than this. It was the submission that the order sheet entry dtd.28.3.2016 itself is the reasons which have been validly recorded and requisite approval has also been obtained. It was the submission that the reassessment proceedings were validly initiated. It was further submitted that the assessee has been non-cooperative in the assessment proceedings.

9. We have considered the rival submissions. One of the primary requirements for reopening is the recording of reasons. The reasons are to be live and it should specify the probable escapement of income. It need not be the exact figure. There should be some figure. There should be some information as to how the Assessing officer has come to the conclusion that there is escapement of income either in the form of some investigation or enquiry or documentation or wrong interpretation of law. A perusal of the reasons recorded in the present case clearly shows that the

Assessing Officer mentions that he has received information from the DDIT (Inv), Unit -2(1), Bhubaneswar. No further investigation or enquiry has been done by the Assessing Officer nor does it mention so. There is nothing to show that the DDIT (Inv), Unit -2(1), Bhubaneswar has also arrived at any satisfaction. If there was a case of satisfaction recorded by the DDIT (Inv), Unit -2(1), Bhubaneswar, then it could have been a case of borrowed satisfaction. The reasons recorded does not speak of how the DDIT (Inv), Unit -2(1), Bhubaneswar received this information. A perusal of the so called information, which has been extracted above, clearly shows that these are certain reference to documents or order of certain transaction and value of such transaction. Pages 14 & 15 do not refer to whom they relate. These are only mentioned to be agreement. It is not verifiable if the transaction stated in these documents are purchases or sales. Documents at page 16 & 18 refer to the assessee and her husband. There are no figures mentioned in those documents. When examining the reasons recorded with the evidence one of the primary requirement is that when such evidences are looked into by a normal common person, it should show that there is some escapement. The so called documents which have been obtained by a third party through RTI and provided to the department does not give any impression in any manner. The reasons recorded by the Assessing Officer on 28.3.2016 as mentioned in the order sheet also does not give any such picture. This being so, in the absence of any live link

between the reasons recorded and the alleged information, we are of the view that the reasons recorded is bad in law and is liable to be quashed and we do so.

10. Coming to the approval granted as mentioned earlier, the reasons recorded are devoid of any information. The alleged documents on the basis of which the reasons have been recorded are also devoid of any connection and that the JCIT, Range-1, Cuttack has mentioned that he is satisfied with the reasons recorded by the Assessing Officer for issuance of notice u/s.148 of the Act. What is the basis for which the satisfaction has been recorded by the JCIT, Range-1, Cuttack is also not known. Another interesting aspect of the whole episode is the second page of the approval, which is the letter to the JCIT, Range-1, Cuttack by ITO, Ward -1(1), Cuttack. There is no reference to any records but it is stated that he is submitting the proposal for initiation of proceedings u/s.148 of the Act for the following cases for your kind perusal and necessary approval. This contains seven names totaling 21 assessment years. All have been provided on the same date and surprisingly at page 31 of PB, the JCIT Range-1, Cuttack has returned the satisfaction approval on the very same day i.e. on 28.3.2016 wherein, there is not even a change in the Sl.No. and seven persons in the same seriatim, 21 files are returned and this time alongwith assessment records. The copy of the letter dated 28.3.2016

from the JCIT, Range-1, Cuttack to ITO, Ward -1(1), Cuttack reads as follows:

2012-13

भारत सरकार/GOVERNMENT OF INDIA  
कार्यालय संयुक्त आयकर आयुक्त/OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX,  
रेंज-1,कटक/RANGE-1, CUTTACK

No.JCIT/R-1/CTC/App. u/s.147/2015-16/  
Dated, Cuttack, the 28<sup>th</sup> March, 2016.

To  
The Income Tax Officer,  
Ward-1(1), Cuttack.

Sub: - Approval u/s.151(2) for issuance of notice u/s.148 - regarding.  
Ref: - No.ITO/Ward-1(1)/CTC/2015-16 dtd.28.03.2016.

Please refer to the above.

After gone through the reasons recorded by the A.O in his letter under reference, I am satisfied that it is a fit case for issue of notice u/s.148 in the following cases in terms of section 151(2) of the I.T. Act, 1961.

Sl. No.	Name of the assessee	PAN	Asst. Year
1.	Sri Ajay Ku. Mohapatra	AEQPM9570F	2011-12 2012-13 2013-14 2014-15
2.	Shaikh Abdul Kadir	BBLPK3510L	2011-12 2012-13 2013-14
3.	Smt. Shruti Das	AATPD6457D	2011-12
4.	Sri Sasanka Sekhar Nayak	ACAPN0714G	2011-12 2012-13
5.	Sri Trilochan Patra	ANEPPO666L	2011-12 2012-13 2013-14 2014-15
6.	Smt. Pramila Patra	BZYPP3594A	2011-12 2012-13 2013-14 2014-15
7.	Sri Dhira Sahoo	AVDPS0677B	2011-12 2012-13 2013-14

The Assessing Officer may issue notice u/s.148 and serve the said notice. Copy of approved proforma is enclosed herewith.

Assessment records in the above cases are returned herewith.

Encl: As above.

CERTIFIED TO BE TRUE COPY

पी.के. कामुंगो / P.K. Kanungo  
आयकर अधिस्तरी / Income Tax Officer  
वार्ड-1(1), कटक/ Ward-1(1), Cuttack

( M.L. Sardar )  
संयुक्त आयकर आयुक्त/Joint Commissioner of Income Tax,  
रेंज-1,कटक/Range-1, Cuttack

11. Thus, the Assessing Officer has received information from the DDIT (Inv), Unit -2(1), Bhubaneswar, records his findings without even making any enquiry /investigation at his end for reopening of assessment on 28.3.2016 in the order sheet, send the files to JCIT, Range-1, Cuttack for approval. JCIT, Range-1, Cuttack goes through the records and satisfaction and approval for reopening on 28.3.2016 and the files are returned to the ITO, Ward -1(1) Cuttack for the purpose of issuing notice u/s.148 of the Act on 28.3.2016 but the notice u/s.148 is issued on 28.3.2016 served on the assessee on 31.3.2016. Thus, clearly the reasons recorded and the satisfaction being unsustainable, especially in view of the principles laid down by the Hon'ble Jurisdictional High Court in the case of M/s. Serajuddin & Co. Kolkata in ITA Nos.39,40,41,42,43,44 & 45 of 2022 order dated 15.3.2023,(150 taxmann.com 146)(Odisha) which has also been approved by Hon'ble Supreme Court in SLP No.44989/2023 dated 28.11.2023, notice issued u/s.148 stands quashed and consequential assessment also stands quashed for both the assessment years.

12. In the result, both the appeals of the assessee stand allowed.

**ITA Nos.110 to 115/CTK/2023: Trilochan Patra**

**13.** These appeals of the assessee are directed against the separate orders of Id CIT(A) dated 6.2.2023 for the assessment years 2009 -10 to 2014-15 , respectively.

14. On identical issue, in our order of even date, we have quashed the reassessment in the case of Mrs Pramila Patra, wife of the assessee in ITA Nos.21 & 22/CTK/2022. As the facts are same and the assessment has been reopened on the basis of same reasons, following our decisions as above, we quash the notice issued u/s.148 of the Act and consequential reassessments made in the case of the assessee, i.e. Trilochan Patra.

15. In the result, all the appeals of the assessee stand allowed.

Order dictated and pronounced in the open court on 30/07/2024.

Sd/-  
**(Manish Agarwal)**  
ACCOUNTANT MEMBER

sd/-  
**(George Mathan)**  
JUDICIAL MEMBER

Cuttack; Dated 30/07/2024  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The appellant: Smt. Pramila PatraTrilochan Patra, Friends Colony, Lunahar, Salipur, Cuttack
2. The Respondent: Income Tax Officer, Ward-1(1), Cuttack
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

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

