आयकर अपीलीय अधिकरण, कटक न्यायपीठ,कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)

श्री जार्ज माथन, न्यायिक सदस्य **एवं** श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

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

आयकर अपील **सं/ITA No.261, 262 & 263/CTK/2025**

(**निर्धारण वर्ष /** Assessment Year : 2017-18, 2018-19 & 2019-20)

Trijal Enterprise Private Limited At-Hall No.6, Block-2, BMC Bhawani Mall, Saheed Nagar, Khordha-751007, Bhubaneswar	Vs	**ACIT, Central Circle-2,** **Bhubaneswar**
PAN No. :**AAFCT 9662 B**		
(**अपीलार्थी /Appellant**)	..	(**प्रत्यर्थी / Respondent**)

निर्धारिती की ओर से /Assessee by	:	Shri P.K.Mishra, AR
राजस्व की ओर से /Revenue by	:	Shri Ashim Kumar Chakraborty, CIT-DR
सुनवाई की तारीख / **Date of Hearing**	:	02/12/2025
घोषणा की तारीख/**Date of Pronouncement**	:	02/12/2025

आदेश / O R D E R

Per Bench :

These are the three appeals filed by the assessee against the separate orders passed by the ld. CIT(A), Bhubaneswar-2, all dated 25.03.2025 for the assessment years 2017-2018, 2018-2019 & 2019-2020 confirming the penalty levy under 270A of the Act.

2. It was submitted by the Ld. AR that for the impugned assessment years the assessee has filed original return for the assessment year 2017-18 disclosing a loss of Rs.8,30,930/-, for the assessment year 2018-19 income of Rs.20,46,140/- and for assessment year 2019-20 an income of Rs.17,27,850/-. There was a search on the premises of the assessee on 03/04/2019. In response to notice issued u/s.153A of the Act, the assessee filed his return of income for the assessment year 2017-18 disclosing a loss

of Rs.1,19,930/-, income of Rs.31,61,140/- for the assessment year 2018-19 and income of Rs.44,90,060/- for the assessment year 2019-20. It was submission that the returned income in response to the notice u/s.153A of the Act was accepted in its entirety and no further addition was also made by the AO. It was submission that the AO initiated penalty proceeding u/s. 270A of the Act. It was submission that when the returned income is accepted, the AO himself accepts that the return has been filed u/s. 139 of the Act. The Ld. AR drew our attention to the last page of the assessment order wherein the AO has mentioned that the penalty initiated the separately for misreporting the income(loss) in return filed u/s.139 of the Act. It was submission that no penalty u/s.270A of the Act is liable to be levied, insofar as the issue is now squarely covered by the decision of the co-ordinate bench of this tribunal in the case of Sudarsan De in ITA No.5177/Del/2024, order dated 30.05.2025, wherein the coordinate bench in para 6 as held as follows:-

> *6. We have heard both the parties and perused the material available on record. It is not in dispute that the Assessee is a non-filer and has filed return of income for the year under consideration belatedly declaring total income of Rs. 1,02,88,060/- and the assessment has been completed at the return income. While passing the assessment order a satisfaction has been recorded by the A.O. for 'under reporting the income'. Consequent to the said satisfaction, penalty proceedings u/s 270A has been initiated for 'under reporting the income' and penalty has been imposed u/s 270A for 'under reporting the income'. As observed earlier, though the Assessee is a non-filer, while filing Return suo-moto belatedly, declared the total income at Rs. 1,02,88,060/- which has been accepted by the Department and no addition has been made on the quantum. However, a penalty provision has been invoked u/s 270A for 'under reporting income'. The 'under Reporting income' occurs when a person discloses smaller amount than their actual income. In the present case, whatever income reported/declared by the Assessee has been accepted by the Department, therefore, it is not the case of reporting smaller amount than their actual income, thus, the limb of 'under*

reporting' in Section 270A is not applicable and the said limb cannot to be invoked. Considering the above facts and circumstances, the penalty order and the order of the Ld. CIT(A) are hereby set aside.

3. Ld. AR also drew our attention to the decision of the co-ordinate bench of this Tribunal in the case of Jaina Marketing & Associates, reported in [2024] 162 taxxman.com 439 (Delhi-Trib.) wherein, the coordinate bench of this tribunal has held as follows:-

21. As could be seen from the above the notice issued u/s 271AAB of the Act, it does not depict the charge against the assessee as to under which Clause (a), (b) or (c) or Section 271AAB (1) or Clause (a) or (b) of 271 AAB (1A) of the Act penalty is leviable on the assessee. Therefore, we are of the opinion that the notice initiating penalty u/s 271AAB of the Act is vague and the assessee was not made aware of the actual charge on which the penalty proceedings will be initiated on the assessee. The various judicial precedents have held that the penalty notice should be clear enough to convey the assessee about the charge which is to be levied against him/her/it for levying penalty for the contravention of the related provisions of the Act.

22. An Identical question came for consideration before the Jaipur bench of the Tribunal in the case of Sri. Mahaveer Prasad Agarwal Vs.The DCIT in ITA No.1218/JP/2019 vide order dated 02-06-2022, wherein the similar notice has been issued to the Assessee therein and the Tribunal held as under:

"5.1 In case of Shri Padam Chand Pungliya vs. ACIT (supra), the Coordinate Bench has held at para 5 page 7 of its order as under :-

"It is pertinent to note that the disclosure of additional income in the statement recorded under section 132(4) Itself is not sufficient to levy the penalty under section 271AAB of the Act until and unless the income so disclosed by the assessee falls in the definition of undisclosed income defined in the explanation to section 271AAB(1) of the Act. Therefore, the question whether the income disclosed by the assessee is undisclosed income in terms of the definition under section 271AAB of the Act has to be considered and decided in the penalty Since the assessee has offered the said income in the return of income filed under section 139(1) of the Act, therefore, the question of taking any decision by the AO in the assessment proceedings about the true nature of surrender made by the assessee does not arise and only when the AO has proposed to levy the penalty then it is a pre-condition for invoking the provisions of section 271AAB that the said income disclosed by

the assessee in the statement under section 132(4) is an undisclosed income as per the definition provided under section 271AAB. Therefore, the AO in the proceedings uno section 271AAB has to examine all the facts of the case as well as the basis of the surrender and then arrive to the conclusion tharth income disclosed by the assessee falls in the definition of undiscloses income as stipulated in the explanation to the said section. Therefore we do not agree with the contention of the ld. D/R that the levy of penalty under section 271AAB is mandatory simply because the AO has to first issue a show cause notice to the assessee and then has to make a decision for levy of penalty after considering the fact that all the conditions provided under section 271AAB are satisfied."

It is evident from the show cause notice issued under section 274 read with section 271AAB (APB Page 1) that the AO was not clear as to on what precise charge the appellant was asked to show cause, whether the assessee shall pay by way of penalty under clause (a), (b) or (c) of section 271AAB. The AO has just mentioned "deliberately concealed the true income". Thus the AO without mentioning specific default of the assessee in terms of clause (a), (b) or (c) of section 271AAB of the Act, the, show cause notice issued in routine manner cannot be considered a valid notice in the eyes of law and accordingly the levy of penalty against the assessee is held to be void ab initio. Further, the assessee has substantiated the undisclosed cash available, as to the extent of surrendered income of Rs. 8,73,000/-.

6. In view of the above, considering the peculiar facts, the grievance of the assessee is accepted as genuine and as such the order of the ld. CIT (A) sustaining the penalty is hereby quashed.

7. In the result, appeal of the assessee is allowed."

22. The Indore Bench of the Tribunal in ITA No. 869/1nd/2018 in the case of Shri Ashok Bhatia vs. DCIT vide order dated 05.02.2020 held as under:-

"8. From perusal of the above provision we observe that sub section 3 of Section 271AAB of the Act talks about issuing the notice u/s 274 of the Act. So for initiating the penalty proceedings u/s 271AAB of the Act the first step to be taken by 1.d. A.O is to issue a valid notice u/s 274 of the Act. Sub- section (1) to Section 274 of the Act provides a procedure that "No order imposing a penalty under this Chapter shall he made unless the assessee has been heard, or has been given a reasonable opportunity of being heard". To comply with this requirement the notice u/s 274 should be clear enough to convey the assessee about the charge which is to be leveled against him/her/it for levying the penalty for the contravention of the related provisions

of the Act which in the instant case relates to not surrendering of undisclosed amount during the course of search which is subsequently admitted during the course of assessment and not challenged before the Ld. CIT(A). So it was incumbent for Ld. A.O that in the notice issued u/s 274 of the Act he should have mentioned that penalty u/s 271AAB of the Act may be levied na 10/20/30% since the assessee falls in Clauses (a)/(b)/(c) of section 271AAB of the Act. He should have further mentioned that as the assessees case falls under clause-c of section 271AAB of the Act, why she should not be visited by penalty (30% of the undisclosed income. Against this charge the assessee should have been given a reasonable opportunity of being heard.

From going through the above three notices issued to the assessee on 22.03.2016, 03.06.2016 and 16.09.2016, we find that there is no mention about various conditions provided u/s 271 AAB of the Act. The Ld. A.O has very casually used the proforma used for issuing notice before levying penalty u/s 271(1)(c) of the Act for the concealment of income or furnishing of inaccurate particulars of income. Except mentioning the Section 271AAB of the Act in the notice it does not talk anything about the provision of section 271AAB. Certainly such notice has a fatal error and technically is not a correct notice in the eyes of law because it intends to penalize an assessee without spelling about the charge against the assessee. Hon'ble Jurisdictional High Court in the case of PCIT V/s Kulwant Singh Bhatia (supra) dealt the issue of defective notice issued u/s 274 r.w.s. 271(1)(c) of the Act and Hon'ble court after relying judgment of Hon'ble Supreme Court in the case of CIT V/s Manjunatha Cotton Ginning Factory and CIT v/s SSA'S Emerald Meadows (supra) held that such show cause notices would not satisfy the requirement of law as notice was not specific.

Merely issuing notice in general proforma will negate the very purpose of natural justice. Hon'ble Apex Court in the case of Dilip N Shraf 161 Taxmann 218 held that "the quasi criminal proceedings u/s 271(1)(c) of the Act ought to comply with the principles of natural justice".

15. We, therefore respectfully following the judgment of jurisdictional High Court in the case of PCIT V/s Kulwant Singh Bhatia (supra), decision of Coordinate Bench of Chennai in the case of DCIT V/s R. Elangovan (supra) and Jaipur Bench in the case of Ravi Mathur Vs DCIT (supra) and in the given facts and circumstances of the case wherein the matter written in the body of the notice issued u/s 274 of the Act does not refer to the charges of provision of Section 271AAB of the Act makes the alleged notice defective and invalid and thus deserves to be quashed. Since the penalty proceedings itself has been quashed the impugned penalty of Rs.64,22,348/- stands deleted. Thus

assessee succeeds on legal ground challenging the validity of notice issued u/s 274 r.w.s. 271AAB of the Act."

23. The Kolkata Bench of the ITAT in the case of Sushil Kumar Paul vs. ACIT in ITA No. 2274/Ko1/2019 vide order dated 15.12.2022, held as under:-

> *"From the perusal of the above proposition, we observe that sub section 3 of section 271AAB of the Act talks about issuing the notice u/s 274 of the Act. So for initiating the penalty proceedings u/s 271 AAB of the Act, the first step to be taken by Id. Assessing Officer issue a valid notice u/s 274 of the Act provides a procedure that "No order imposing a penalty under this Chapter shall be made unless the assessee has been heard. or has been given a reasonable opportunity of being heard." To comply with this requirement the notice u/s 274 should be clear enough to convey the assessee about charge which is to be leveled against him/her it for levying penalty for contravention of the related provisions of the Act. So it was incumbent for Id. AO that in the notice issued u/s 274 of the Act should have mentioned that penalty u/s 271AAB of the Act may be levied @ 10/20/30% since the assessee falls in Clauses (a)/(b)/(c) of section 271AAB of the Act. He should have further mentioned that as the assesseee's case falls under Clause-c of section 271AAB of the Act, why he should not be visited by the penalty (ee. 30% of the undisclosed income. Against this charge. the assessee should have been given reasonable opportunity of being heard.*
>
> *10. From going through the above notice issued to the assessee on 28.12.2017. we find that there is no mention about various conditions provided u/s 27IAAB of the Act. The Id. AO has very casually used the proforma used for issuing notice before levying penalty u/s 271(1)(c) of the Act for the concealment of income or furnishing of inaccurate particulars of income. Except mentioning the section 271AAB of the Act in the notice, it does not talk anything about the provisions of section 271AAB. Therefore, certainly such notice has a fatal error and technically' is not a correct notice in the eyes of law because it intends to penalize an assessee without spelling about the charge against the assessee".*

24. The similar views have been taken in the following orders of the Tribunal:-

> *i) Hyderabad Bench of the Tribunal in ITA No. 756/Hyd/20 ACIT dated 04.01.2022 vs Smt. Pallem Reddy Sreelakshmi, Tirupati.*
> *ii) Indore Bench of the Tribunal in ITA No. 249/Ind/2021 dated 28.06.2022 ACIT vs. Shri. Arnit Tiwari*
> *iii) Jabalpur Bench of the Tribunal in ITA No. 1218/JP/2019 dated 02.08.2022 Shri Mahaveer Prasad Agarwal vs. DCIT.*

25. For the detailed reasoning and discussion made above and considering the fact that no specific charge has been mentioned in the penalty notice issued u/s 271AAB of the Act and also following the principles laid down in the above judicial pronouncements, we delete the penalty imposed by the A.O. On this technical grounds for the Assessment Years 2018-19 & 2019-20.

26. Since, penalty is cancelled on technical ground, the adjudication of levy of penalty on merits becomes academic in nature. Hence, no opinion is rendered thereon and they are left open. Accordingly, Appeals filed by the assessee are allowed.

4. The Ld.AR has also placed reliance on the decision of Chennai Bench of the Tribunal in the case of Ethirajulu Vajravel Kumaran, reported in [2025] 180 taxxmann.com 11(Chennai-Trib), wherein the coordinate bench of this tribunal has held as follows :-

64. It is an admitted position that the assessee had, in the course of proceedings consequent to search, offered additional income in the returns of income filed u/s.153A of the Act. The said additional income was duly accepted by the AO while :- 52 -: ITA Nos.1650 to 1655/Chny/2025 completing the assessments without making any variation to the returned income. Subsequent thereto, the AO initiated penalty proceedings u/s.270A of the Act stating under-reporting of income, and issued a preliminary show cause notice to the assessee in this regard. However, in the final show cause notice, the AO altered the charge and proposed to levy penalty not merely for under-reporting, but for under-reporting in consequence of misreporting, and accordingly proceeded to levy penalty at 200%, holding that the additional income declared by the assessee in the returns filed pursuant to search constituted "misreporting" within the meaning of section 270A of the Act.

65. In appeal, the CIT(A) held that the additional income voluntarily offered by the assessee in the return filed u/s.153A of the Act, and which stood accepted by the AO without modification, cannot, by any stretch, be characterized as "misreporting of income." Consequently, the ld. CIT(A) observed that no penalty u/s.270A of the Act was exigible on such disclosure. The CIT(A) further recorded that the show cause notice issued by the AO was vitiated in law, inasmuch as it was vague and defective, having failed to clearly specify the exact charge for which penalty was sought to be levied. In view of the aforesaid defects, as well as on merits, the CIT(A) proceeded to delete the penalty levied by the AO u/s.270A of the Act.

66. It is a settled proposition of law that initiation of penalty proceedings must be in strict conformity with the statutory mandate prescribed u/s.274 of the Act. The procedural safeguard embodied

in Section 274 of the Act is not a mere formality but a mandatory requirement, intended to secure compliance with the principles of natural justice. It obligates the competent authority to afford the assessee a fair and reasonable opportunity to present his case and to demonstrate why penalty ought not to be imposed. In this context, the issuance of a proper and legally sustainable notice u/s.274 of the Act is sine qua non for the valid assumption of jurisdiction to impose penalty. A proper or legally valid notice necessarily connotes that the assessee must be clearly apprised of the precise default, contravention, or charge forming the foundation of the proposed penalty proceedings. Failure to specify the relevant charge or default reflects non- application of mind on the part of the authority and thereby vitiates the very initiation of penalty proceedings.

67. A show cause notice couched in omnibus or vague terms, without delineating the specific charge defeats the purpose of Section 274 of the Act. Such a notice does not enable the assessee to effectively exercise his right of defence, thereby violating the principle of audi alteram partem. Consequently, the imposition of penalty on the basis of such a defective notice is rendered unsustainable in law. Judicial pronouncements of the Hon'ble Courts have consistently held that where the notice issued u/s.274 of the Act is vague, ambiguous, or fails to strike at the specific charge, the proceedings stand vitiated and the notice itself must be held to be invalid in law. Thus, it follows that the foundation of any valid penalty proceeding rests on the issuance of a clear, unambiguous, and legally tenable notice that sets forth the exact nature of the alleged default.

68. Now let us examine the final show cause notice issued by the AO on 15.09.2022 which is extracted below for ready reference:

69. On a careful perusal of the above show cause notice, it is evident that the show-cause notice issued by the AO suffers from a fundamental defect inasmuch as it is vague, uncertain, and lacking in the requisite particulars. The penalty proposed therein is stated to be u/s.270A of the Act, specifically on the ground of "underreporting of income in consequence of misreporting of income" as contemplated under sub-section (9) of section 270A of the Act. It is trite law that where a statute provides for the imposition of a penal liability, the person against whom such liability is sought to be enforced must be informed with clarity and certainty regarding the precise nature of the allegation. The show- cause notice is the foundation of the penalty proceedings; therefore, the AO is duty-bound to specify with exactitude the charge alleged against the assessee so that the assessee may effectively meet and rebut the same. A vague or omnibus notice, which merely reproduces the language of the provision without indicating the specific default committed, cannot be sustained in law.

70. In the present case, the impugned notice does not delineate which particular limb or clause of section 270A(9) of the Act is attracted. Sub-section (9) of section 270A of the Act enumerates

various instances that amount to "misreporting of income," such as misrepresentation or suppression of facts, failure to record investments, recording of false entries, or claim of expenditure not substantiated, etc. Each of these instances constitutes a distinct and independent ground, carrying serious penal consequences. It was incumbent upon the AO to state in clear and unambiguous terms which of these specific defaults was being attributed to the assessee, along with the manner in which the ingredients of the alleged default stood satisfied in the facts of the case. The failure to so specify renders the notice fundamentally defective. It deprives the assessee of a fair and reasonable opportunity to defend himself, thereby vitiating the entire penalty proceedings. The requirement of issuing a valid and precise notice is not a mere procedural formality but goes to the very root of jurisdiction for levy of penalty. A defective notice cannot confer valid jurisdiction upon the AO to impose penalty.

71. We find that the Hon'ble Delhi High Court in the case of Prem Brothers Infrastructure LLP v. NFAC & Anr in W.P.(C) 7092/2022 dated 31.05.2022 has observed as under:-

"8. This Court also finds that there is not even a whisper as to which limb of Section 270A of the Act is attracted and how the ingredient of sub- section (9) of Section 270A is satisfied. In the absence of such particulars, the mere reference to the word "misreporting" by the Respondents in the penalty order to deny immunity from imposition of penalty and prosecution makes the impugned order manifestly arbitrary.

9. Consequently, the impugned penalty order dated 28th March, 2022 passed by Respondent No.1 under Section 270A of the Act is quashed and Respondent No.1 is directed to grant immunity under Section 270AA of the Act to the Petitioner."

72. Further, the Hon'ble Delhi High Court in Schneider Electric South East Asia (HQ) PTE Ltd. Vs. ACIT, International Taxation Circle 3(1)(2), New Delhi and Ors. W.P.(C) No. 5111/2022 vide judgment dated 28.03.2022 observed as under:-

"6. Having perused the impugned order dated 9th March, 2022, this Court is of the view that the Respondents' action of denying the benefit of immunity on the ground that the penalty was initiated under Section 270A of the Act for misreporting of income is not only erroneous but also arbitrary and bereft of any reason as in the penalty notice the Respondents have failed to specify the limb - "underreporting" or "misreporting" of income, under which the penalty proceedings had been initiated.

7. This Court also finds that there is not even a whisper as to which limb of Section 270A of the Act is attracted and how the ingredient of sub-section (9) of Section 270A is satisfied. In the absence of such particulars, the mere reference to the word "misreporting" by the Respondents in the assessment order to deny immunity from

imposition of penalty and prosecution makes the impugned order manifestly arbitrary.

8. This Court is of the opinion that the entire edifice of the assessment order framed by Respondent No.1 was actually voluntary computation of income filed by the Petitioner to buy peace and avoid litigation, which fact has been duly noted and accepted in the assessment order as well and consequently, there is no question of any misreporting.

9. This Court is further of the view that the impugned action of Respondent No.1 is contrary to the avowed Legislative intent of Section 270AA of the Act to encourage/incentivize a taxpayer to (i) fast-track settlement of issue,
(ii) recover tax demand; and (iii) reduce protracted litigation.

10. Consequently, the impugned order dated 09th March, 2022 passed by Respondent No.1 under Section 270AA (4) of the Act is set aside and Respondent No.1 is directed to grant immunity under Section 270AA of the Act to the Petitioner."

73. We find that the similar issue had come up for consideration before the co-ordinate bench of this Tribunal in Prakashchand Jain v. DCIT in ITA No.68/Chny/2024 dated 07.03.2025, wherein following the another decision of the co-ordinate bench of this Tribunal in Enrica Enterprises Pvt. Ltd. in ITA Nos.1166 & 1167/Chny/2023 dated 06.06.2024, it was held as under:-

"9. According to us, the assessee should be informed in the show-cause notice with certainty and accuracy of the exact nature of the fault alleged against him. In this case, it has been noted that the impugned notice issued by the Assessing Officer is silent about which limb/clause of sub- section (9) of section 270A of the Act has been attracted in the facts of the case so as to deserve levy of penalty, and how the ingredients of sub- section (9) of section 270A are satisfied. Therefore, the show-cause notice proposing penalty is found to be vague and does not meet the requirement of law to legally impose penalty. Consequently, the levy of penalty is fragile in the eyes of law and is held to be ab initio bad in law."

74. Respectfully following the precedent laid down by the Hon'ble Delhi High Court in Prem Brothers Infrastructure LLP v. PCIT and Schneider Electric South East Asia (HQ) PTE Ltd v. DCIT, as well as the coordinate bench decisions of this Tribunal in Prakashchand Jain v. ACIT and Enrica Enterprises Pvt. Ltd. v. ACIT, we are of the considered view that the show cause notice dated 15.09.2022 issued by the AO u/s.274 r.w.s 270A of the Act, is ex facie vague and suffers from a fundamental infirmity in law inasmuch as it fails to clearly and specifically delineate the precise charge for which penalty proceedings were initiated. A notice which does not indicate the specific limb or ground under which penalty is proposed to be levied is not only violative of the principles of natural justice but also renders

> *the entire penalty proceedings void ab initio. In the absence of such specificity, the assessee is deprived of an effective opportunity to rebut the charge, thereby vitiating the proceedings. Consequently, the said notice cannot be sustained in law and is hereby quashed. As a corollary, the penalty orders passed by the AO u/s.270A of the Act for the AYs 2017-18 to 2020-21, being consequential in nature, are unsustainable in the eyes of law and are also liable to be set aside. We further note that the CIT(A), having appreciated the aforesaid legal position, has rightly deleted the penalty levied by the AO u/s.270A of the Act for the impugned assessment years. We find no error, infirmity, or perversity in the order so passed by the CIT(A). It is further observed that the omission on the part of the Revenue to raise any specific grounds of appeal assailing the order of the CIT(A) in deleting the penalty on account of defective notices renders the Revenue's entire appeal infructuous. Accordingly, we see no reason to interfere with the order of the CIT(A). In the result, the grounds of appeal raised by the Revenue for the AYs 2017-18 to 2020-21 are devoid of merit and are dismissed. Consequently, all the four appeals of the Revenue in ITA Nos.1651 to 1654/Chny/2025 stands dismissed.*

5. It was submission that the penalty as levied by the AO and as confirmed by the ld. CIT(A) for all the assessment years under consideration is liable to be cancelled.

6. In reply, the Ld. CIT DR submitted that the assessee has shown additional income from lower losses in the return filed in response to notice issued u/s. 153A of the Act. It was submission that thus there was a variation between the original returned income and income reported as the consequence of the search. It was submission that as there is a variation in the income, penalty for all the assessment years under consideration is liable to be levied.

7. We have considered the rival submissions. As it is noticed that the issue is now squarely covered by the decision of this coordinate bench of this Tribunal, referred to supra, and as clearly the assessment order also mentions that the penalty has been initiated separately for misreporting of

the income in return filed u/s. 139 of the Act, whereas the penalty orders in para 4 mention that the assessee has not disclosed his true and correct income/loss at the time of filing the original return, the penalty as levied by the AO and as confirmed by the Ld.CIT(A) for all the assessment years under consideration, stands deleted.

8. In the result, all the appeals of the assessee are allowed.

Order dictated and pronounced in the open court on 02/12/2025.

Sd/-	**Sd/-**
(राजेश कुमार**)**	(जार्ज माथन)
(RAJESH KUMAR)	**(GEORGE MATHAN)**
लेखा सदस्य/ **ACCOUNTANT MEMBER**	**न्यायिक सदस्य / JUDICIAL MEMBER**

दिनांक Dated 02/12/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant -
2. प्रत्यर्थी / The Respondent-
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