



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

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

**ITA No.45/CTK/2025: Assessment Year : 2014-15
ITA No.46/CTK/2025 : Assessment Year :2015-16
ITA No.47/CTK/2025 : Assessment Year : 2016-17**

Gopal Pillai Sreekumar, Sooranad, Kollam, Kerala- 690522	Vs.	Income Tax Officer, Central Circle-2, Bhubaneswar
PAN/GIR No.AKMPS 1435 P		
(Appellant)	..	(Respondent)

Assessee by : Shri Subit Kumar Sahu, Adv
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 28/01/2025
Date of Pronouncement : 28/01/2025**

ORDER

Per Bench

These appeals filed by the assessee against the separate orders of the Id CIT(A), Bhubaneswar-2, all dated 13.11.2024 confirming the penalty levied u/s.271(1)(b) of the Act of Rs.10,000/- each for the assessment years 2014-15, 2015-16 & 2016-17,, respectively.

2. Shri Subit Kumar Sahu, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. Ld AR drew our attention to the respective assessment orders and penalty orders, which have been passed under:

<u>Asst.Year</u>	<u>Assessment order dt.</u>	<u>Penalty order dt.</u>
2014-15	25.9.2021	17.3.2022
2015-16	25.9.2021	17.3.2022
2016-17	25.9.2021	17.3.2022

It was the submission that the penalty proceedings were initiated by the Assessing Officer u/s.271(1)(b) of the Act solely due to non compliance of notices issued to the assessee. It was the submission that the assessment was completed u/s.153A r.w.s. 143(3) of the Act and thus, there remains no question of non-compliance during the course of assessment proceedings. Therefore, he prayed for deletion of the penalty so levied.

4. In reply, Id Sr DR vehemently supported the levy of penalty. It was the submission that the penalty is levied due to non-compliance of notices and, therefore, the levy of penalty should be confirmed.

6. We have considered the rival submissions. It is seen that although the AO has levied penalty in all the assessment years for non-compliance of statutory notices, however, at the same time, he has passed orders for all the assessment years' u/s. 153A r.w.s 143(3) and not u/s.144 of the Act. Had there been non-compliance by the assessee, the orders should have been passed u/s.144 of the Act. The ITAT Delhi Benches in the case of Akhil Bhartiya Prathamik Shikshak Sangha Bhavan Trust vs ADIT, 115 TTJ

419 (Del) held that where the assessee had not complied the notices issued u/s.142(1) of the Act, but the assessment order has been passed u/s.143(3) and not u/s.144 of the Act, that meant that subsequent compliance of the assessment proceedings was considered as good compliance and default committed earlier were ignored by the Assessing officer. Therefore, levy of penalty u/s.171(1)(b) of the Act was not justified. Since the facts in all the appeals are identical of the case of Akhil Bhartiya Prathamik Shikshak Sangha Bhavan Trust (supra),by respectfully following the same, the penalty u/s.271(1)(b) of the Act is hereby deleted as in the instant cases also, as the assessments were finally completed u/s.153A r w.s143(3) of the Act and not u/s.144 of the Act.

7. In the result, appeals of the assessee stand allowed.

Order dictated and pronounced in the open court on 28/01/2025.

Sd/-

sd/-

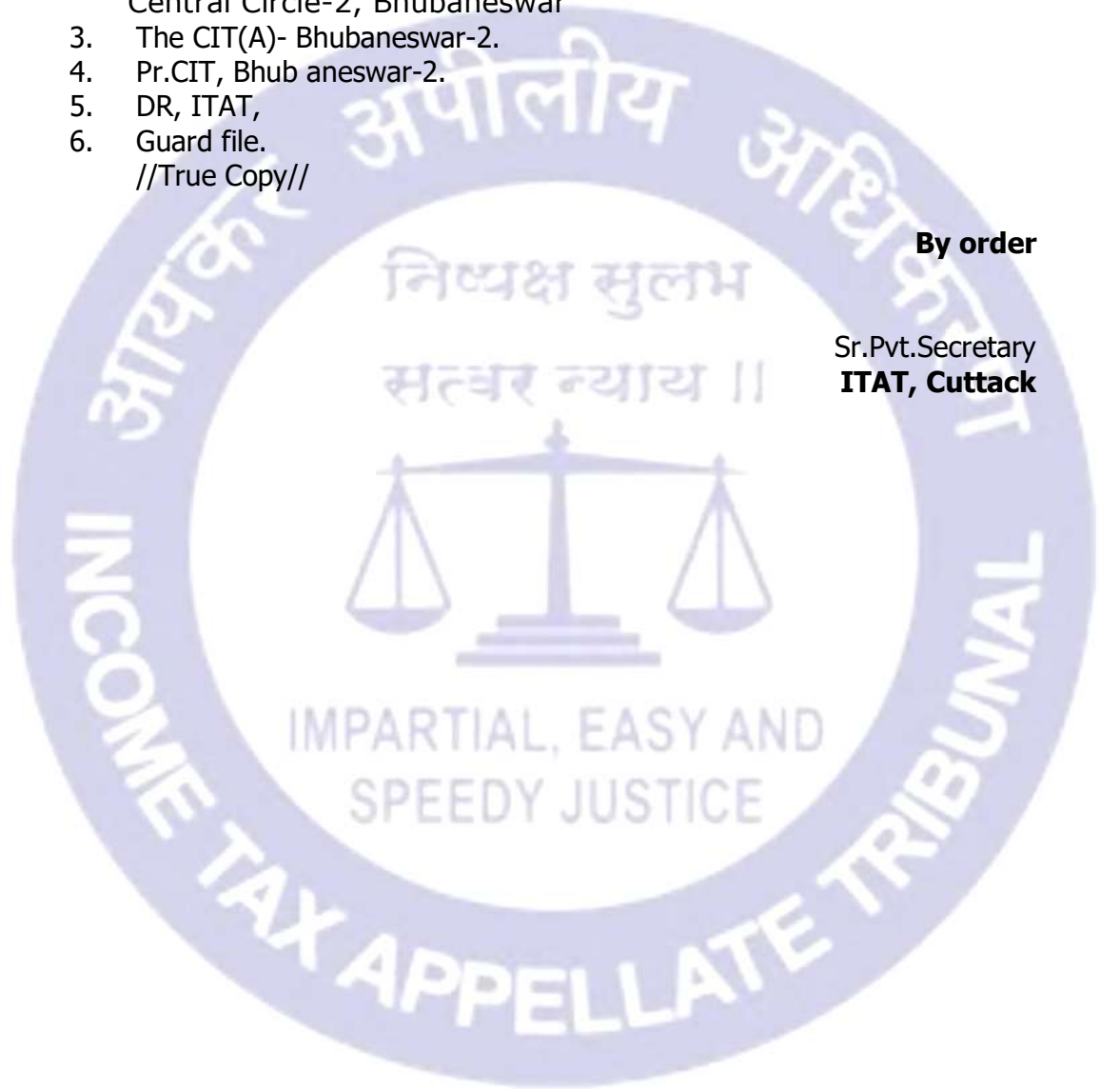
(George Mathan)
JUDICIAL MEMBER

(Manish Agarwal)
ACCOUNTANT MEMBER

Cuttack; Dated 28/01/2025
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Gopal Pillai Sreekumar,
Sooranad, Kollam, Kerala-690522
2. The Respondent: Income Tax Officer,
Central Circle-2, Bhubaneswar
3. The CIT(A)- Bhubaneswar-2.
4. Pr.CIT, Bhub aneswar-2.
5. DR, ITAT,
6. Guard file.
//True Copy//



By order

Sr.Pvt.Secretary
ITAT, Cuttack