



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

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

ITA No.353/CTK/2024
Assessment Year : 2017-18

Hamida Khatoon, 38, Circus Avenue, 2 nd floor, Kolkata-700017	Vs.	DCIT, Circle-2(1), Bhubaneswar
PAN/GIR No.AFVPK 8893 B		
(Appellant)	..	(Respondent)

Assessee by : None(Written submission)
Revenue by : None (Adjournment petition)

Date of Hearing : 28/10/2024
Date of Pronouncement : 28/10/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), Bhubaneswar-2, dated 7.8.2024 in Appeal No. CIT(A),Bhubaneswar-1/10396/2018-19 for the assessment year 2017-18.

2. None represented on behalf of the assessee. However, a written submission has been sent by the assessee, which reads as follows:

BEFORE THE INCOME TAX APPELLATE TRIBUNAL
DB Bench, Cuttack.

In the matter of : **Appeal No.353/CTK/2024 for the**
Assessment Year 2017-18.

A N D

In the matter of : **Hamida Khatoon, Kolkata ... Appellant.**

Vs.

DCIT, Circle-2(1), Odisha. ... Respondent

Sir,

Date of Hearing : 28.10.2024

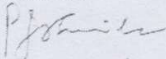
The facts have been stated by the Commissioner of Income Tax (Appeals) in Para-4 of his Order. Further, in Para-5 thereof, contains the operative part of the Order. The findings of the Ld. CIT (Appeals) to the fact that the Search & Seizure Operations were conducted under Section 132 of the Income Tax Act, 1961, in the case of the Appellant on 21.12.2016. Such operations were conducted in the business premises of the Appellant and in the residential premises of its Partners.

Further, CIT (Appeals) states that reference to the Partners of the Assessee is obviously a typographical error as the Assessee is an individual and not a Partnership Firm. Therefore, according to the CIT (Appeals), Search & Seizure Operations were conducted only at the business premises of the Partnership Firm.

The Panchnama clearly states that the Warrant was issued in the case of the Partners of M/s. Serajuddin & Co., including the Appellant, Mrs. Hamida Khatoon. The addressee mentioned in the Notice is N4/135, Nayapalli, R.C. Village, Bhubaneswar, Odisha. The Appellant had never resided there and had all along resided at 38, Circus Avenue, Kolkata. The Appellant had never resided at her Nayapalli address. All the Notices were issued at her Kolkata address at which, there was no Search & Seizure Operations at all. Therefore, there was no question of initiate proceedings u/S 153A of the Act. The Appellant submitted her Return only to avoid multiple proceedings.

In the circumstances, it is submitted that the Assessment Order passed u/S 153A is invalid. The same be cancelled.

Submitted.



(P.J. Bhide)

Authorized Representative.

Dated : 26.10.2024

Place : Kolkata.

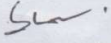
Encl : Panchnama.

3. Ld CIT DR has filed adjournment letter, which reads as follows:

Before the Hon'ble ITAT Cuttack Bench Cuttack

In the matter of :	Hamida Khatoon
ITA No. :	353/CTK/2024
A.Y. :	2017-18
Date of Hearing :	28/10/2024

Due to other official preoccupations with regard to the observance of vigilance awareness week, CIT DR is unable to attend the hearings, an adjournment is therefore prayed for. It is therefore requested to grant adjournment to a day convenient to the Hon'ble Bench.


S C Mohanty, Sr. DR
Addl. CIT (ITAT) ,Cuttack

4. As the issue in this appeal is simple and do not require further clarification, the appeal is being disposed off on merits after considering the written submission filed by the assessee.

5. A perusal of the facts in the present case clearly shows that the assessee is an individual, who is a partner in M/s. Serajuddin and Co. A perusal of the Panchanama as has been enclosed with the written submission of the assessee clearly shows the assessee's name in 'Warrant'. Therefore, this claim of the assessee that there was no search in the case of

the assessee no more survives. It might be true that the assessee is staying at Kolkata and search has taken place at Bhubaneswar. It might be true that the search at the assessee's residence premises at Kolkata had not been done. In any case, the Panchanama does not mention the address of the assessee at Kolkata. It is also noticed that the assessee has not denied the address mentioned in the Panchanama at Bhubaneswar. Thus, it cannot be said that there was no search in the case of the assessee. The search has only taken place on 21.12.2016 and the assessment year 2017-18 is the unabated year. The assessment order has been passed u/s.143(3) of the Act on 28.12.2018. The assessee has also filed her return of income and the assessment has been accepted accepting the return of income. This being so, we are of the view that the order passed by the Id CIT(A) dismissing the appeal of the assessee on the ground that the appeal has been filed on a technical ground which has not been substantiated by any evidence by the appellant, is found to be right. In these circumstances, the appeal of the assessee is dismissed.

6.. In the result, appeal of the assessee stands dismissed.

Order dictated and pronounced in the open court on 28/10/2024.

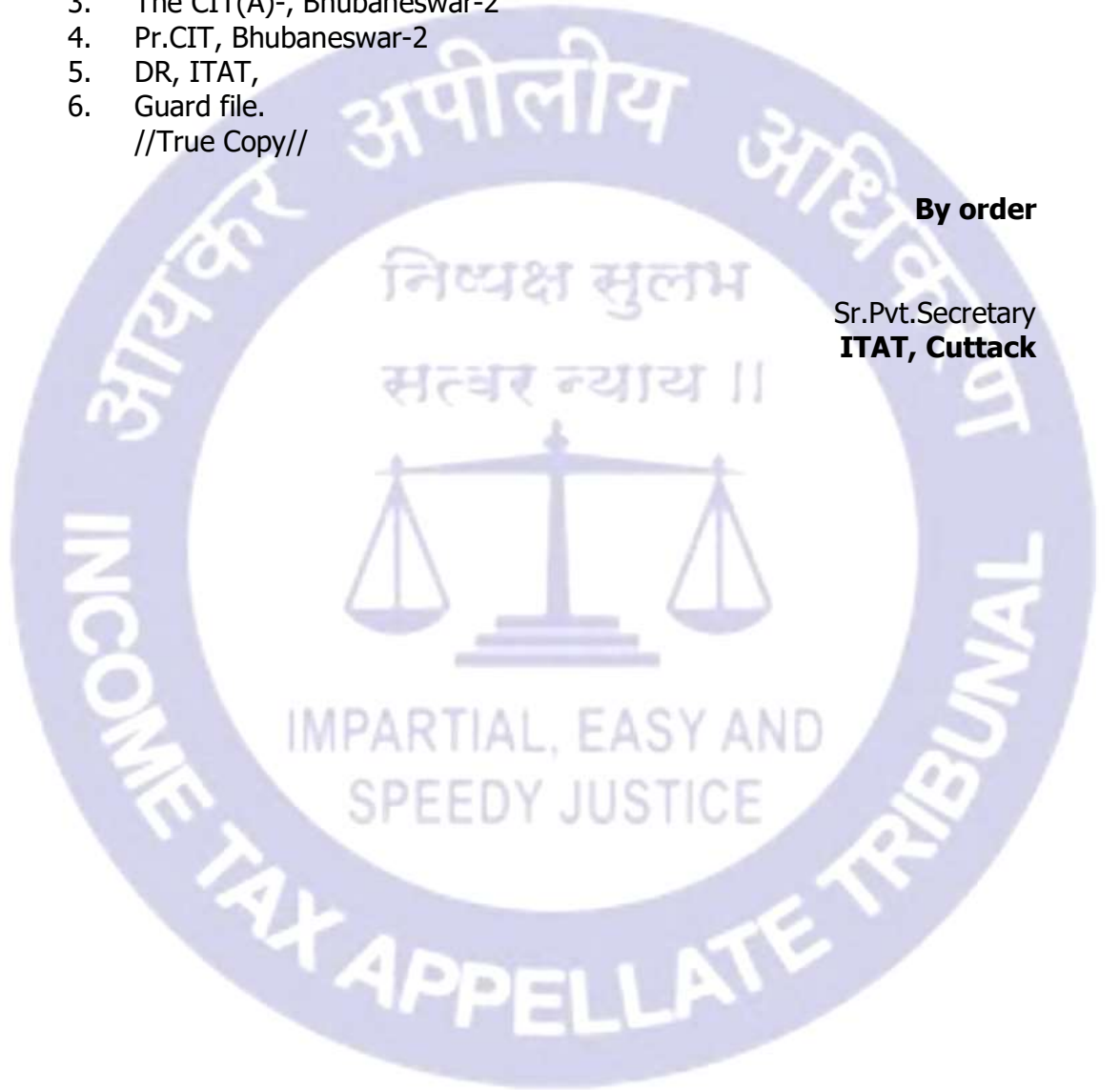
Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 28/10/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Hamida Khatoon, 38, Circus Avenue, 2nd floor, Kolkata-700017
2. The Respondent: DCIT, Circle-2(1), Bhubaneswar
3. The CIT(A)-, Bhubaneswar-2
4. Pr.CIT, Bhubaneswar-2
5. DR, ITAT,
6. Guard file.
//True Copy//



By order

Sr.Pvt.Secretary
ITAT, Cuttack