

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

**BEFORE SHRI GEORGE MATHAN, JM  
AND  
SHRI RAJESH KUMAR, AM**

**ITA Nos. 112-116/CTK/2025**

**(Assessment Years: 2015-16, 2013-14, 2014-15, 2016-17,  
2017-18)**

**Md. Mahatab Alam**  
Plot No. 401, Unit-4,  
Odisha-751001

**ACIT**  
Aaykar Bhavan Annexe,  
**Vs.** Rajaswa Vihar, Bhubaneswar  
Odisha-751007

**(Appellant)**

**(Respondent)**

**PAN No. ADIPA7770L**

**Assessee by** : Shri Lalatendu Sahu, AR  
**Revenue by** : Shri Ashim Kumar Chakraborty,  
DR

**Date of hearing:** 21.07.2025

**Date of pronouncement:** 21.07.2025

**ORDER**

**PER PENCH:**

These are the appeals filed by the assessee against the orders of Id. CIT (A), Bhubaneswar-2, in appeal no. ITBA/APL/S/250/2024-25/1070473434(1) for A.Y. 2013-14 to 2017-18.

02. Shri Lalatendu Sahu, represented on behalf the assessee and Shri Ashim Kumar Chakraborty, represented on behalf of the Revenue.
03. It was submitted by the Id. AR that ITA Nos. 112 to 115/CTK/2025 were against the penalties levied u/s 271(1)(c) of the Income-tax Act, 1961 (the Act) confirmed by the Id. CIT (A) and ITA no. 116/CTK/2025, was against the penalty levied u/s 270A of the Act as confirmed by the Id. CIT (A). It was the submission that the assessee is a dealer in fish. It was submitted that a search was conducted u/s 132 of the Act at assessee's premises. The assessee had originally filed his return of

income on cash basis. After search, the assessee filed his return of income disclosing even the accrued interest as investment on yearly basis. It was the submission that the difference in the return of income originally filed u/s 139(1) and in the return filed u/s 153A of the Act was on account of the interest on the investment accrued which had been offered by the assessee. It was the submission that earlier the assessee was following cash system of accounting and when the investment matured, the assessee offered interest on such investments in the year in which the investments matured. It was the submission that the difference is only on account of interest accrued. It was also the submission that it cannot be said that the assessee has concealed his income or suppressed his income or furnished inaccurate particulars of income. It was the submissions that the penalty as levied by the Id. AO and confirmed by the Id. CIT (A) may be deleted.

04. In reply, the Id. CIT DR submitted that there is a difference between the original income filed u/s 139(1) of the Act and the returned filed in response to notice issued u/s 153A of the Act. It was the submission that in view of explanation 5A to Section 271(1)(c) of the Act, as there is a difference between the return filed in response to notice issued u/s 153A of the Act and the original return filed u/s 139(1) of the Act, the penalty to be levied u/s 271(1)(c) of the Act. In regard to provision of Section 270A of the Act, it was the submission that the assessee has concealed particulars of his income and furnished inaccurate particulars of income.
05. We have considered rival the submissions. Admittedly, the assessee has been showing the interest income on the investments of cash basis. After search the assessee has started showing the interest income on accrual basis. It must be mentioned here that nowhere as the

investment been treated as undisclosed income of the assessee or a suppressed income of the assessee. The fact that the assessee has been following cash system and after search, the return is being filed on mercantile system. It cannot be said that the assessee has concealed particulars of his income or furnished inaccurate particulars of income. This being so, we are of the view that the penalties levied u/s 271(1)(c) of the Act as also u/s 270A of the Act is unsustainable and consequently being canceled. The penalties levied u/s 271(1)(c) of the Act for the A.Ys. 2015-16, 2013-14, 2014-15 and 2016-17, as also the penalty u/s 270A of the Act for A.Y. 2017-18 is quashed. In the result, the appeals of the assessee are allowed.

06. In the result, the appeals of the assessee are allowed.

Order pronounced in the open court on 21.07.2025.

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Sd/-  
(GEORGE MATHAN)  
(JUDICIAL MEMBER)

Kolkata, Dated: 21.07.2025  
Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Cuttack