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

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

ITA No. 183 & 184/CTK/2025

(Assessment Year: 2016-17)

Smt. Monalisa Pradhan Plot No. n-3/33, IRC village Nayapalli, Bhubaneswar-751015 Odisha **(Appellant)**	**Vs.**	**Income Tax officer,** Ward 3(1) Bhubaneswar-751007 Odisha **(Respondent)**

PAN No. ASIPP1161B

Assessee by	:	Shri Niranjan panda, AR
Revenue by	:	Shri Nishanth Rao B, DR

Date of hearing: 23.07.2025
Date of pronouncement: 23.07.2025

O R D E R

PER PENCH:

These are the appeals filed by the assessee against the order of ld. CIT (A), NFAC, in appeal no. ITBA/NFAC/S/250/2024-25/1072675235(1) dated 29.01.2025 for A.Y. 2016-17. ITA 184/CTK/2025 is the quantum appeal and IA ITA No. 183/CTK/2025 is the appeal against the penalty levied and confirmed under Section 271(1)(c) of the Income-tax Act, 1961 (the Act).

02. Shri Niranjan panda represented on behalf the assessee and Shri Nishanth Rao B, represented on behalf of the Revenue.

03. In respect of the ITA No. 184/CTK/2025, being the quantum appeal, it was submitted by the Learned AR that the assessee is an individual who is a research assistant with the Rice Institute. It was a submission that the assessee had purchased a flat for ₹51,00,000/- and had taken a loan of ₹40,80,000/- from the bank. It was submission that in the

course of assessment, the AO had issued a show-cause notice in respect of the balance of ₹10,20,000/-. The assessee had been asked to explain the source of the ₹10,20,000/- and only one day's time had been granted to the assessee. It was a submission that the assessee could not respond to the notice within one day and the AO had passed the order treating ₹10,20,000 as the unexplained money of the assessee under section 69A of the Act. It was a submission that the Learned CIT (A) had also confirmed the same. It was the further submission that in application u/s 154 of the Act filed by the assessee, the AO instead of verifying the details questioned the assessee as to why the assessee did not provide the clarifications before the NaFAC and rejected the rectification application. It was the submission that he had no objections if the issue was restored to the file of the AO for re-adjudication in respect of the amount of ₹10,20,000/- which was a difference of the cost of acquisition of the flat.

04. In reply, the learned DR submitted that the assessee became aware of the issue only when the rectification application had been rejected. It was submission that he had no objection if the AO examine the issue.

05. We have considered the rival submissions. As it is noticed that the AO in the course of NaFAC proceedings, the assessee had been granted only one day's time to respond to the show cause notice issued by the AO. We feel that there has been violation of the principles of natural justice. This being so, in the interest of justice, the issue in this appeal in respect of the amount of ₹10,20,000/- is restored to the file of the AO for re-adjudication after granting the assessee adequate opportunity of being heard.

06. In the result, the appeal of the assessee is partly allowed for statistical purposes.

07. In respect of ITA No. 183/CTK/25 which is against the penalty under section 271(1)(c) of the Act, which has been confirmed by the ld. CIT (A).

08. We are of the view that as the quantum has been restored in quantum appeal and assessment has been restored to the file of the AO, the foundation for the levy of penalty under section 271(1)(c) of the Act, no more survives and consequently, the penalty as levied and confirmed under section 271(1)(c) of the Act, stands deleted.

09. Liberty is granted to the ld. AO to initiate fresh proceedings under Section 271(1)(c) of the Act, if so require as per law in the set-aside proceedings.

010. In the result, the appeal in ITA No. 183/CTK/2025 is allowed and ITA 184/CTK/2025 is partly allowed for statistical purposes.

Order pronounced in the open court on 23.07.2025.

Sd/-	Sd/-
(RAJESH KUMAR)	(GEORGE MATHAN)
(ACCOUNTANT MEMBER)	(JUDICIAL MEMBER)

Kolkata, Dated: 23.07.2025
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