

**IN THE INCOME TAX APPELLATE TRIBUNAL "CUTTACK" BENCH, CUTTACK
VIRTUAL HEARING AT KOLKATA**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA Nos. 72 & 73/CTK/2025
Assessment Years: 2017-18 & 2015-16**

Bijay Kumar Nayak AT-Silada, Basta-1, Chhanua, Dist. Balasore, 756027, Osdisha. (PAN: AFFPN2990C)	Vs	Income Tax Officer, Ward-1, Balasore
(Appellant)		(Respondent)

Present for:

Appellant by : Shri P. K. Mishra & Shri Himanshu Jena, Shri
Narahari Swain, Advocates.

Respondent by : Shri Sanjay Kumar, CIT, DR

Date of Hearing : 09.04.2025

Date of Pronouncement : 09.04.2025

ORDER

Per Bench :

These captioned appeals by the assessee are against the separate orders of the Ld. Commissioner of Income Tax (Appeal), NFAC, Delhi [hereinafter referred to as "the Ld. CIT(A)"] vide order nos. ITBA/NFAC/S/250/2024-25/1072274031(1) & ITBA/NFAC/S/250/2024-25/10722770618(1) both dated 17.01.2025 passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AYs 2017-18 and 2015-16 respectively.

2. Shri P. K. Mishra & Shri Himanshu Jena, Shri Narahari Swain, Advocates represented on behalf of the assessee and Shri Sanjay Kumar, CIT, DR appeared on behalf of the revenue.

3. It was submitted by the Ld. AR that the Assessing Officer has made additions without providing sufficient opportunity to the assessee. It was also submitted that the Ld. CIT(A) has also affirmed the view taken by the Assessing Officer without appreciating the facts. It was, thus, submitted that the matter may be restored to the file of the Assessing Officer to decide the issue afresh enabling the assessee to file the relevant documents to substantiate his claim before the Assessing Officer.

4. In reply, the Ld. CIT, DR submitted that proper opportunities were allowed and the assessee could not produce the documents as required by both the authorities below. It was submitted that the orders passed by both the authorities below deserve to be upheld.

5 We have heard rival submissions. A perusal of the assessment order clearly shows that the assessee was noncompliant before the Assessing Officer during the course of assessment proceedings. Even a perusal of appellate order clearly shows that the Ld. CIT(A) has confirmed the order of the Assessing Officer by relying on the decision of Hon'ble Apex Court in the case of CIT Vs. B. N. Bhattacharjee & Anr. 10 CTR 354 without passing a speaking order. That being so, in the interest of natural justice, the issues in this appear are restored to the file of Assessing Officer for re-adjudication afresh after granting the assessee adequate opportunity of being heard. The assessee is also directed to produce all the documentary evidence to substantiate his case during the course of re-adjudication proceeding before the Assessing Officer positively.

6. In the result, both the appeals of the assessee are partly allowed for statistical purposes.

Order dictated and pronounced in the open court.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(George Mathan)
Judicial Member

Dated: 9th April, 2025

JD, Sr. P.S.

Copy to:

1. The Appellant: Shri Bijay Kumar Nayak, Balasore
1. Respondent – ITO, Ward-1, Balasore
2. CIT(A), NFAC, Delhi
3. Pr. CIT
4. DR, ITAT, Cuttack
5. Guard file.

True Copy

By Order

Assistant Registrar
ITAT, Cuttack