



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

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

**ITA No.246/CTK/2024**  
Assessment Year : 2013-14

Sanjeev Kumar Daitapati, AleI Lane, Matimandap Sahi, Puri	Vs.	Income Tax Officer, Ward Puri.
PAN/GIR No.ALWPD 4092 J		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Mohit Sheth, Adv  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 18/9/2024**  
**Date of Pronouncement : 18/9/2024**

**ORDER**

**Per Bench**

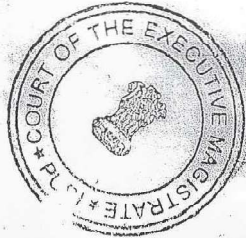
This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 30.3.2024 in Appeal No.CIT(A), Bhubaneswar-2/10914/2017-18 for the assessment year 2013-14.

2. Shri Mohit Sheth, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is an individual who is a Sevayat in Lord Jagannath Mandir, Puri. It was the submission that the

assessee had filed his return of income for the relevant assessment year disclosing a total income of ₹3,40,200/-. The Assessing Officer had received certain information from the Income Tax Officer, Ward- 32(2)(1), Mumbai vide letter dated 30.10.2017 that the assessee had made certain investments in immovable property. It was submission that the allegation was that the assessee was a partner in one Jai Bhavani Enterprises and that the said Jai Bhavani Enterprises had invested in the acquisition of the immovable property. Consequent to the information received, the Assessing Officer had obtained the financial details and that the assessee was asked to explain the source of Rs.58,00,000/- invested in the firm Jai Bhavani Enterprises. The assessee had responded by saying that the assessee has never introduced capital of Rs.58,00,000/- in the partnership firm Jai Bhavani Enterprises. There was an intention to form a partnership firm but that never fructified and that the land had been purchased through a Power of Attorney issued by Jignesh R Mehta who was the proprietor of Jai Bhavani Enterprises. After receipt of the reply from the assessee, the Assessing Officer issued further correspondence with the Income Tax Officer, Ward- 32(2)(1), Mumbai and further clarifications had been sought. Further clarifications were not given by the Income Tax Officer, Ward- 32(2)(1), Mumbai and just on the ground that the balance sheet and capital account of Jai Bhavani enterprise showed that the assessee had invested Rs.58,00,000/- towards capital contribution in the





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- 5. That, the Balance Sheet, Profit and Loss Account and Capital Schedules of the partnership firm , M/s.Jai Bhawani Enterprise submitted by Sri Jignesh R.Mehta w.r. t. his own I.T. Assessment is a fabricated document submitted to escape his own investment from the eyes of Law.
- 6. That, the property was never purchased by M/s.Jai Bhawani Enterprise, Partnership Firm and the fact shown in the balance sheet and other statements were all false and fabricated.
- 7. That, subsequently on Dt:01.03.2014 permission was obtained from State Infrastructure and Industrial Development Corporation of Uttarakhand Ltd, , By Sri, Jignesh R.Mehta to transfer the property to one M/s.Chawla Auto Components
- 8. That, the facts stated above are all true to the best of my knowledge and belief.

Identified by

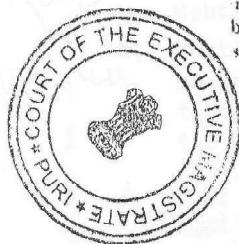
RCM  
Advocate, Puri 12.4.19

Sanjeev Kumar Dactopati

Deponent.

Sanjeev Kumar Dactopati  
 aged 37 years s/o Jagannath Swain, Mohanpara  
 4 Vijay Math Mandap, P.S. Puri, Puri  
 Identified by Rampa Chandra Mohan  
 Adr. solemnly affirms and states that the facts mentioned in his Affidavit are all true to the best of his knowledge and belief and he/she signs this Affidavit being present before me of his the day of 12.4.19 at ...


12.20/19



Executive Magistrate  
PURI

4. Ld CIT(A) called for a Remand Report from the Assessing Officer on 8.7.2019. The Remand Order reads as follows:

Remand Report

  
GOVERNMENT OF INDIA  
OFFICE OF THE COMMISSIONER OF INCOME TAX(A)-2,  
AAYAKAR BHAWAN ANNEXE, RAJASWA VIHAR,  
BHUBANESWAR – 751 007

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No. CIT(A)-2/Remand Report/2019-20/  
Dated, Bhubaneswar, the 08<sup>th</sup> July, 2019.

To  
The Income Tax Officer,  
Puri Ward, Puri.

Sub:- Remand Report in the case of Sanjeev Kumar Daitapati, Matimandap Sahi,  
Puri - 752001, for A. Y. 2013-14 [ PAN: ALWPD4092J] - Regarding.

Ref: Appeal no.0279/2017-18 filed by the appellant.

Please refer to the above.

2. In this case, order u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 has been passed on 06.12.2017, in which addition of Rs.58,00,000/- has been made on account of unexplained introduction of capital in partnership firm M/s. Jai Bhavani Enterprises, Mumbai.

3. During the course of appeal proceedings, the appellant has stated that he has not introduced any such capital in the firm and that balance sheet relied upon by the Assessing Officer is fabricated. The appellant has further stated that the Assessing Officer ought not to have made addition of Rs.58,00,000/- specially when neither the firm nor the remaining two partners confirmed that the appellant has indeed made investment of Rs.58,00,000/- in the capital of the firm.

4. I have carefully examined the appellant's submission. Under the provisions of section 250(4) of the Income Tax Act, 1961 you are directed to make enquiries

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regarding the claim of the appellant that he has not made any investment of Rs.58,00,000/- in the capital of the firm namely M/s. Jai Bhavani Enterprises, Mumbai. The submission dated 22.04.2019 of the appellant is forwarded herewith for necessary action at your end.

5. The remand report should be submitted on or before 08.08.2019. If the report is not received by this date, it will be presumed that you have no objection to the submissions of the appellant, and the appeal will be decided on the basis of material on record. Assessment record should accompany the remand report.

— sd —

पियूषकोल्हे/Piyush Kolhe  
आयकरआयुक्त (अपील)-2/Commissioner of Income-tax (Appeals)-2,  
भुवनेश्वर/Bhubaneswar.

Encl: As above

No. CIT(A)-2/Remand Report/2019-20/ 1262-65  
Dated, Bhubaneswar, the 08<sup>th</sup> July, 2019

Copy to : 1) The Principal Commissioner of Income Tax-2, Bhubaneswar- For kind information  
2) The Addl. CIT/Jt. CIT, Range – 5, Bhubaneswar- to pursue with the assessing officer for submission of remand report.  
3) Appellant.  
4) Authorised representative of the appellant.

पियूषकोल्हे

आयकरआयुक्त (अपील)-2/Commissioner of Income-tax (Appeals)-2  
भुवनेश्वर/ Bhubaneswar.

Typed by: Smt. Swopna Das, Steno-II  
O/o. CIT (A)-2, Bhubaneswar.

5. No Remand Report was submitted by the Assessing Officer. However, the Id CIT(A) proceeded to dispose of the appeal of the assessee by dismissal vide order dated 30.3.2024.

6. On appeal before the Tribunal, the assessee has again filed an affidavit specifying that he is not a partner in Jai Bhavani Enterprise. The affidavit reads as follows:

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8/8/24  
10/8/8/24

**IN THE COURT OF SRI S. Kumar Pattanayak O.A.S**  
**EXECUTIVE MAGISTRATE, PURI**

**AFFIDAVIT**

**I, Sanjeev Kumar Daitapati**, aged about 42 years S/o. Jagannath Swain Mohapatra, resident of Matimandap Sahi, Alei Lane, P.S. Puri Town, P.O & Dist. Puri PIN - 752001 do hereby solemnly affirm and state as follows: -

1. That I am an Income Tax Assessee regularly filing my IT return under the files of ITO, Puri, My PAN is ALWPD4092J.
2. That in the capacity of power of attorney holder of Sri Jignesh R.Mehta had executed a purchase deed for purchasing a property at Plot No. 46, Sector 1, I.D.C. Industrial Area, Patnagar, U.S. Nagar, Uttarakhand in the name of M/s. Jai Bhawani Enterprise, Prop. Sri Jignesh R. Mehta.
3. That the property referred above was owned by M/s. Jai Bhawani Enterprise Prop. Sri Jignesh R. Mehta. The fact that the property is owned by the partnership firm under the name and style of M/s. Jai Bhawani Enterprise is not correct and also baseless.

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Sanjeev Kumar Daitapati  
Affidavit

4. That the fact that I have invested Rs. 58,00,000/- as partner's capital in M/s. Jai Bhawani Enterprise, the partnership firm as alleged by Sri Jignesh R.Mehta is not correct and is completely baseless.
5. That, the Balance Sheet, Profit & Loss Account and Capital Schedules of the partnership firm, M/s. Jai Bhawani Enterprise submitted by Sri Jignesh R.Mehta w.r.t. his own I.T. Assessment is fabricated document submitted to escape his own investment from the eyes of law.
6. That, the property was never purchased by M/s. Jai Bhawani Enterprise, partnership firm and the fact shown in the balance sheet and other statements were all false and fabricated.
7. That, in no way I am partner in the said partnership firm as alleged by Sri Jignesh R. Mehta and also that I have not made any Investment in the said partnership firm.
8. That, I have neither signed any partnership deed nor I have signed any account statement. That, I have never seen any such partnership Deed.
9. That, the claim by Sri Jignesh R. Mehta is completely false and baseless and without any evidence.
10. That, the facts stated above are all true to the best of my knowledge and belief.

Identified by  
*[Signature]*  
Advocate, Puri



*Sanjeev Kumar Daitafati*  
Deponent.

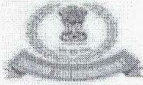
*Sanjeev Kumar Daitafati*  
*44 year 8/0 Jagannath Sagar Mohapatra*  
*Mohapatra S/O. Ajei Lane 8/8 Lane Puri*  
No. *8/8/24* identified by *Sanjeev Kumar Daitafati*  
I solemnly affirm and state that the facts mentioned in the Affidavit are all true to the best of my knowledge and belief and he/she/it was present before me on the *8th* day of *Aug* *2024* at *1:25 P.M.*  
*[Signature]*  
Executive Magistrate



6. On the basis of this affidavit, a Remand Report had been called for from the Assessing Officer on 13.8.2024, which reads as follows:

ITA 246/CTK/2024 (Assessment Year: 2013-14)	
In the case of <b>SANJEEV KUMAR DAITAPATI</b> vs. <b>ITO WARD, PURI</b>	
Assessee represented by: Mohit Sheth, Advocate Department represented by: S.C.Mohanty, Sr. DR	
Bench: DB <u>3</u> 13-Aug- 2024 (Tuesday)	<p>A remand report is being called for from the Assessing Authority. The assessee has filed an affidavit dated 8.8.2024 in support of the affidavit filed earlier on 18.4.2019 before the Id CIT(A)-2, Bhubaneswar, wherein, he has categorically submitted that he is not the partner in M/s. Jai Bhavani Enterprise. The addition in the present case is in regard to alleged capital introduced by the assessee in Jai Bhavani Enterprise, a partnership firm. A perusal of the assessment order shows that the Assessing officer recognizes that Jai Bhavani Enterprises is a proprietary concern of Sri Jignesh R Mehta, as claimed by the assessee. This being so, in the present remand, the Assessing Officer is to verify and obtain from the Assessing Officer of Jai Bhavani Enterprises of the details of the partners, copy of the partnership deed in the case of Jai Bhavani Enterprise, balance sheet, profit and loss account and audit report, if any, in the case of Jai Bhavani Enterprise for the assessment year 2013-14. In the assessment order, it is mentioned that a letter u/s.133(6) of the Act had been issued to the ITO, Ward-32(2)(1), Bandra Kurla Complex, Mumbai, who is having jurisdiction over the firm Jai Bhavani Enterprise for furnishing certain information. Whether such information had been obtained, if not, why no follow up action has not been done. The Assessing officer is also directed to obtain such information as sought. Copy of the bank account statement of Jai Bhavani Enterprise for the period 1.4.2012 to 31.12.2013 relevant to assessment year 2013-14, wherein transaction of the purchase of the period is recorded as Rs.58 lakhs paid by the assessee is reflected.</p> <p>The remand report had been called for by the Id CIT(A)-2, Bhubaneswar on 8.7.2019 from the ITO, Puri Ward, Puri. Copy of the remand report, if any, in respect of the said remand order. Affidavit of the assessee dated 8.8.2024 and 18.4.2019 and the copy of the remand order by the Id CIT(A)-2, Bhubaneswar is also to be forwarded to the ITO, Puri Ward, Puri for his comments. The remand report is to be provided latest by 28.8.2024. The appeal is adjourned to 29.8.2024.</p> <p>Copy of this remand order is to be forwarded to Pr. CCIT, Bhubaneswar for information and appropriate directions.</p>
	<p>Recd 13/08/24 Manish Agarwal Sr. ITAT</p>

7. On 13.9.2024, a Remand Report has been sent to the ITAT, Cuttack with enclosures, which reads as follows:

  
GOVERNMENT OF INDIA  
OFFICE OF THE Pr. COMMISSIONER OF INCOME TAX-1,  
3<sup>rd</sup> FLOOR, AAYAKAR BHAWAN, RAJASWA VIHAR,  
BHUBANESWR – 751007

F. No. Pr.CIT-1/BBSR/J&T/ITAT/2024-25/ 3962  
Dated, Bhubaneswar, the 13<sup>th</sup> September, 2024.

To  
The Asst. Registrar (ITAT)  
Cuttack Bench, Cuttack,  
Shelter Square, Tulasipur,  
Cuttack-753008.

Sir,

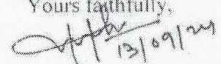
Sub: Forwarding submission of remand report dated 13.08.2024 of Hon'ble ITAT, Cuttack in the case of Shri Sanjeev Kumar Daitapati (PAN- ALWPD4092J) for the A.Y.2013-14 in ITA No.246/CTK/2024 calling for Remand report and relevant case record thereof – reg.

Ref: 1. ITA No.246/CTK/2024, dated 13.08.2024.  
2.This office letter No. Pr.CIT-1/BBSR/Remand Report/2024-25/3442-43, dtd.27.08.2024.

Kindly refer to the above.

In this connection, I am directed to forward herewith the remand report in the case of Sanjeev Kumar Daitapati (PAN- ALWPD4092J) for the A.Y.2013-14 in ITA No.243/CTK/2024 received from the Jurisdictional Assessing Officer i.e. ITO, Puri Ward, Puri through the Range Head for kind perusal and necessary action.

Encl: As above.

Yours faithfully,  
  
(H. K. Dash)  
Income-tax Officer (Judl. & Tech.  
O/o. the Peit-1, Bhubaneswar.



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GOVERNMENT OF INDIA  
OFFICE OF THE ADDL. COMMISSIONER OF INCOME TAX,  
RANGE-1, BHUBANESWAR, Room No 307, 3rd Floor, AAYAKAR BHAWAN  
RAJASWA VIHAR, BHUBANESWAR - 751007.  
Email: bhubaneswar.addlct1@incometax.gov.in.

F.No. Addl. CIT/Range-1/BBSR/Remand Report/2024-25/689. Date: 12<sup>th</sup> September, 2024

To

The Pr. Commissioner of Income Tax - 1,  
Bhubaneswar.

Sir,


Sub: Submission of Remand report dated 13.08.2024 of Hon'ble ITAT, Cuttack in the case of *Shri Sanjeev Kumar Daitapati (HLWPD4092)* for the AY 2013-14 in ITA No. 246/CTK/2024 calling for Remand report and relevant case record thereof - Regarding.


Kindly find enclosed herewith a copy of the letter no. ITO/PuriWard/RemandReport/2024-25/725 dated 9<sup>th</sup> September, 2024 as received from the Income Tax Officer, PuriWard, Puri for your kind perusal.

The detail remand report submitted by the AO is perused. As examined by AO, the assessee Shri Sanjeev Kumar Daitapati try to mislead the court by trying to establish the existence of two persons in the same name of M/s. Jai Bhavani Enterprises. The same may be considered.

Encl: As above.

Yours faithfully,

  
(D. Umakanta Dhurupati, IRS)  
Addl. Commissioner of Income Tax,  
Range - 1, Bhubaneswar.



GOVERNMENT OF INDIA  
OFFICE OF THE INCOME TAX OFFICER, PURI WARD,  
SHREEVIHAR LANE, AAYAKAR BHAWAN, PURI-752003.

No. PO/Puri Ward/Remand report/2024-25/ 725 Date: 09.09.2024

To,  
The Pr. Commissioner of Income Tax - 1,  
Bhubaneswar.

(Through proper channel)

Sir,

Sub: Remand <sup>letter</sup> order dated 13.08.2024 of Hon'ble ITAT, Cuttack in the case of Shri Sanjeev Kumar Daitapati (PAN - ALWPD4092J) for the AY 2013-14 in ITA No.246/CTK/2024 calling for Remand report and relevant case record thereof - Reg.

Ref: Letter F.No.P.CIT-1/BBSR/Remand Report/2024-25/3105, dated 21.08.2024.

Kindly refer to the above.

2. In this connection, I am submitting hereunder the desired report for kind consideration of Hon'ble ITAT, Cuttack.

3.1. In the instant case, the Assessing Officer (hereinafter in short "the AO) is directed to verify and obtain from the Assessing officer of a partnership firm Jai Bhavani Enterprise (PAN - AAKFJ0112E) the details of the partners, copy of the partnership deed, Balance sheet, profit & loss account and audit report, if any, in the case of Jai Bhavani Enterprise for assessment year (in short "AY") 2013-14.

3.2. In this regard, letter is issued to the jurisdictional AO of the partnership firm Jai Bhavani Enterprise (PAN - AAKFJ0112E) i.e. Income tax Officer, Ward 2(1), Thane, on 29.08.2024 requesting him to furnish documents viz. details of partners, Partnership deed, Balance sheet, and profit & loss account and audit report and copy of bank statements from 01.04.2012 to 31.12.2013 relevant to AY 2013-14 by 05.09.2024. However, in this regard, no information has been received till date. Hence, the required information could not be furnished.

4. In the assessment order, it is mentioned that a notice u/s.133(6) of the I. T. Act, 1961 dated 17.10.2017 had been issued to the ITO, Ward 32(2)(1), Bandra Kurla Complex, Mumbai,

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who was having jurisdiction over the firm Jai Bhavani Enterprise for furnishing certain information. In this case, such information was not obtained. However, as follow up action, commission under section 131 of the I.T. Act, 1961 is issued to the ITO, Ward 32(2)(1), Bandra Kurla Complex, Mumbai under on 15.07.2019. Here, information regarding existence and genuineness of the firm Jai Bhavani Enterprise (PAN - AAKFJ0112E), details of partners, return of income details for AY 2013-14, scrutiny assessment details for AY 2013-14 etc. alongwith a request to record statement of the managing partner of the firm was made. Later, ITO, Ward 32(2)(1), Mumbai transferred the matter to ITO, Ward 33(2)(1), Mumbai on 05.08.2019 for necessary compliance. In this connection, the information/documents received are furnished herewith. (Annexure-1)

Later, again commission under section 131 of the I.T. Act, 1961 is issued to the ITO, Ward 32(2)(1), Bandra Kurla Complex, Mumbai on 26.09.2019 followed by a reminder letter dated 25.10.2024 for further local investigation regarding genuineness of the partners of the firm Jai Bhavani Enterprise (PAN - AAKFJ0112E) including the assessee Shri Sanjeev Kumar Daitapati (PAN - ALWPD1092J). In this connection, the information/documents received are furnished herewith. (Annexure-2)

5. The AO is also directed by Hon'ble ITAT, Cuttack to obtain such information viz. Copy of the bank account statement of Jai Bhavani Enterprise for the period from 01.04.2012 to 31.12.2013 relevant to AY 2013-14, wherein transaction of purchase of the period recorded as Rs.58 lakhs paid by the assessee was reflected. As cited in para 3.2 above, the jurisdictional AO of the partnership firm Jai Bhavani Enterprise (PAN - AAKFJ0112E) i.e. Income tax Officer, Ward 2(1), Thane has not furnished the copy of bank statements of the firm Jai Bhavani Enterprise for the relevant period, till date. Hence, the required information could not be furnished.

6.1. The remand report had been called for by the Ld. CIT(A)-2, Bhubaneswar on 08.07.2019 from the ITO, Puri ward, Puri. From available record, it is noticed that the remand report as called for had not been furnished.

6.2. Further, I have gone through the affidavits filed by the assessee dated 08.08.2024 and 18.04.2019. It is noticed that the assessee has stated that in the capacity of power of attorney holder of Shri Jignesh R. Mehta, he had executed a purchase deed for purchasing property at plot No.46, Sector 1, I.D.C. Industrial Area, Patmagar, U.S. Nagar, Uttarakhand in the name of M/s. Jai Bhavani Enterprise, Prop. - Sri Jignesh R. Mehta. Further, the Assessee

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contended that the said property was owned by M/s. Jai Bhavani Enterprise, Prop. - Sri Jignesh R. Mehta and it was factually incorrect that the property was owned by the partnership firm under the name and style of M/s. Jai Bhavani Enterprise.

6.3. However, the documents/materials available at this end reveals completely different set of facts which is contrary to the contentions of the assessee.

From the available records, it is seen that Income tax Officer, ward-16(2)-5, Mumbai vide his letter dated 30.10.2017 (copy enclosed - Annexure-3) forwarded information revealed in the case of Sri Jignesh R. Mehta related to Sanjeev Kumar Daitapati for AY 2013-14. Such information was covered in the assessment order's office note and mentioned in the assessment order dated 06.12.2017 (page-3) in the case of Sanjeev Kumar Daitapati for AY 2013-14. (copy enclosed - Annexure-4) Such information reveals that the assessee Sanjeev Kumar Daitapati had executed and signed the sale deed dated 04.05.2012 and registered with concerned authority on behalf of firm M/s. Jai Bhavani Enterprise (PAN - AAKFJ0112E) towards purchase of property from M/s. Kamalakar Tradelink Pvt. Ltd. for a consideration of Rs.1,23,20,000/-. It is intimated also that Shri Jignesh R Mehta was one of the partners of the firm M/s. Jai Bhavani Enterprise (PAN - AAKFJ0112E) and said purchase of property was done in the name of the firm M/s. Jai Bhavani Enterprise and the deed was executed by the partner of the firm Shri Sanjeev Kumar Daitapati and registered with the registering authority. However, as per AIR, said information regarding property purchase transaction was furnished by the concerned authority under the PAN- AADPM6700E, which belongs to Shri Jignesh R Mehta. It is also, inter alia, intimated that Sanjeev Kumar Daitapati had accidentally and inadvertently mentioned the PAN of Shri Jignesh R Mehta (one of the partner of firm M/s. Jai Bhavani Enterprise) in the sale deed dated 04.05.2012. It is also intimated that in respect of such contention, Jignesh R Mehta had filed an affidavit dated 10.03.2016.

6.4. Thus, it is evident that contradictory set of facts are emerging out of the affidavits of Shri Sanjeev Kumar Daitapati and Shri Jignesh R Mehta (both are partners of firm M/s. Jai Bhavani Enterprise -PAN : AAKFJ0112E). Further, the assessee Shri Sanjeev Kumar Daitapati has not furnished any documentary proof in support of his contentions that in the capacity of power of attorney holder of Shri Jignesh R. Mehta, he had executed a purchase deed for purchasing said property in the name of M/s. Jai Bhavani Enterprise, Prop. - Sri Jignesh R. Mehta. Further, it is pertinent to mention that in course of assessment proceeding the assessee had admitted that he was a partner in firm M/s. Jai Bhavani Enterprise -PAN : AAKFJ0112E. This shows that the assessee is trying to establish the existence of two persons in the same

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name M/s. Jay Bhavani Enterprises, one firm and another proprietorship concern. However, there is no corroborative evidence towards such contentions.

In light of these facts and circumstances, contentions of the assessee Shri Sanjeev Kumar Daitapati does not have any merit and hence, may not be accepted.

Encl. - Case record in one Volume

Yours faithfully,

S. S. Samantaray  
(S.S. Samantaray) 24  
Income Tax Officer, Puri Ward, Puri

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Government of India  
Office of the Income Tax Officer, Puri Ward  
Aayakar Bhawan, Penthakata,  
Sri Vihar Marg, Puri - 752003.

Tel. No. 06752-250305, FAX - 06752-250304, Mob - 9438917540

No. ITO/Puri Ward/Commission/2019-20/114  
Dated, Puri, the 15<sup>th</sup> July, 2019.

To

The Income-tax Officer,  
Ward - 32(2)(1),  
C/11, 2<sup>nd</sup> floor, Pratyaksha Kar Bhawan,  
Bandra Kurla Complex,  
Mumbai - 400051.

Sir,

**Sub : Issue of Commission u/s. 131(d) of the I.T.Act, 1961 - Reg.**

By virtue of power u/s. 131(d) of the I.T.Act, 1961, you are requested to cause a detailed enquiry in the case of M/s. Jay Bhavani Enterprises (PAN - AAKFJ0112E), C-401, Subh Shanti Complex, M.G.Road, Dahrukur Wadi, Kandivili (West), Mumbai - 400067 covering the following points as mentioned hereunder and submit the report to the undersigned by 6<sup>th</sup> August, 2019.

The facts of the case is as under :

The Income-tax Officer, Ward - 16(2)(5), Mumbai has forwarded certain information in the case of Sanjeev Kumar Daitapati of Puri Ward relating to the Asst. Year 2013-14 regarding capital introduction of Rs. 58 lakhs in the firm M/s. Jay Bhavani Enterprises towards purchase of land by the firm. The information was that the firm had purchased a land at Uttarakhand in the F.Y 2012-13, the total value of which is Rs. 1,29,46,150/- including the Stamp Duty and Registration charges. Accordingly proceedings u/s. 147 has been initiated in the case of my assessee i.e Sanjeev Kumar Daitapati for the Asst. Year 2013-14 and assessment order has been passed u/s. 143(3)/147 on 05/12/2017 adding the said Rs. 58 lakhs as unexplained capital introduced raising a demand of Rs. 24,94,600/-. Against the assessment order the assessee preferred first appeal before the Ld. CIT(A)-2, Bhubaneswar. During the course of appeal proceedings, the assessee has stated that he has not introduced any such capital in the firm and that balance sheet relied upon by the Assessing Officer is fabricated. The Ld. CIT(A)-2, Bhubaneswar has called

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Annexure - I

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/ 2 /

for a remand report u/s. 250(4) of the I.T.Act and directed to make enquiries regarding the claim of the appellant that he has not made any investment of Rs. 58,00,000/- in the capital of the firm M/s. Jay Bhavani Enterprises, Mumbai. The Ld. CIT(A)-2, Bhubaneswar has directed to submit the remand report on or before 08/08/2019. Therefore, it is requested to make necessary enquiries on the following points and submit your report to this office on or before 06/08/2019, so that the same can be submitted to the Ld. CIT(A)-2, Bhubaneswar.

1. Existence and genuineness of the firm M/s. Jay Bhavani Enterprises, Mumbai (PAN - AAKFJO112E) along with details of owner/Proprietor/Partners of the firm and nature of business.
2. Whether the firm had filed the return of income for the Asst. Year 2013-14? If so, please furnish the copy of the return along with Balance Sheet, P&L account, capital account and other documents in support of the return of income. Please enquire whether the firm had purchased the land at Uttarakhand and had shown in the return of income for the Asst. Year 2013-14.
3. Whether any scrutiny assessment in the case of the firm M/s. Jay Bhavani Enterprises has been made for the Asst. Year 2013-14? If so please furnish the copy of the assessment order. If no scrutiny assessment has been made, then please enquire whether the capital introduction shown by the partners are genuine or not? If introduction of capital of Rs. 58 lakhs by the partner Sanjeev Kumar Daitapati is ascertained to be true, mode of introduction with documentary evidence may please be furnished.
4. Record a statement from the Proprietor/Managing Partner of M/s. Jay Bhavani Enterprises u/s. 131 of the I.T.Act, 1961 covering all the points.

Yours faithfully,

*N.K. Sahoo*

(N. K. Sahoo)  
Income-tax Officer  
Puri Ward, Puri.

1 3 1  
Memo No. ITO/Puri/Commission/2019-20/415-18  
Dated, Puri, the 15<sup>th</sup> July, 2019.

Copy submitted to :

1. The Pr. Commissioner of Income-tax-2, Bhubaneswar for kind information.
2. The Pr. Commissioner of Income-tax-32, Pratyaksha Kar Bhawan, Bandra Kurla Complex, Mumbai - 400051 for kind information.
3. The Joint Commissioner of Income-tax, Range-32(2), 108C-11, Pratyaksha Kar Bhawan, Bandra Kurla Complex, Mumbai - 400051 for kind information.
4. The Joint Commissioner of Income-tax, Range-5, Bhubaneswar for kind information

*N. K. Sahoo*

( N. K. Sahoo )  
Income-tax Officer  
Puri Ward, Puri.

*ofc*



*SM*  
18/7/19

*Received*  
*SM*  
12.07.19





OFFICE OF THE  
INCOME TAX OFFICER 32(2)(1)  
ROOM NO. 715, 7<sup>TH</sup> FLOOR, KAUTILYA BHAVAN  
EMAIL: [mumbai.ito32.2.1@incometax.gov.in](mailto:mumbai.ito32.2.1@incometax.gov.in),  
Tel: 26576700 extn. 7015

No. ITO-32(2)(1)/Forwarding/2019-20


Date: 5/8/2019

To,  
The Income-tax Officer-33(2)(1),  
Mumbai.

Sub: Issue of Commission u/s. 131(d) of the I.T. Act, 1961 - Reg.  
.....

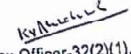
Please find enclosed letter No. ITO/Puri Ward/Commission/2019-20/414 dated  
Ouri 15<sup>th</sup> July, 2019 on the above subject received in this office on 22/7/2019 in the  
case of M/s. Jay Bhavani Enterprises (PAN: AAKFJ0112E) . C-401, Subh Shanti  
Complex, M.G. Road, Dahrukar Wadi, Kandivali(West), Mumbai-400 067 for A.Y.  
2013-14. The jurisdiction of this case pertains to your charge.

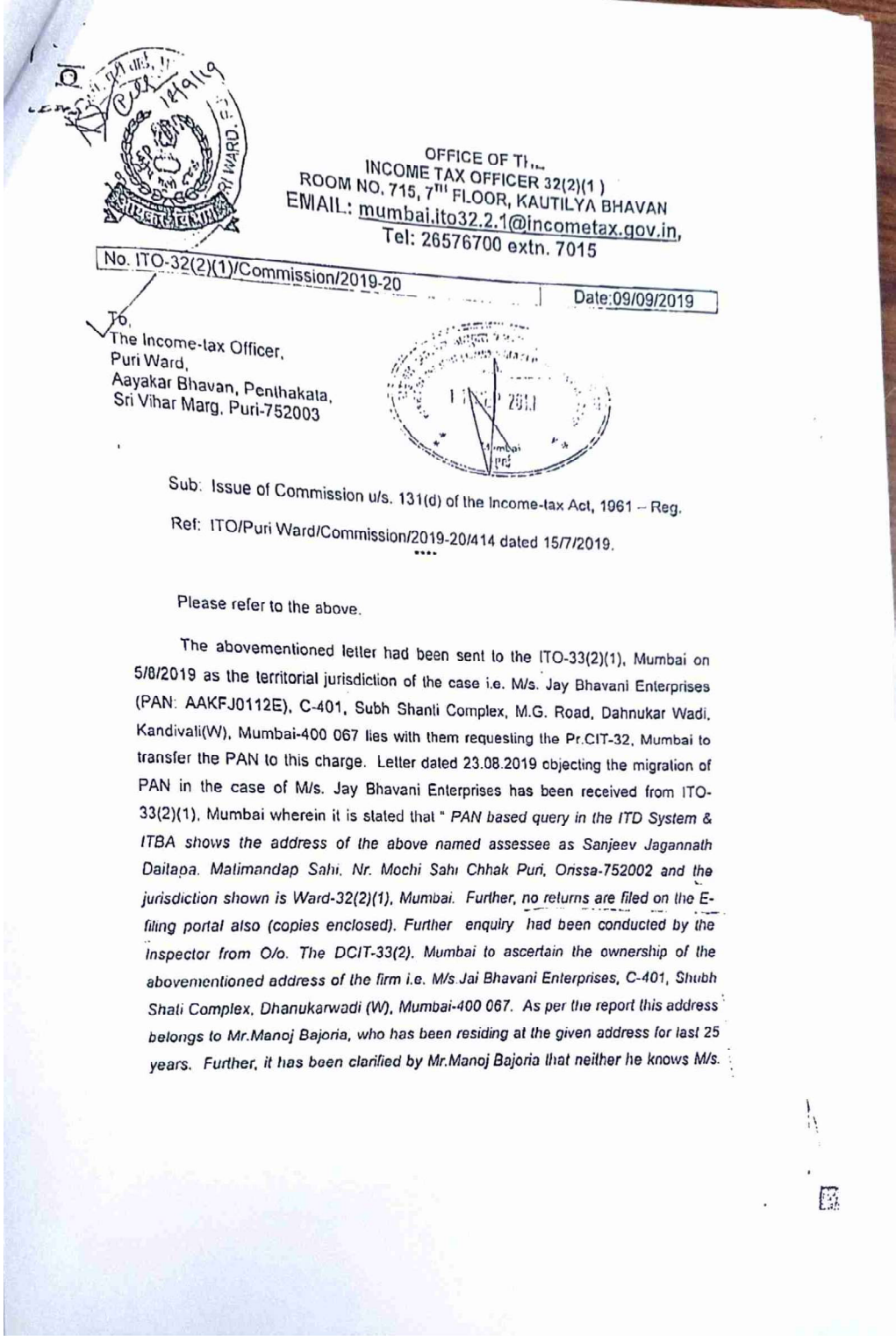
Your's faithfully,

  
(KALPITA V. AKERKAR)  
Income-tax Officer-32(2)(1),  
Mumbai.

Encl. : As above.

- Copy to : 1) The Pr.Commissioner of Income-tax-32, Mumbai - with a request to  
transfer the PAN to the correct jurisdiction.
- 2) The Pr.Commissioner of Income-tax-2, Bhubaneshwar for kind information.
  - 3) The Jt.Commissooner of Income-tax, Range-32(2), Mumbai - for kind information
  - 4) The Jt.Commissioner of Income-tax, Range-5, Bhubaneshwar - for kind information.
  - ✓5) The Income-tax Officer, Puri Ward, Aayakar Bhawan, Penthkata, Sri Vihar Marg,  
Puri-752003 - with a request to do further correspondence with ITO-33(2)(1), Mumbai.

  
Income Tax Officer-32(2)(1), Mumbai



Jai Bhavani Enterprises nor is he associated with M/s. Jai Bhavani Enterprises. Society office also confirmed that the above mentioned property is in the name of Mr. Manoj Bajoria (copy of report enclosed)".

As the PAN based query in the ITD System & ITBA shows the address of the abovenamed assessee as Sanjeev Jagannath Daitapa, Matimandap Sahi, Nr. Mochi Sahi Chhak Puri, Orissa-752002, the PAN of M/s. Jay Bhavani Enterprises (PAN: AAKFJ0112E) is being transferred to Puri Ward accordingly.

Your's faithfully,

*Kalpita V. Akerkar*

(KALPITA V. AKERKAR)  
Income-tax Officer-32(2)(1),  
Mumbai.

Encl. : As above.

Copy to : 1) The Pr.Commissioner of Income-tax-32, Mumbai – with a request to migrate the abovementioned PAN of M/s. Jay Bhavani Enterprises (PAN: AAKFJ0112E) to Puri Ward being the territorial jurisdiction.

2. The Pr.Commissioner of Income-tax-2, Bhubaneshwar – for kind information.
3. The Jt.Commissioner of Income-tax-32(2), Mumbai – for kind information.
4. The Jt.Commissioner of Income-tax, Range-5, Bhubaneshwar – for kind information.

(KALPITA V. AKERKAR)  
Income-tax Officer-32(2)(1),  
Mumbai.



Office of the Income Tax Officer,  
G-Block, 8<sup>th</sup> Floor, Room No. 845, कान्ठुन भवानी,  
Bandra Kurla Complex, Dandra (E), Mumbai - 400 051.  
Email: [mumbai.ito33.2.1@incometax.gov.in](mailto:mumbai.ito33.2.1@incometax.gov.in) Tel. No. 022-26870300 Extn.:8045  
No. ITO-33(2)(1)/NOC/ Jay Bhavani Entp./2019-20 Date: 19.08.2019

To  
The Pr. Commissioner of Income-tax-33,  
Mumbai.

Sir,

(Through Proper Channel)

Sub.: NOC for Migration of PAN in the case of M/s. Jay Bhavani  
Enterprises PAN-AAKFJO112E from ITO-32(2)(1) to ITO-33(2)(1)  
Mum -reg.  
Ref. : Letter No. Pr.CIT-33/NOC/2018-19 dated 14.08.2019.

Kindly refer to the above.

2. A PAN based query in the ITD system & ITBA shows the address of the above  
named assessee is as follows:-

Sanjeev Jagannath Daitapa,  
Matimandap Sahi,  
.Nr. Mochi Sahi, Chhak Puri,  
Orissa-752002.

And the jurisdiction shown is Ward-32(2)(1), Mumbai. Further, no returns are filed  
on the E-filing portal also (Copies enclosed).

3. Further an Inspector from the O/o The DCIT-33(2), Mumbai was also  
deputed to make an enquiry to ascertain the ownership of the address of the firm  
i.e. M/s. Jai Bhavani Enterprises, C-401, Shubh Shanti Complex, Dhanukarwadi  
(W), Mumbai-400067. As per the report of the Inspector the above mentioned  
address belongs to Mr. Manoj Bajoria, who has been residing at the said address  
for the last 25 years. Further, it was also clarified by Mr. Manoj Bajoria that neither  
he knows M/s. Jai Bhavani Enterprises nor is he associated with M/s. Jai Bhavani  
Enterprises. Society office also confirmed that the above mentioned property is in  
the name of Mr. Manoj Bajoria (Copy of report enclosed).

In view of the above NOC for migration of PAN cannot be granted in the said  
case as the jurisdiction of the case does not lie with this charge.

Yours faithfully,

*A. Pardeshi*  
(Asha P. Pardeshi)  
Income-tax Officer-33(2)(1),  
Mumbai.

Encl. : As above.

From,  
Ratnesh Kumar Singh,  
Inspector of Income Tax,  
O/o. The DCIT-33(2), Mumbai  
Income Tax Office, PCC, Dandara East,  
Mumbai-400051  
Date: 19.08.2019

To,  
The Income Tax Officer Ward-33(2)(1), Mumbai.

Sub: REPORT ON ENQUIRY CARRIED IN THE CASE OF JAI BHAVANI  
ENTERPRISES, PAN: AAKEJ0112E-RoG.


Respected Sir/Madam,

As directed by you, on 19.08.2019 I visited the address C-401, Shubh Shanti Complex, Dhanukarwadi, Kandivali(W), Mumbai-400067 to ascertain the ownership the address. The address mentioned above belongs to Mr. Manoj Bajoria, who has been residing in the said address for the last 25 years. On asking whether he is associated with JAI BHAVANI ENTERPRISES, answer was negative. Mr. Manoj Bajoria stated that he is at all not knowing Jai Bhavani Enterprises. Society office also confirmed that the above mentioned property is in the name of Manoj Bajoria only.

2. In view of the above finding it is established that the address: C-401, Shubh Shanti Complex, Dhanukarwadi, Kandivali(W), Mumbai-400067 does not belong to JAI BHAVANI ENTERPRISES.

Submitted for your perusal and further action.

Yours faithfully,

  
(Ratnesh Kumar Singh)

Inspector, O/o-DCIT-33(2), Mumbai.

Answer - 2



भारत सरकार / GOVERNMENT OF INDIA  
आयकर अधिकारी का कार्यालय / Office of the Income-tax Officer  
Penthakota, Sri vihar Marg,  
पुरी /Puri- 752003.  
दूरभाष /Phones: 06752-250305 - (FAX) 06752-250304 Cell: 9438917540.

ITO/Puri Ward Commission/2019-20/ 990  
Dated. Puri the 26<sup>th</sup> Sept, 2019

प्रति/To,  
The Income Tax Officer,  
Ward 32(2)(1),  
C/11, 2<sup>nd</sup> Floor,  
Pratyaksha Kar Bhawan,  
Bandra Kurla Complex,  
Mumbai - 400051

Sir,  
Sub : Issue of Commission u/s 131(d) of the I.T.Act, 1961 – Reg.

- Ref: 1. Commission issued vide letter No. ITO/Puri Ward/ Commission/ 2019-20/414 dated 15<sup>th</sup> July, 2019;  
2. Letter No. ITO-32(2)(1)/Commission/2019-20 dated 09/09/2019.

With reference to the referred letters, the case history in respect of Sri Sanjeev Kumar Daitapati is worth mentioning in a nutshell at the very outset.

The genesis of the case is a little bit complicated. Originally, a PAN (AADPM6700E) was selected for scrutiny under CASS in the jurisdiction of ITO -16(2)(5), Mumbai and the reason for selection was "large investment in property as compared to total income". During assessment proceedings the scrutiny selected PAN holder i.e., Sri Jignesh R. Mehta submitted before the jurisdictional AO that the property in question was not purchased by him but by the firm name J. M's Jai Bhavani Enterprise [Address : C-401, Subh Shanti Complex, M.G.Road, Dahnukar Wadi, Kandivli (West), Mumbai – 400 067] of which he was one of the three partners. The other partners were Sri Sanjeev Kumar Daitapati and Sri Manoj Champaklal Bajarina. In support of his claim he had also produced documentary evidences like copies of ROI, balance sheet, capital account and profit & loss account of the said firm, sale/purchase deed and affidavit. The capital introduced in the firm by the partners as per capital account for the year ended 31<sup>st</sup> March, 2013 submitted by Sri Jignesh Rajnikant Mehta are as follows:

Sri Sanjeev Kumar Daitapati	: Rs. 58,00,000/-
Sri Manoj Champaklal Bajarina	: Rs. 30,00,000/-
Sri Jignesh Rajnikant Mehta	: Rs. 9,92,274/-

Accordingly, the ITO, Ward 16(2)(5), Mumbai transferred the cases relating to two other partners of the firm to the jurisdictions concerned.

Subsequently the assessment proceedings in the matters of Sri Sanjeev Kumar Daitapati were completed in the office of the ITO, Puri Ward, Puri and the order was challenged in the office of the CIT (Appeals)-2, Bhubaneswar. Sri Sanjeev Kumar Daitapati refuted all the charges against him. He filed an affidavit refuting the charges / statements / submissions made by Sri Jignesh R. Mehta in the matters of the said firm or role/contribution of partners thereof.

Here it may not be superfluous to reiterate that except Sri Sanjeev Kumar Daitapati, all others viz., the firm (M/s Jai Bhavani Enterprise) itself, two of the three partners thereof (Sri Manoj Champaklal Bajoria & Sri Jignesh Rajnikant Mehta) situate/reside in Mumbai. Interestingly, the official address of the firm (as reflected in ROI and Computation Total Income sheet submitted by Sri Jignesh Rajnikant Mehta before the jurisdictional AO) has been in occupation of one Sri Manoj Bajoria for last 25 years, as confirmed by your letter dated 09.09.2019.

In view of the above, the office of the undersigned deems a thorough local investigation be requisite or proper for the purpose of elucidating the matter of capital introduction in the firm M/s Jai Bhavani Enterprise. Thus you are requested to examine or get it examined whether the occupant of the house Sri Manoj Bajoria and Sri Manoj Champaklal Bajoria are one and the same. It may be informative for you to mention here that original name of Sri Sanjeev Kumar Daitapati has been quoted in different documents relating to the firm with a little bit variation like 'Sri Sanjeev Jagannath Daitapati' in Computation of Total Income sheet and 'Sri Sanjeev Kumar Jagannath' in the purchase/sale deed. You are requested to confirm the PAN and Aadhaar of Sri Bajoria, the occupant of the said house and his creditworthiness. His views on other partners of the firm and creditworthiness thereof may be recorded.

This is issued u/s 131(1)(d) of Income Tax Act, 1961 in conjunction with provisions of code of civil procedure, 1908 which govern circumstances, procedure and execution of commission. The CIT (Appeals)-2, Bhubaneswar has directed this office to submit remand report by 11.10.2019. Hence, I would request you to give your report on or before 09.10.2019 so that this office will be in a position to submit the remand report in time.

भवदीय/Yours faithfully,



(N.K.SAHOO)

आयकर अधिकारी/Income-tax Officer

पुरी वार्ड / Puri Ward

CSJ

ITO/Puri Ward/Commission/2019-20/99194  
dated, Puri the 26<sup>th</sup> Sept, 2019

Copy submitted to :

1. The Pr. Commissioner of Income-tax-2, Bhubaneswar for kind information.
2. The Pr. Commissioner of Income-tax-2, Pratyaksha Kar Bhawan, Bandra Kurla Complex, Mumbai-400051 for kind information.
3. The Jt. Commissioner of Income-tax, Range 2(2), IORC-11, Pratyaksha Kar Bhawan, Bandra Kurla Complex, Mumbai-400051 for kind information.
4. The Jt. Commissioner of Income-tax, Range-5, Bhubaneswar for kind information.



(N.K.SAHOO)

आयकर अधिकारी/Income-tax Officer

पुरी वार्ड / Puri Ward

CSJC



सर्वकार : GOVERNMENT OF INDIA  
परी वार्ड कार्यालय Office of the Income-tax Officer  
Pentahora, Sai Vilas Marg,  
पूरी Puri- 752003.

दूरभाष : Phones: 06752-250305 - (1 AX) 06752-250301 Cell: 913891779

H/O Puri Ward Commission 2019-20 at CT  
Dated, Puri the 25<sup>th</sup> Oct, 2019  
प्रति १०

The Income Tax Officer,  
Ward 32(2)(1),  
C-11, 2<sup>nd</sup> Floor,  
Pratyaksha Kar Bhawan,  
Bandra Kurla Complex,  
Mumbai - 400051

Sir,

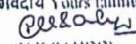
Sub : Commission u/s 131(d) of the I.T.Act, 1961 issued on 26<sup>th</sup> Sept, 2019 - Reg.

Ref: Commission issued vide letter No. H/O Puri Ward/Commission 2019-20 issued dated 26<sup>th</sup> Sept, 2019.

As discussed in the referred commission itself, the case is in appellate forum, i.e., the CIT (Appeals)-2, Bhubaneswar. Certain information is required which only can lead to a decisive end in the case for which the Commission under reference was issued seeking the same in black and white. This office is hard-pressed to give the remand report.

Hence, I would request you to give your report to the Commission issued on 26<sup>th</sup> Sept 2019 at the earliest after which only this office will be in a position to submit the remand report.

भवदीय Yours faithfully,

  
(N.K.SAHOO)

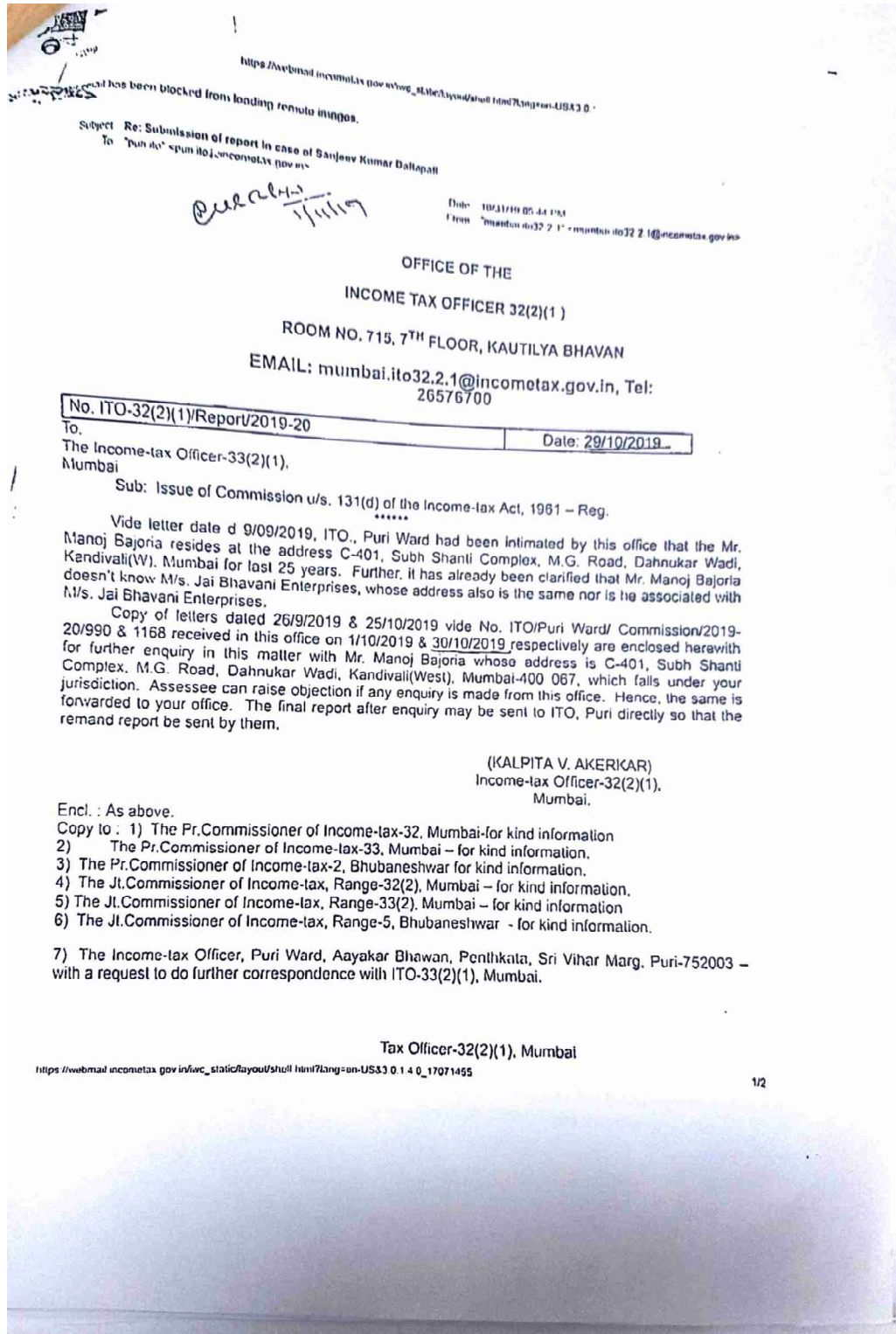
आयकर अधिकारी Income-tax Officer

पूरी वार्ड / Puri Ward

H/O Puri Ward/ Commission/2019-20/ [131(d)] ?  
Dated, Puri the 25<sup>th</sup> Oct, 2019  
२५

Copy submitted to :

1. The Pr. Commissioner of Income-tax-2, Bhubaneswar for kind information.
2. The Pr. Commissioner of Income-tax-32, Pratyaksha Kar Bhawan, Bandra Kurla Complex, Mumbai-400051 for kind information.



Subject Re: Submission of report in case of Sanjeev Kumar Daltepati  
To "Puri, ITO, Income-tax, Mumbai"

*Handwritten signature and date: 29/10/19*

Date: 29/10/19 05:44 PM  
From: Mumbai-32(2)(1) - Mumbai-32(2)(1)@incometax.gov.in

OFFICE OF THE  
INCOME TAX OFFICER 32(2)(1)  
ROOM NO. 715, 7<sup>TH</sup> FLOOR, KAUTILYA BHAVAN  
EMAIL: mumbai.ito32.2.1@incometax.gov.in, Tel:  
26576700

No. ITO-32(2)(1)/Report/2019-20	Date: 29/10/2019
---------------------------------	------------------

To:  
The Income-tax Officer-33(2)(1),  
Mumbai

Sub: Issue of Commission u/s. 131(d) of the Income-tax Act, 1961 – Reg.  
\*\*\*\*\*

Vide letter dated 9/09/2019, ITO., Puri Ward had been intimated by this office that the Mr. Manoj Bajoria resides at the address C-401, Subh Shanti Complex, M.G. Road, Dahnukar Wadi, Kandivali(W), Mumbai for last 25 years. Further, it has already been clarified that Mr. Manoj Bajoria doesn't know M/s. Jai Bhavani Enterprises, whose address also is the same nor is he associated with M/s. Jai Bhavani Enterprises.

Copy of letters dated 26/9/2019 & 25/10/2019 vide No. ITO/Puri Ward/ Commission/2019-20/990 & 1168 received in this office on 1/10/2019 & 30/10/2019 respectively are enclosed herewith for further enquiry in this matter with Mr. Manoj Bajoria whose address is C-401, Subh Shanti Complex, M.G. Road, Dahnukar Wadi, Kandivali(West), Mumbai-400 067, which falls under your jurisdiction. Assessee can raise objection if any enquiry is made from this office. Hence, the same is forwarded to your office. The final report after enquiry may be sent to ITO, Puri directly so that the remand report be sent by them.

(KALPITA V. AKERKAR)  
Income-tax Officer-32(2)(1),  
Mumbai.

Encl.: As above.

- Copy to :
- 1) The Pr. Commissioner of Income-tax-32, Mumbai - for kind information.
  - 2) The Pr. Commissioner of Income-tax-33, Mumbai - for kind information.
  - 3) The Pr. Commissioner of Income-tax-2, Bhubaneswar for kind information.
  - 4) The Jt. Commissioner of Income-tax, Range-32(2), Mumbai - for kind information.
  - 5) The Jt. Commissioner of Income-tax, Range-33(2), Mumbai - for kind information.
  - 6) The Jt. Commissioner of Income-tax, Range-5, Bhubaneswar - for kind information.
  - 7) The Income-tax Officer, Puri Ward, Aayakar Bhawan, Penthkata, Sri Vihar Marg, Puri-752003 - with a request to do further correspondence with ITO-33(2)(1), Mumbai.

Tax Officer-32(2)(1), Mumbai

Annexure - 3

Pls. Adv  
31/10/17

OFFICE OF THE  
INCOME-TAX OFFICER - 16(2)(5), MUMBAI  
ROOM No. 443, AAYAKAR BHAVAN, 3RD FLOOR, M.R. ROAD, MUMBAI - 400 020  
TELEPHONE No. 22120143

No. ITO-16(2)(5)/ JRM/2017-18

Date : 30.10.2017

To,

THE INCOME TAX OFFICER,  
PURI WARD,  
AAYAKAR BHAVAN, PENTHAKOTA,  
SRI VIHAR MARG.  
PURI 752003

Sir,

Sub: Forwarding of information revealed in the case of Jignesh R Mehta  
Related to Sanjeev J Daitapati for AY 2013-14.  
Ref: ITO/Puri Ward/2017-18/1280 dated 17.10.2017.

Kindly refer to the above subject.

In this case you have sought some information, the same is covered in the assessment order's office note which is reproduced below:

"Office Note:

The case is selected for scrutiny under CASS. The reason for selection for scrutiny was generated from ITD (system) and copy of same is kept on record after due verification.

On verification of copy of reason for selection for scrutiny it is observed that

"Large Investment in property as compared to total Income".

In this regard the assessee was asked to explain and file detail information with regard to above. The assessee himself filed detail information and explained in detail with necessary documentary evidence.

On verification of detail filed by the assessee it is observed that the property purchased, as per sale/purchase deed, in the name of M/s. Jai Bhavani Enterprises. Accordingly said deed was executed by Mr. Sanjeev Jagannath Daitapati and registered with registration authority. However, as per AIR/ITS details the information under AIR is furnished by the concern authority under the PAN AADPM6700E which belongs to Jignesh R. Mehta. It is further clarified by the assessee that Mr. Sanjeev Jagannath Daitapati has accidentally and

inadvertently mentioned the PAN of Jignesh R. Mohta, who is also one of the partners in the firm namely M/s. Jai Bhavani Enterprises. In respect of this contention the assessee filed an Affidavit D1, 10.03.2014. This contention is accepted as it is confirmed from the copy of AIR that the PAN so quoted belongs to the assessee and name of the Mr. Sanjeev Jaypranath Dattarajji is appeared in the AIR copy.

However as far as details of payments towards consideration paid to the concern party, M/s Kamalakar Tradelink Pvt. Ltd. is concern. The assessee filed a copy of Return of income for AY. 2013-2014 along-with copy of Balance sheet, capital account and profit & loss account etc. On verification of same it is observed that property appearing in balance sheet of said firm.

As per the sale deed, the property is registered in the name of firm M/s. Jai Bhavani Enterprises and PAN is given in the said deed belongs to Jignesh R. Mohta because of this information, AIR is generated under this the assessee's PAN. It is further confirmed by the assessee that he had made his contribution towards purchase of said property to the extent of Rs. 9,92,274/- and source of same has been explained. Since the matter /issue relates to firm M/s. Jai Bhavani Enterprises and its other partners is concern to the extent capital contribution made towards purchase of said property, information is being forwarded to the all AO of jurisdiction having over all partner for necessary information. Said information is further is being intimated to the concern AO who is having jurisdiction of case of M/s Kamalakar Tradelink Pvt. Ltd how said the said immovable property to the concern firm were assessee is one of the partner".

Yours' faithfully,

(MANISHA H JETHANI )  
INCOME TAX OFFICER, 16(2)(5),  
MUMBAI

Annexure - 4

I.T.N.S. - 65



GOVERNMENT OF INDIA  
OFFICE OF THE INCOME TAX OFFICER, PURI WARD,  
ALYAKAR IIIAWAN, PENTHAKOTA, SRI VIHAR MARG,  
PURI - 752003.

1	Name of the assessee	Saijeev Kumar Daitapati,
2	Address	S/o. Jagannath Swain Mohapatra, Matimandap Sahi, Puri-752001.
3	PAN	ALWPD4092J
4	District/Ward/Circle	Puri Ward, Puri
5	Status	Individual
6	Previous year	2012-13
7	Assessment year	2013-14
8	Whether resident/Resident but ordinarily resident/Non-resident	R & O R
9	Method of Accounting	
10	Nature of Business / Profession	Income from Seva Puja
11	Date of hearing	As per the Order Sheet
12	Date of order	06/12/2017
13	Section & Sub-Section under which assessment is made.	143(3)/147 of the I.T. Act, 1961.

ASSESSMENT ORDER

The assessee has filed the return of income for the year under consideration on 10/02/2014 showing a total income of Rs. 3,40,200/-. Subsequently it is seen that the assessee has introduced capital amounting to Rs. 58 lakhs in the firm M/s. Jai Bhavani Enterprise, Mumbai during the said year. Thus, the case was re-opened u/s. 147 and, notice u/s. 148 was issued on 22/03/2017 which has been duly served on the assessee. Subsequently notices u/s. 143(2) and 142(1) were issued to the assessee. In response to the departmental notices, Sri N.R.Mishra, FCA appeared and the case was taken up for hearing. The documents produced were verified.

From the materials available on record, it is found that the assessee has introduced Capital amounting to Rs. 58 lakhs in the firm M/s. Jai Bhavani Enterprises, At-C-401, Subh Shanti Complex, M.G.Road, Dahnukur Wadi, Kandivali(W), Mumbai during the Financial Year 2012-13 relevant to the Asst. Year 2013-14. During the year under consideration, the firm has made transaction with M/s. Kamlakar Tradelink Pvt. Ltd towards purchase of land at Ultrakhand for a consideration of Rs. 1,23,20,000/-. In the Capital account of the firm, it is seen that the assessee has introduced Capital of Rs. 58 lakhs during

*Resaly*

Contd.....P/2

1 2 1

the year under consideration. The assessee was asked to explain the source of this capital introduction in the said firm vide notice u/s. 142(1) dt. 17/05/2017. The assessee has furnished a written explanation on the above investment of Rs. 58 lakhs in the firm which is reproduced as under :

" Respectfully, I have to state that I have been asked to explain the source of investment of Rs. 58 lakhs introduced as capital in the partnership firm M/s. Jai Bhavani Enterprise during the financial year 2012-13. With regard to investment of Rs. 58 lakhs in the firm: M/s. Jai Bhavani Enterprise, I have to inform your good-self that I have not introduced any money either by cheque/cash or kind in the capital account of the firm M/s. Jai Bhavani Enterprise during the financial year 2012-13. My income for the financial year 2012-13 was Rs. 3,40,200/- as per the Income-tax return filed on 10/02/2014.

Regarding the financial statement of M/s. Jai Bhavani Enterprise as filed in the Income-tax return, it is revealed that an immovable property worth Rs. 1,29,46,150/- was acquired and three partners invested money to purchase the said land and building. After obtaining the certified copy of the financial statement of the firm, I am astonished to see the entire financial statements are not true. The land and building at Uttarakhand was purchased by one of the partners Sri Jignesh R. Mehta vide sole deed No. 4096 dt. 2/5/2012. In fact, the sole deed was executed by me as authorized signatory of Jai Bhavani Enterprise, proprietorship firm of Jignesh R. Mehta bearing PAN No - AADPM5700E. The copy of the sole deed is enclosed for kind perusal.

After purchase of property by Jignesh R. Mehta, we two partners myself and Sri Vichay Champaklal Bajoria joined him to do further business under the partnership firm of M/s. Jai Bhavani Enterprise. The firm has not done any business during the financial year 2012-13. It was the planning that the property purchased at Uttarakhand shall be the capital of Jignesh R. Mehta and any further capital if required shall be introduced by me and Mr Bajoria but since no business was undertaken by the firm, so we have not paid anything as capital to the firm.

But I am surprised to see the profit and loss account and the Balance Sheet and the capital accounts of the partners which is totally wrong and false. Sri Jignesh R. Mehta has falsified the accounts and filed the return wrongly to escape from the eye of the law".

After getting this reply from the assessee, further correspondence was made with the Income-tax Officer, Ward-16(2)(5), Mumbai from whom the information was received seeking further clarification on this issue. The ITO, Ward-16(2)(5), Mumbai in her letter dt. 30/10/2017 received in this office on 06/11/2017 has furnished certain information/clarification which is covered in the assessment order's office note in the case of Sri Jignesh R. Mehta which is reproduced below :

*Chetan*

Contd.....P/3

**"OFFICE NOTE :**

The case is selected for scrutiny under CASS. The reason for selection for scrutiny was generated from ITD(System) and copy of the same is kept on record after due verification. On verification of copy of reason for selection for scrutiny it is observed that "Large investment in property as compared total income". In this regard the assessee was asked to explain and file detail information with regard to above. The assessee himself filed detail information and explained in detail with necessary documentary evidence.

On verification of detail filed by the assessee it is observed that the property purchased, as per sale/purchase deed, in the name of M/s. Jai Bhavani Enterprise. Accordingly said deed was executed by Mr. Sanjeev Jagannath Daitapati and registered with registration authority. However, as per AIR/ITS details the information under AIR is furnished by the concern authority under the PAN AADPM6700E which belongs to Jignesh R. Mehta. It is further clarified by the assessee that Mr. Sanjeev Jagannath Daitapati has accidentally and inadvertently mentioned the PAN of Jignesh R. Mehta, who is also one of the partners in the firm namely M/s. Jai Bhavani Enterprises. In respect of this contention the assessee filed an Affidavit on 10/03/2016. The contention is accepted as it is confirmed from the copy of the AIR that the PAN so quoted belongs to the assessee and name of Mr. Sanjeev Jagannath Daitapati is appeared in the AIR copy.

However, as for as details of payments towards consideration paid to the concern party, M/s. Kamlakar Tradelink Pvt. Ltd is concerned, the assessee filed a copy of Return of income for the Asst. Year 2013-14 along with copy of Balance Sheet, Capital account and Profit & loss account etc. On verification of same it is observed that property appearing in the Balance Sheet of the said firm.

As per the sale deed, the property is registered in the name of the firm M/s. Jai Bhavani Enterprises and PAN is given in the said deed belongs to Jignesh R. Mehta because of this information, AIR is generated under this the assessee's PAN. It is further confirmed by the assessee that he had made his contribution towards purchase of said property to the extent of Rs. 9,92,274/- and source of same has been explained. Since the matter/issue relates to the firm M/s. Jai Bhavani Enterprises and its other partners is concerned to the extent capital contribution made towards purchase of said property, information is being forwarded to the all AO of jurisdiction having over all partner for necessary information. Said information is further being intimated to the concern AO who is having jurisdiction of case of M/s. Kamlakar Tradelink Pvt. Ltd how sold the said immovable property to the concern firm where assessee is one of the partner".

*P. S. S. S.*

Contd.....P/4

Further letter u/s. 133(6) of the I.T.Act were issued to the firm M/s. Jai Bhavani Enterprises and other two partners namely Jignesh R. Mehta and Manoj Champaklal Bajaria to furnish the information. But all the three letters were return unserved. Another letter was issued to the Income-tax Officer, Ward-32(2)(1), Bandra Kurla Complex, Mumbai who is having jurisdiction over the firm M/s. Jai Bhavani Enterprises to furnish certain information. Though the letter was duly served but no reply has been received.

From the Balance Sheet and Capital account of the firm M/s. Jai Bhavani Enterprises, it is seen that the assessee has invested Rs. 58 lakhs towards capital contribution in the said firm. Therefore, the same is treated as the assessee's unexplained income and added to the total income of the assessee. (Addition – Rs. 58,00,000/-)

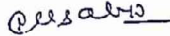
Subject to the above discussion, the total income of the assessee is computed as under :

Income from Seva Puja as shown	Rs. 3,35,200/-
Income from Other sources as shown	Rs. 5,000/-
Add : Unexplained Capital introduced in the firm as discussed above	<u>Rs. 58,00,000/-</u>
<b>Total Income -</b>	<b>Rs. 61,40,200/-</b>

Penalty proceedings u/s. 271(1)(c) initiated.

Assessed u/s 143(3)/147 of the Income Tax Act, 1961 on a total income of Rs. 61,40,200/-. Demand notice and copy of the order issued.



  
( N. K. Sahoo )  
Income-tax Officer,  
Puri Ward, Puri  
( N. K. SAHOO )  
ଆସକ୍ଷମ ଅଫିସରୀ  
INCOME TAX OFFICER  
ପୁରୀ ଓଡ଼ିଶା  
PURI WARD PURI

8. A perusal of the Remand Report shows that none of the information called for in the remand order has been replied to by the Assessing Officer. Purely tangential issues have been discussed. Another peculiarity which is noticed in the present case is that on perusal of annexure-2 of the remand report, which is a letter dated 26 September 2019, the name of the assessee Shri Sanjeev Kumar Daitapati has been brought out as Rs. 58,00,000/-. This is a letter addressed by the Income Tax Officer, Puri Ward, Puri to the Income Tax Officer, Ward- 32(2)(1), Mumbai whereas on perusal of the letter dated 19.8.2019 of the Income Tax Officer, Ward- 32(2)(1), Mumbai shows the name as Sanjeev Jagannath Daitapati. Here it would also be worthwhile to mention that the information received from the Income Tax Officer, Ward- 32(2)(1), Mumbai, which included the copy of the balance sheet and P&L account shows that the name of the partner therein is Sanjeev Jagannath Daitapati, as follows:

**M/s. JAI BHAVANI ENTERPRISE**  
**BALANCE SHEET AS ON 31ST MARCH, 2013**

LIABILITIES	AMOUNT	ASSETS	AMOUNT
<b>OWNERS CAPITAL ACCOUNT:</b>		<b>FIXED ASSETS:</b>	12,94,150.00
<b>CURRENT CAPITAL ACCOUNT</b>	5,955,000.00	As per Annexure 'B'	17,815.00
Sanjeev Jagannath Dalipati (45%) ✓	3,145,000.00	CASH & BANK BAL	17,709.00
Mamaji Champaklal Bajaria (45%) ✓	902,274.00	Profit & Loss Account	
Jyotesh R. Mehta (10%)	2,010,400.00		
<b>LOANS &amp; ADVANCES</b>			
As per Annexure			
<b>TOTAL</b>	<b>13,011,674.00</b>	<b>TOTAL</b>	<b>13,011,674.00</b>

*certified Xerox copy*  
*is attached*  
 NARAYAN SARGO  
 Office Superintendent  
 C/O the Income Tax Officer  
 Puri War. Puri

(11)

M/s. JAI BHAVANI ENTERPRISES  
PROFIT & LOSS ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 2013

EXPENSES	AMOUNT	INCOME	AMOUNT
Conveyance	25,141.00	By Net Loss C/f	47,709.00
Professional Fees	10,000.00		
Sundry Expenses	12,568.00		
<b>TOTAL</b>	<b>47,709.00</b>	<b>TOTAL</b>	<b>47,709.00</b>

*Certified xerox copy  
is attached*



**NARAYAN SAHOO**  
Office Superintendent  
Of the Income Tax Office  
Puri War J, Puri

(12)

M/s. JAI BHAVANI ENTERPRISE  
MR. SANJEEV JAGGANATH DAITAPATI ✓

CAPITAL ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 2013

PARTICULAR	AMOUNT	PARTICULAR	AMOUNT
Closing Balance	5,955,000.00	By Balance B/f	5,000.00
		By Capital Introduce	5,950,000.00
<b>TOTAL</b>	<b>5,955,000.00</b>	<b>TOTAL</b>	<b>5,955,000.00</b>

MR. MANOJ C. BAJARIA

CAPITAL ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 2013

PARTICULAR	AMOUNT	PARTICULAR	AMOUNT
Closing Balance	3,145,000.00	By Balance B/f	145,000.00
		By Capital Introduce ✓	3,000,000.00
<b>TOTAL</b>	<b>3,145,000.00</b>	<b>TOTAL</b>	<b>3,145,000.00</b>

MR. JIGNESH R. MEHTA

CAPITAL ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 2013

PARTICULAR	AMOUNT	PARTICULAR	AMOUNT
Closing Balance	992,274.00	By Balance B/f	0.00
		By Capital Introduce	992,274.00
<b>TOTAL</b>	<b>992,274.00</b>	<b>TOTAL</b>	<b>992,274.00</b>

*Certified correctly  
as affected*

**NARAYAN SAHOO**  
Office Superintendent  
Of the Income Tax Office  
Puri Ward, Puri



(13)

M/s. JAI BHAYANI ENTERPRISE  
DETAIL OF LOANS & ADVANCES AS ON 31.03.2013

NAME	AMOUNT
SIDDHI VINAYAK GOLD PVT. LTD.	350,000.00
SANATAN BHOLA	107,000.00
JITU PRADHAN	102,300.00
PRADEEP JENA	108,200.00
AJAY PRADHAN	106,700.00
SUSANTA PARIDA	120,600.00
SANJAY PRADHAN	127,000.00
SRINIVAS SAMARTHA	122,000.00
CHABINDRA PRADHAN	126,100.00
KUMAR PANITEE	121,000.00
PHAGAL BEHERA	140,000.00
SHIBA BRATA BEHERA	226,300.00
MANGULICHARAN NAYAK	211,200.00
PRAPAT KUMAR BEHERA	209,300.00
SUDARSAN BEHERA	204,800.00
BAIDAR BEHERA	201,300.00
SURESH PRDHAN	200,000.00
DAITARI EA	135,600.00
	<u>2,919,400.00</u>

*Certified correct copy  
to attend*

*[Signature]*  
**NARAYAN SAHOO**  
Office Superintendent  
O/o the Income Tax Officer  
Puri Ward, Puri

M/s. JAI BHAVANI ENTERPRISE

BLOCK OF FIXED ASSETS

ANNEXTURE "B"								
S. No.	PARTICULARS	RATE OF DEPN.	W.D.V. as on 01.04.2012	ADDITIONS	DELETION	GROSS TOTAL	DEPN	W.D.V.as on 31.3.2013
1	Land & Building at Uttarakand	0	0	12946150	0	12946150	0	12946150
TOTAL				12946150	0	12946150	0	12946150

Details of Addition to Fixed Assets

Purchase of Land and factory premises 12320000 ✓  
 Add : 616000  
 Stamp Duty 10150  
 Registration Charges 12946150

*Certified correct copy*  
*& attested*

*Narayan Sahoo*  
**NARAYAN SAHOO**  
 Office Superintendent  
 Of the Income Tax Office  
 Puri War.J. Puri

Date: 01.02.2012

To  
State Infrastructure and Industrial  
Development Corporation of  
Uttarakhand Limited  
(SIDCUL)

**Sub :- Power of Attorney**

Mr. Jignesh Rajnikant Mehta Prop. Of M/s Jai Bhavani Enterprise  
having Registered office at Shop No. 5, Kankai Kripa, Plot 315 A,  
PS III Shimpoli, Chikoo wadi, Borivali (W), Mumbai - 400 092,  
I hereby authorised Mr. Sanjeev Kumar Daitapati to sign all the  
document on my behafe for the any any document & to do all  
formality in connection to the transfer of my property at State  
Infrastructure and Industrial Development Corporation of  
Uttarakhand Limited (SIDCUL)

I hereby state that whatever we stated here in above is true to the  
best of our knowledge and belief.

For Jai Bhavani Enterprise

R. Mehta

For JAI BHAVANI ENTERPRISE

Proprietor

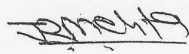
9. A perusal of Annexure-I to Remand Report shows that various specific queries have been raised by the Income Tax officer, Puri Ward Puri to the Income Tax Officer, Ward- 32(2)(1), Mumbai. All these queries clearly showed that the Assessing Officer in the impugned assessment itself was not sure of the addition made and he was seeking further evidence. In short, in the Remand Report, other than giving response to the queries raised by the Tribunal, the Assessing Officer has sought it fit to transfer all his communication with the Income Tax Officer, Ward- 32(2)(1), Mumbai to which, no replies have also been received in the form of Remand Report to the Tribunal. Much more interesting is the letter of the Additional Commissioner of Income Tax, Range-1, Bhubaneswar dated 12.9.2024, who has proceeded to bring out a totally different colour to the issue by claiming that the assessee is trying to mislead the Court by trying to establish the existence of two persons in the same name i.e. M/s. Jai Bhavani Enterprise. Copy of the general Power of Attorney for purchase of immovable property was also available to the Assessing Officer, which reads as follows:

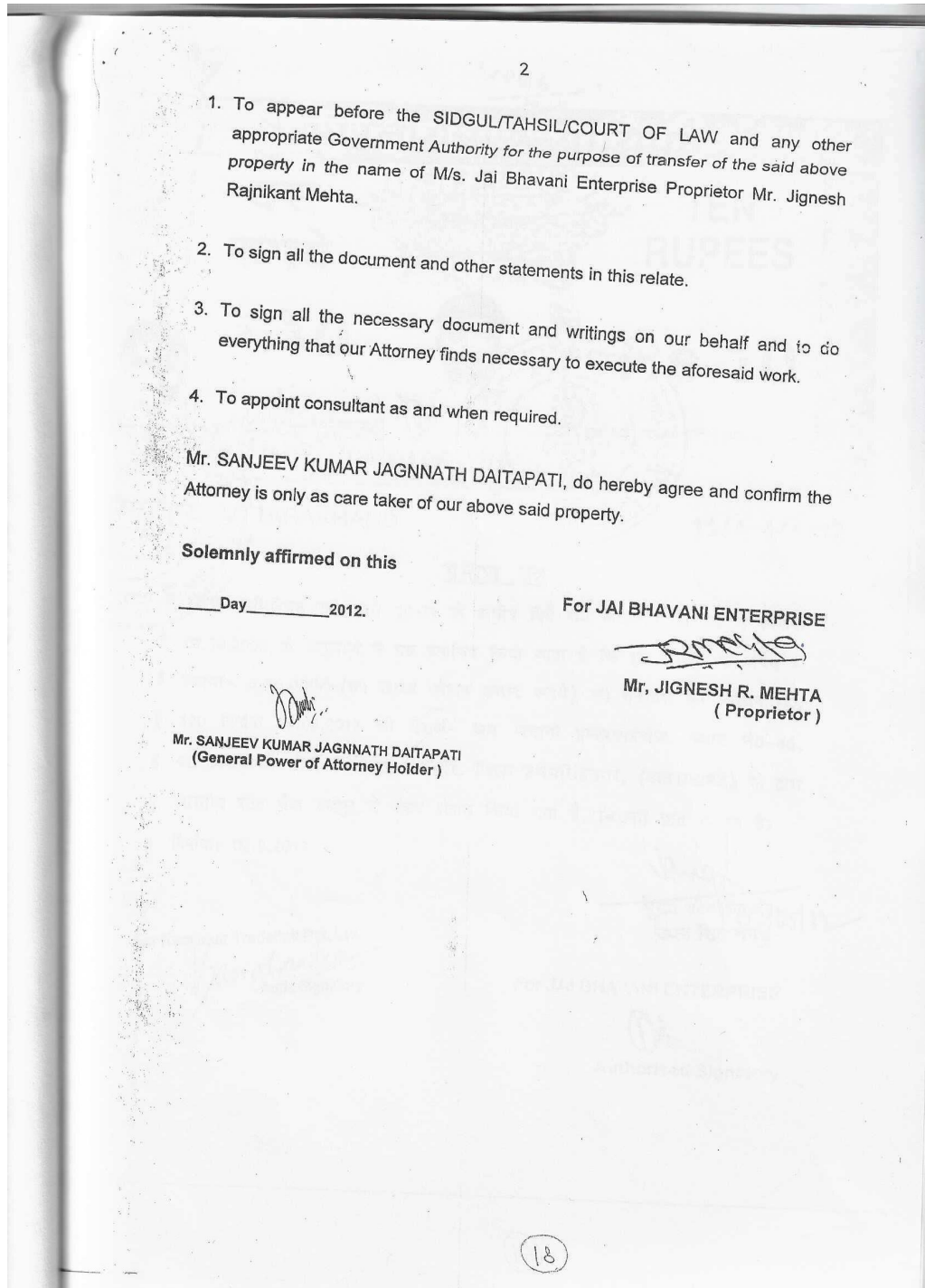


निर्मल स्टॅम्प वेन्डर FE 306645  
बिळीचे विकाना सी-२ / ५ / ०१, सेक्टर-२,  
साठी, पुरी पुरी - ७०० ७०३.  
29 FEB 2012  
परवाना क्र. (१०१)  
अनु. क्र. ११३५९ टेली. क्र. २७८२३६१६  
नाम: जिगनेश मेहता  
व्यक्ति: संपत्ती  
स्टॅम्प वेन्डर  
एन. सी. मेहता

**GENERAL POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS I Mr. JIGNESH RAJNIKANT MEHTA aged 42 years Proprietor of M/s. JAI BHAVANI ENTERPRISE having our office at SHOP NO.5, KANKAI KRUPA CHS.LTD., CHIKUWADI, BORIVLI (W), MUMBAI 400 092, do HEREBY APPOINT AND CONSTITUTE Mr. Sanjeev Kumar Jagannath Daitapati, aged 30 years residing at Matimandap sahi, Puri, Orissa 752 001 as ATTORNEY in our name and on our behalf to do and execute all or any of the following acts, deeds or things in connection with our Property and Land i.e. Plot No. 46, Sector I.I.D.C., I.I.E., Industrial Area at Pantnagar, District Uttarakhand, to do the work who under signed below.

1 For JAI BHAVANI ENTERPRISE  
  
Proprietor  
(17)



In the general Power of Attorney, the assessee has acted on behalf of Jai Bhavani Enterprise categorically admits that Jai Bhavani Enterprise is a

proprietorship concern. Returning to the arguments as placed by Id AR who has been repeatedly submitting that the assessee is not a partner in any partnership firm and that the additions are liable to be deleted.

10. In reply, Id Sr DR submitted that all attempts have been made by the Assessing Officer to obtain information as sought by the Tribunal in the reminder proceedings and non cooperation by the ITO Mumbai is causing the problem. It was a submission that the issues in the appeal could be restored to the file of the AO for ascertainment of the true facts and the adjudication. It was a submission that the only issue in the appeal is in regard to the Capital contribution of Rs. 58,00,000/- and the investment in the land was not the issue in the assessment. It was a submission that the Income Tax Officer, Puri is handicapped on account of non-cooperation from the Officer at Mumbai and no adverse inference should be taken against the Assessing Officer, Puri.

11. We have considered the rival submissions. A perusal of the facts of the present case clearly shows that admittedly, the Income Tax Officer, Puri has attempted to collect information from the Income Tax Officer, Ward-32(2)(1), Mumbai and there has been utter failure. The Income Tax Puri, Ward Puri has also stopped processing the information after that. Ld. CIT(A) having called for the Remand Report, decided to dismiss the appeal of the assessee without waiting the Remand Report or calling for a reminder. Ld CIT(A) says that there was no response from the assessee

and dismissed the appeal of the assessee. Surprisingly, the remand order dated 8<sup>th</sup> July 2019, which has been extracted earlier clearly shows that there were submissions by the assessee and that the assessee has also produced evidence, which has led the Id CIT(A) to call for a Remand Report. Even before the Tribunal, the Remand Report is not replied to in regard to the remand. A perusal of the balance sheet and profit and loss account, which is the foundation, on which the addition has been made by the Assessing Officer shows that the said balance sheet and PL account is not audited nor signed by the person who has prepared the same, therefore, its veracity remains questionable. The Assessing Officer, Mumbai himself recognises in one of his correspondence that Sri Manoj Champaklal Bajoria has categorically denied the existence of the firm at his address and that he is not a partner but the balance sheet shows Manoj Champaklal Bajoria is shown as 45% partner. The statement of Shri Manoj champaklal Bajoria is accepted but when it came to the assessee at Puri, he is assessed. No evidence and nothing to show what happened in the case of Jignesh R Meheta is also coming out. This being so, we are of the view that the addition made by the Assessing Officer of Rs.58,00,000/- towards the alleged capital contribution by the assessee in the alleged firm M/s. Jai Bhavani Enterprise is unsupported by any evidence in the form of either the bank transactions, partnership deed, certified balance sheet or

Pan Data Base evidence and consequently, the addition made by the Assessing Officer and confirmed by the Id CIT(A) stands deleted..

12. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 18/9/2024.

Sd/-  
**(Manish Agarwal)**  
**ACCOUNTANT MEMBER**  
Cuttack; Dated 18/9/2024  
B.K.Parida, SPS (OS)

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

**Copy of the Order forwarded to :**

1. The Appellant : Sanjeev Kumar Daitapati,  
AleI Lane, Matimandap Sahi, Puri
  2. The Respondent: Income Tax Officer, Ward Puri
  3. The CIT(A)- NFAC, Delhi
  4. Pr.CIT, Bhubaneswar
  5. DR, ITAT,
  6. Guard file.
- //True Copy//

**By order**

Sr.Pvt.Secretary  
**ITAT, Cuttack**