

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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND  
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

ITA No. 625/CTK/2025  
(Assessment Year: 2012-13)

Trimurti Steels, Plot No. N-3885, Golap Niwas, Samantarapur, Bhubaneshwar-751002 Odisha. <b>PAN No. AAHFT 1240 Q</b>	Vs.	I.T.O., Ward- 2(1) Bhubaneshwar.
Appellant/ Assessee		Respondent/ Revenue


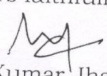

Assessee represented by	Shri Purnendu Bhusan Mohanty, A.R.
Department represented by	Shri Vijay Singh, Sr. DR
Date of hearing	19/02/2026
Date of pronouncement	19/02/2026

**ORDER**

**PER: BENCH**

1. This is an appeal filed by the assessee against the order of the Id. Addl./JCIT(A)-1, Nashik in Appeal No. CIT(A), Bhubaneshwar-1/10308/2018-19 dated 12/09/2025 for the A.Y. 2012-13.
2. Shri Purnendu Bhusan Mohanty, Id. A.R. appeared on behalf of the assessee and Shri Vijay Singh, Id. Sr. DR represented on behalf of the revenue.
3. It was submitted by the Id. AR that the assessee is a partnership firm. The assessee had paid salary to its partners by applying the provisions of Section 40(b)(v) of the Income Tax Act, 1961 (in short, the Act) read with Explanation-3. It was the submission that the original assessment came to be completed under Section 143(3) of the Act on 20/02/2015 accepting the returned income. It was the submission that the assessment was reopened by issuance of notice under Section 148 of

the Act on 29/03/2018. It was the submission that the reasons recorded by the Assessing Officer does not mention that there is failure on the part of the assessee to disclose fully and truly all material facts required for the assessment. The Id. AR drew our attention to the reasons recorded which reads as under:

 GOVERNMENT OF INDIA OFFICE OF THE INCOME TAX OFFICER- WARD-2(1) 3 <sup>rd</sup> Floor, Aayakar Bhawan, Rajaswa Vihar, Vani Vihar, Bhubaneswar-751007, Phone No. 0674-2589261		BY SPEED POST
No. ITO /Ward-2(1)/BBSR/2016-17/ 1848		Date 02/08/2018
To		
M/s. Trimurty Steels Plot No. 3885, Golap Niwas Samantarapur, Bhubaneswar-751002		
Sir/Madam,		
Sub: <b>Furnishing of reason for issuing notice u/s 148 of the I.T. Act, 1961 for the AY 2012-13 - reg.</b>		
Please refer to your application dt. Nil filed through your authorized representative for giving reason for issuing notice u/s 148 of the I.T. Act, 1961. The reason for issue of notice u/s 148 of the Act is as below:		
“During the A.Y. 2012-13 assessee had claimed Rs. 19,19,523/- out of total profit of Rs. 31,13,841/- as <u>remuneration to partners</u> . From the partnership deed submitted by assessee, it was <u>noticed</u> that the <u>instrument of the firm was not registered</u> with any authority appointed by the state government in this regard. In <u>absence of registration</u> as per <u>provision u/s 58 of the Indian Partnership Act, 1932</u> such deed is void and the assessee was required to be assessed as an AOP. As such the remuneration paid to partners of Rs. 19,19,523/- as claimed by the assessee is not an allowable expense and required to be disallowed and added back to the total income. Hence, the A.O. has reasons to believe that income to the tune of Rs. 19,19,5236/- has escaped assessment”.		
If you have any objection, the same must be filed within seven days of receipt of this communication after which no objection will be entertained.		
Yours faithfully,		
 ( Sanjeev Kumar Jha ) Income Tax Officer Ward-2(1), Bhubaneswar.		
संजीव कुमार झा/ Sanjeeb Kumar Jha आयकर अधिकारी/ Income Tax Officer वार्ड-2(1)/ Ward-2(1) भुवनेश्वर/ Bhubaneswar		
		

It was the submission that the reasons only mentioned that the instrument of the firm was not registered with any authority appointed by the State Government. It was the submission that the provisions of the Income Tax Act more specifically Section 184 of the Act required that the partnership deed should be in writing and the individual shares of the partners should be specified in the partnership deed. It was the submission that the partnership deed in the case of the assessee was in writing and the individual shares of the partners were also specified. The only reasons for the reopening were that the said partnership deed was not registered with any authority. It was the submission that the assessee has been assessed as an AOP and the salary paid to the partners have been disallowed.

4. In reply, the Id. Sr.DR vehemently supported the orders of the Assessing Officer and the Id. CIT(A).
5. We have considered the rival submissions. A perusal of the facts in the present case more specifically the reasons recorded which has been extracted above, clearly shows that there is no mention of failure on the part of the assessee to disclose fully and truly all material facts which are required for assessment. The First proviso to Section 147 clearly shows that for the purpose of reopening, if the reopening is done beyond four years and an assessment has already been done in the case of the assessee then there should be failure on the part of the assessee to disclose fully and truly all material facts required for assessment. As the Assessing Officer has not made any mention of such failure nor pointed out any such failure nor even made a whisper of such failure, we are of the view that the reopening of the

assessment is hit by the proviso to Section 147 of the Act and is liable to be quashed and consequently, we quash the reopening. Consequent to the quashing of the notice issued under Section 148 of the Act, the consequential assessment also stands quashed. We may also mention here that the Income Tax Act does not require the registration of the partnership deed before any authority, the requirements of Section 184 in the present case, has been complied with. On both the grounds, the appeal of the assessee stands allowed.

6. In the result, this appeal of the assessee is allowed.

Order dictated and pronounced in the open court on 19/02/2026.

Sd/-  
(MADHUSUDAN SAWDIA)  
ACCOUNTANT MEMBER

Sd/-  
(GEORGE MATHAN)  
JUDICIAL MEMBER

Ranchi, Dated: 19/02/2026

*\*Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT(A)
4. CIT
5. DR
6. Guard File

By Order

Assistant Registrar, ITAT, Cuttack