

आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं/ITA No.14/CTK/2025

आयकर अपील सं/ITA No.15/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2017-2018)

(निर्धारण वर्ष / Assessment Year : 2018-2019)

Bishnu Charan Panda Kakatpur, Puri, 752108	Vs	ITO, Puri
PAN No. : AMVPP 5466 C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Chitrasen Parida, Advocate
राजस्व की ओर से /Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	22/09/2025
घोषणा की तारीख/ Date of Pronouncement	:	22/09/2025

आदेश / ORDER

These are two appeals filed by the assessee against the separate orders of the Id.CIT(A),National Faceless Appeal Centre (NFAC), Delhi, dated 08/11/2024 & 12.11.2024 for the assessment years 2017-2018 & 2018-2019.

2. It was submitted by the Id. AR that the assessee is a cancer patient. It was the submission that the assessee had been unable to file his return of income for the relevant assessment year. It was further submitted that the assessee had also admittedly not represented before the AO on account of his treatment. It was the submission that the AO had estimated the income of the assessee by applying the provisions of Section 44AD of the Act. It was the submission that in earlier and subsequent years net profits were in the range of 1.8 to 2%. It was the prayer that the issues

may be restored to the file of AO for readjudication and the assessee would be in a position to provide all the details before the AO. It was also the submission that other additions in the form of cash deposit during the demonetization period has also been disallowed and there has been addition under the head income from other sources.

3. In reply, Id. Sr. DR submitted that he had no objection if the issues are restored to the file of Id. AO for readjudication.

4. I have considered the rival submissions. A perusal of the facts and circumstances of the present case shows that the AO has admittedly applied the provisions of Section 44AD of the Act when estimating the income of the assessee. The AO has also for the assessment year 2017-2018 added the cash deposited during the demonetization period. There has also been certain addition on account of income from other sources. Admittedly, the turnover of the assessee is in excess of Rs.2 crores. Obviously, the provisions of Section 44AD of the Act would not apply. Even when estimating the income of the assessee, the Hon'ble Supreme Court as also the various Hon'ble High Courts have categorically held that the income disclosed by the assessee in earlier and subsequent years is to be considered while estimating the income. This has admittedly not done. It is also noticed that there is failure on the part of the assessee in not representing the case before the AO. This being so, in the interest of justice, I am of the view that the issues involved in both the appeals are

restored to the file of Id.AO for readjudication afresh after providing sufficient opportunity of being heard to the assessee.

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

Order dictated and pronounced in the open court on 22/09/2025.

Sd/-
(जार्ज माथन)
(GEORGE MATHAN)
न्यायिक सदस्य / JUDICIAL MEMBER

दिनांक Dated 22/09/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to

1. अपीलार्थी / The Appellant- Bishnu Charan Panda
Kakatpur, Puri,
752108
2. प्रत्यर्थी / The Respondent- ITO, Puri
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT,
Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack

		Date	Initial	
1.	Draft dictated on	22.09.25		Sr.PS
2.	Draft placed before author	22.09.25		Sr.PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS
7.	File sent to the Bench Clerk			Sr.PS
8.	Date on which file goes to the OS			
9.	Date on which file goes to the AR			
10.	Date of dispatch of Order.			