

आयकर अपीलीय अधिकरण
कटक पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
CUTTACK BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री संजय शर्मा, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 175/CTK/2025
Assessment Year: 2017-18**

Prafulla Kumar Routray	Vs.	ACIT, International Taxation, Bhubaneswar
<i>(Appellant)</i>		<i>(Respondent)</i>
PAN: ADAPR8305C		

Appearances:

Assessee represented by : Rajat Kar, Advocate.

Department represented by : S.C. Mohanty, Sr. DR.

Date of concluding the hearing : 13-May-2025

Date of pronouncing the order : 25-July-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-22, Kolkata [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 08.01.2025,



which has been passed against the assessment order u/s 154 r.w.s. 143(3) of the Act, dated 06.05.2020.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. For that order dated 08.01.2025 as passed under Section 250 of the I.T. Act, 1961 by the Commissioner of Income Tax (Appeals) Kolkata-22 hereinafter referred to as the ‘learned CIT(Appeals)’ dismissing the appeal is not just and legal on the facts and in the circumstances of the case.

2. For that the learned CIT(Appeals) without properly appreciating the facts and submissions of the appellant from its proper perspective and without affording reasonable opportunity of being heard should not have dismissed the appeal on the facts and in the circumstances of the case.

3. For that addition of Rs.21,10,000/- as unexplained money under Section 69A as made by the learned Assessing Officer is not correct on the facts and in the circumstances of the case.

4. For that disallowance of cost of acquisition of the property at Rs. 1,57,53,865/- and claim of deduction of Rs.82,46,135/- u/s.54 totalling to Rs.2,40,00,000/- and addition of the same to the returned income of the appellant is not factually correct and legally tenable on the facts and in the circumstances of the case.”

3. Brief facts of the case as culled out from the order of the Ld. CIT(A) submitted by the assessee in the statement of facts are that the assessee is a non-resident Indian and during the FY 2016-17 relevant to AY 2017-18 had sold an immovable property for a consideration of ₹2,40,00,000/- and in such transaction TDS of ₹18,88,509/- was made by the buyer of the immovable property. The assessee had also purchased another immovable property during the year under appeal. The assessment was made determining the total income at ₹2,61,11,609/- and the claim of deduction u/s 54 of the Act was disallowed. A sum of ₹21,10,000/- was also added u/s 69A of the Act which related to the total credits in the SBI account. The Assessing Officer (hereinafter referred to as Ld. 'AO') also disallowed the cost of

acquisition of the property at ₹1,57,53,865/- and claim of deduction of ₹82,46,135/- u/s 54 of the Act totalling to ₹2,40,00,000/- and added the same to the returned income of the assessee. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A). The assessment order was passed on 19.12.2019 assessing the total income of ₹2,61,11,609/- against the returned income of ₹1,609/- in which penalty u/s 271(1)(b) of the Act was initiated. Thereafter, an order u/s 154 of the Act dated 29.05.2020 was passed which stated that a mistake had crept in the assessment order wherein inadvertently section 271(1)(b) of the Act was mentioned in place of correct section 272A(1)(d). It was stated that the provisions of section 271(1)(b) of the Act were not applicable from AY 2017-18 onwards. In the appeal filed before the Ld. CIT(A), the assessee submitted the details of the order appealed against being the rectification order dated 29.05.2020 in which the only error of mentioning of incorrect section relating to penalty for non-compliance to the notices issued was corrected and therefore, the appeal of the assessee was dismissed by the Ld. CIT(A) by giving the following finding vide order dated 08.01.2025:

“5.1 I have carefully examined the material at hand including the impugned orders and the submissions of the appellant.

5.2 The assessment order in the case of appellant was passed on 19/12/2019 assessing an income of Rs. 2,61,11,609 against the returned income of Rs. 1,609. In the said order penalty u/s 271(1)(b) was initiated. Thereafter, an order u/s 154 dated 29/05/2020 was passed which stated that a mistake has crept in the assessment order wherein inadvertently section 271(1)(b) was mentioned in place of correct section 272A(1)(d). It stated that provisions of section 271(1)(b) were applicable till AY 2016-17 and from AY 2017-18 section 272A(1)(d) was applicable. The rectification order u/s 154 corrected the mistake.

5.3 It is seen that the appellant has submitted Form 35 on 15/02/2021 in which the details of order appealed against is order u/s 154 dated 29/05/2020. However, in the grounds of appeal it has raised various issues



which were part of the assessment order dated 19/12/2019. None of the issue raised were part of the rectification order u/s 154 appealed against. As the rectification order u/s 154 suffers from no illegality as it was mere change in section number, the appeal of the assessee is hereby dismissed.

5.4 In the result, the appeal filed by the assessee is dismissed.”

4. During the course of appeal before us, this fact was brought to the notice of the Ld. AR that the assessee has filed the appeal against the order of Ld. CIT(A) who had dismissed the appeal as the grounds of appeal did not relate to the rectification order. The Ld. DR drew our attention to paragraphs 5.2 and 5.3 of the order of the Ld. CIT(A) and stated that there is no infirmity in the order of the Ld. CIT(A). When this fact was brought to the notice of the Ld. AR, he requested to withdraw the appeal so that the appeal against the assessment order could be filed before the Ld. CIT(A). In view of the discussion made above the appeal of the assessee is hereby dismissed as withdrawn.

5. In the result, the appeal filed by the assessee is dismissed as withdrawn.

Order pronounced in the open Court on 25th July, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 25.07.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Prafulla Kumar Routray, N-4/331, IRC Village, Nayapalli, Bhubaneswar, Odisha, 751015.**
2. **ACIT, International Taxation, Bhubaneswar.**
3. CIT(A)-22, Kolkata.
4. CIT-
5. CIT(DR), Cuttack Bench, Cuttack.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata