

IN THE INCOME TAX APPELLATE TRIBUNAL
“CUTTACK BENCH, CUTTACK
VIRTUAL HEARING AT KOLKATA

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

ITA No.763&764/CTK/2025

Assessment Year: 2011-12

Prafulla Kumar Bidhara At House No.MIG-11, Kannan Vihar, Colony, Phase-2, Near KIIT Square Patia, Bhubaneswar, Odisha- 751024. (PAN: AALPB3104H)	Vs	ITO, Ward-5(1), Bhubaneswar
(Appellant)		(Respondent)

Assessee by : Shri S. K. Sarangi, AR
Revenue by : Shri Shakeer Ahamed, Sr. DR

Date of Hearing : 16.03.2026
Date of Pronouncement : 16.03.2026

ORDER

PER BENCH:

ITA No.763/CTK/2025 filed by the assessee against the order of the NFAC, Delhi [hereinafter referred to as the 'CIT(A)'] in appeal no.NFAC/2010-11/10116039 dated 16.12.2025 for the assessment year 2011-12 and ITA No.764/CTK/2025 filed by the assessee relates to consequential penalty proceedings u/s 271(1)(c) of the Act.

2. Shri S. K. Sarangi, AR represented on behalf of the assessee and Shri Shakeer Ahamed, Sr. DR represented on behalf of the revenue.

3. ITA No.763/CTK/2025 – It was submitted by the ld. AR that there are three issues in the appeal of the assessee. The first issue is regarding advance received on the agricultural land which was ancestral property owned by the assessee. It was the submission that the assessee has received Rs.64,50,000/- from five persons. It was the submission that the statements have been recorded from the said five persons in the course of original assessment proceedings. The ld. AR drew our attention to the statements recorded from Prafulla Kumar Bidhar on 21.03.2014, Sashi Bhusan Harichandan on 18.03.2014, Bimal Kumar Rout on 18.03.2014, Rabindra Rout on 18.03.2014. The statements recorded read as follows:

Annexure-2

Statement of Shri Prafulla Kumar Bidhar recorded u/s 131 of the I.T Act 1961 in connection with the scrutiny assessment proceeding for the A.Y 2011-12 in the official chamber of Income tax Officer, ward-2(1), Room No.314, 3rd floor Aayakar Bhawan Bhubaneswar, on 21.03.2014.

"I swear in the name of God that I will speak the truth, only truth, and nothing but the truth."

Oath taken by me

Prafulla Kumar Bidhar
21.3.2014
(Prafulla Kumar Bidhar)

Oath given by me

D. Parija 21/3/2014
(D. Parija) 21/3/2014
ITO Ward 2(1), Bhubaneswar

Q1. Please identify yourself.

Ans: I am Prafulla Kumar Bidhar S/O Late Benudhar Bidhar, aged about 57 years resident of, Plot No.421/1617, Patia, PO: KIIT, Bhubaneswar-751024.

Q2. Please state of your affairs?

Ans: I am a partner in the Basundhara Estate Developers, House No.11, Kanan Vihar, Bhubaneswar which deals in selling and purchase of land, construction of house and boundary walls on demand by the customers. Besides that, I also get commission on sale of lands from Basundhara Estate Developers and also I earn commission from persons by arranging customer for sale of their land and from the purchasers. At present I have entered into an agreement with the Mayadhar Bidhar Smt. Lochan Jena, and Smt. Trilotama Patra son and daughters of my elder father Late Sudhakar Bidhar to sell the ancestral property consisting of agricultural land. In this connection, I am to clarify that our grandfather had Ac.8.361dec. of land out of which plot no.180 of Khata No.214 Mouza: Bhuasuni measuring Ac.1.588 dec belongs to "Puratan Patita" and plot no.207, 322/638 of khata No. 214 of Mouza: Bhuasuni measuring Ac.3.628 dec belongs to "Sarada tini/1 and Sarada tini". These land belongs to my grandfather Late Purusottam Bidhar. Late purusottam Bidhar had three sons namely Late Sudhakar Bidhar, Late Panchu Bidhar, and Late Benu Bidhar. I am one of the sons of late Benu Bidhar who had two sons. The name of my brother is Raj Kishore Bidhar.

For the share of late Sudhakar Bidhar I have obtained one power of attorney to sell the shares of land of my cousin brother and sisters. There has been no partition of the shares of my late father and his late brothers. Also there is no partition in between my brother and myself. I am selling only my share of land and the one third share belonging to the son and daughters of late Sudhakar Bidhar(as they are my cousin brother and sisters). As such there is total proposed area of Ac.5.216 dec for sale out of total area of Ac. 8.361dec . The share of late Sudhkar Bidhar is Ac.1.738 dec and my share is Ac.0.869. Therefore total land available for sale is Ac.2.607 dec. for which I have entered agreement and received advances from different parties .

Q3. In absence of clear cut partition between yourself and your brother and the land belonging to your forefathers how you have proposed to sell the above land?

Ans: In absence of clear cut partition I have proposed to sell my portion of land and the land belonging to Late Sudhakar Bidhar ,on power of attorney by demarcating our shares only. Before registration of the land I will obtain proper partition of respective shares.

Q4. As per agreement you have agreed to register the land within 3 months of receiving the advance. Please state out of the advance taken how many registration has been completed within that 3 months period or as on date .

Ans: There has been no registration made so far. The reason is settlement of land is going on and the matter is pending with Settlement Officer, Cuttack. It is observed that in the new settlement the plot nos. will be changed by the settlement authorities. The customers are interested to register the lands only after completion of the settlement and allotment of new plot nos. to the existing plots.

Q5. What is the amount of advance you have received towards the cost of land you have proposed to sell and the amount of advance for construction of boundary wall.

Ans: I have received approximately Rs.1,35,40,137/- towards advance against proposed sale of land and Rs.8,63,000/- towards construction of boundary wall during the period F.Y 2010-11.

Q6. Boundary walls on how many plots have been constructed so far and do you find any complaints from the customers for non compliance if any?

Ans: Boundary walls have been constructed in ten cases. Construction of boundary has been stopped due to settlement works. No complaints have been received so far from the customers.

Q7. What was the approximate cost of your land proposed to be sold during the F.Y 2010-11.

Ans. Approximate cost of our land was Rs.50,00,000/- per acre.

Q8. Can you provide any documentary evidence in support of your sale price from any Govt. Authorities.

Ans. I will be able to provide the valuation/ sale price of land i.e. the Govt. rate of 2014. If time is allowed by 24th March, 2014.

Q8. It is a time barring case and more time cannot be granted. If you are not able to submit the sale price by 24th March, 2014, a decision will be taken on its own merit.

Ans. I confirm to submit the same by 24th March, 2014.

Q9. You have shown in your statement of receipt of advance to have received an amount of Rs.1,48,000/- towards commission. Please explain the nature of such commission. Have you also disclosed this income in your return of income? Please submit the details of amounts that you have received during the F.Y 2010-11 from the Basundhara Estate Developers to confirm your return of income.

Ans. I earn commission from persons by arranging sale from customers both for purchase and sale of land. As such I have earned Rs. 1,48,000/- on this account. I have disclosed income from commission in my return of income from Basundhara Estate Developers and from this source. I will submit the statement of amount received from Basundhar Estate Developers duly certified by 24th March, 2014.

Q10. It is revealed from your bank account deposits that there is a total transaction of Rs.1,81,86,968/- (comprising of Rs.63,90,000/- as cash deposit and Rs.1,17,96,968 /- as cheque deposit). Please explain the differential deposit amounts of Rs.36,61,968/-.

Ans. I have deposited cheques/cash in one bank and collected through other banks for different purpose and in different dates. This might be due to double entry of the same amount in different dates/different banks.

Q11. Summons were issued to the following persons who had given advance to you, mentioned against their names.

Shri Sashi Bhusan Harichandan	Rs. 8,00,000/-
Shri Rabindra Rout	Rs.14,50,000/-
Smt.Kalpalata Samal	Rs. 1,75,000/-
Shri Khirod Kumar Harichandan	Rs.14,00,000/-
Shri Bijay Kumar Parida	Rs.17,00,000/-
Shri Bimal Kumar Rout	Rs.11,00,000/-

The above persons except Smt.Samal (who did not appear) were examined on oath. All the persons although appeared but could not produce the copies of their bank accounts for which the

Genuineness of giving their advances could not be established. Please reconcile the genuineness of the said transactions with your bank accounts.

Ans. It is matter of F.Y 2010-11. I am unable to explain the same and also exact transaction details are also not available with me except the copies of the bank accounts. I will request for possible reconciliation by your kind honour before arriving to a conclusion.

Q12. Do you want to speak anything more?

Ans: No.

I have given the statement without any fear or coercion.

Praveen Kumar Singh
21.3.2014

21/3/2014

Annexure-2

Statement of Sashi Bhusan Harichandan recorded u/s 131 of the I.T Act 1961 in connection with the scrutiny assessment proceeding of Sri Prafulla Kumar Bidhar, in the official chamber of Income tax Officer ward-2(1), Bhubaneswar 3rd floor Aayakar Bhawan Bhubaneswar, on 18.03.2014.

"I swear in the name of God that I will speak the truth, only truth, and nothing but the truth."

Oath taken by me

Sashi Bh. Harichanda
(Sashi Bhusan Harichandan)
18.3.2014

Oath given by me

(D. Parija)
18/3/14
ITO Ward 2(1), Bhubaneswar

Q1. Please identify yourself.

Ans: I am Sashi Bhusan Harichandan S/O Late Brajabihari Harichandan, aged about 52 years resident of, At/Po: Daruthenga, PS: Chandaka, Dist: Khurda.

Q2. Kindly state your relationship with Sri P.K. Bidhar?

Ans: I am only concerned with for purchase of an agricultural land at Mouza: Bhuasuni, Chandaka, Bhubaneswar.

Q3. Whether you have given any sum to Mr. Prafulla Kumar Bidhar during the financial year 10-11?

Ans: Yes. I had given an amount of Rs. 2,00,000 by cash on 19.05.2010, on 16.08.2010 an amount of Rs.2,00,000/- by cheque, on 17.09.2010 an amount of Rs.1,00,000/- by cheque on 28.01.2011 an amount of Rs.2,00,000/- by Cash and on 14.03.2011 an amount of Rs.1,00,000/- by cheque. Total amount of Rs.8,00,000/- paid during the F.Y 2010-11.

Q4. Kindly state about the source of such fund?

Ans: Sale of agricultural land at Mouza: Pathorogodia, PS: Chandaka, Dist: Khurda.

Q5. Kindly state the purpose for which the above said amount was given?

Ans: The amount was given for purchase of agricultural land at Bhuasuni Mouza, Thana: Chandaka, Dist. Khurda.

Q6. Kindly state whether the said agreement for the purchase of land has been executed by you

Ans: Yes, the agreement was made on 09.09.2010. For purchase of land situated at Bhuasuni Mouza, and such property from the municipal area approximately 15KM from Bhubaneswar. The status of land is agricultural land.

Q7. Kindly state your Income Tax particular.

Ans: I am having no PAN.

8. Do you want to speak anything more?

Ans: No.

I have given the statement without any fear or coercion.

Sashi Bh. Harichanda

18.3.2014

Statement of **Shri Bijay Kumar Parida** recorded u/s 131 of the I.T Act 1961 in connection with the scrutiny assessment proceeding of Sri Prafulla Kumar Bidhar, in the official chamber of Income tax Officer, ward-2(1), Room No.314, 3rd floor Aayakar Bhawan Bhubaneswar, on 18.03.2014.

"I swear in the name of God that I will speak the truth, only truth, and nothing but the truth."

Oath taken by me

Bijay Kumar Parida
(Bijay Kumar Parida) 18.3.14

Oath given by me

(D. Parida) 18/3/14
ITO Ward 2(1), Bhubaneswar

Q1. Please identify yourself.

Ans: I am Bijay Kumar Parida S/O Late Dhamodhar Parida, aged about 46 years resident of, At/Po: Raghunathpur, Thana: Chandrasekharpur, Bhubaneswar.

Q2. Kindly state your relationship with Sri P.K. Bidhar?

Ans: I am only concerned with for purchase of an agricultural land at Mouza: Bhuasuni, Chandaka, Bhubaneswar.

Q3. Whether you have given any sum to Mr. Prafulla Kumar Bidhar during the financial year 10-11?

Ans: Yes, I had given an amount of Rs. 6,00,000/- by cheque on 12.10.2010, on 08.11.2010 an amount of Rs.9,00,000/- by cheque, on 18.11.2010 an amount of Rs.1,00,000/- by cheque, and on 15.03.2011 an amount of Rs.1,00,000/- by cheque. Total amount of Rs.17,00,000/- paid during the F.Y 2010-11.

Q4. Kindly state about the source of such fund?

Ans : Sale of agricultural land an amount of Rs. 15,00,000/- at Raghunathpur and Raghunathpurjali, PS: Nandankanan, Dist: Khurda and balance an amount of Rs. 2,00,000/- out of my personal savings.

Q5. Kindly state the purpose for which the above said amount was given?

Ans: The amount was given for purchase of agricultural land at Bhuasuni Mouza, Thana: Chandaka, Dist. Khurda.

Q6. Kindly state whether the said agreement for the purchase of land has been executed by you

Ans: Yes, the agreement was made on 12.10.2010. For purchase of land situated at Bhuasuni Mouza, and such property from the municipal area approximately 15KM from Bhubaneswar. The status of land is agricultural land.

Q7. Kindly state your Income Tax particular.

Ans: I am having PAN. But I cannot produce at present.

Q8. Do you want to speak anything more?

Ans: No.

I have given the statement without any fear or coercion.

Statement of **Shri Bijay Kumar Parida** recorded u/s 131 of the I.T Act 1961 in connection with the scrutiny assessment proceeding of Sri Prafulla Kumar Bidhar, in the official chamber of Income tax Officer, ward-2(1), Room No.314, 3rd floor Aayakar Bhawan Bhubaneswar, on 18.03.2014. - 10

"I swear in the name of God that I will speak the truth, only truth, and nothing but the truth."

Oath taken by me

Bijay Kumar Parida
(Bijay Kumar Parida) 18.3.14

Oath given by me

(D. Parida) 18/3/14
ITO Ward 2(1), Bhubaneswar

Q1. Please identify yourself.

Ans: I am Bijay Kumar Parida S/O Late Dhamodhar Parida, aged about 46 years resident of, At/Po: Raghunathpur, Thana: Chandrasekharpur, Bhubaneswar.

Q2. Kindly state your relationship with Sri P.K. Bidhar?

Ans: I am only concerned with for purchase of an agricultural land at Mouza: Bhuasuni, Chandaka, Bhubaneswar.

Q3. Whether you have given any sum to Mr. Prafulla Kumar Bidhar during the financial year 10-11?

Ans: Yes, I had given an amount of Rs. 6,00,000/- by cheque on 12.10.2010, on 08.11.2010 an amount of Rs.9,00,000/- by cheque, on 18.11.2010 an amount of Rs.1,00,000/- by cheque, and on 15.03.2011 an amount of Rs.1,00,000/- by cheque. Total amount of Rs.17,00,000/- paid during the F.Y 2010-11.

Q4. Kindly state about the source of such fund?

Ans : Sale of agricultural land an amount of Rs. 15,00,000/- at Raghunathpur and Raghunathpurjali, PS: Nandankanan, Dist: Khurda and balance an amount of Rs. 2,00,000/- out of my personal savings.

Q5. Kindly state the purpose for which the above said amount was given?

Ans: The amount was given for purchase of agricultural land at Bhuasuni Mouza, Thana: Chandaka, Dist. Khurda.

Q6. Kindly state whether the said agreement for the purchase of land has been executed by you

Ans: Yes, the agreement was made on 12.10.2010. For purchase of land situated at Bhuasuni Mouza, and such property from the municipal area approximately 15KM from Bhubaneswar. The status of land is agricultural land.

Q7. Kindly state your Income Tax particular.

Ans: I am having PAN. But I cannot produce at present.

Q8. Do you want to speak anything more?

Ans: No.

I have given the statement without any fear or coercion.

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Statement of Shri Khirod Kumar Harichandan recorded u/s 131 of the I.T Act 1961 in connection with the scrutiny assessment proceeding of Sri Prafulla Kumar Bidhar, in the official chamber of Income tax Officer, ward-2(1), Room No.314, 3rd floor Aayakar Bhawan Bhubaneswar, on 18.03.2014.

"I swear in the name of God that I will speak the truth, only truth, and nothing but the truth."

Oath taken by me

Khirod Kumar Harichandan
(Khirod Kumar Harichandan)
18.03.2014

Oath given by me

(D. Parija)
18/3/14
ITO Ward 2(1), Bhubaneswar

Q1. Please identify yourself.

Ans: I am Khirod Kumar Harichandan S/O Late Debaraj Harichandan, aged about 55 years resident of, At/PO: Daruthenga, PS: Chandaka, Dist: Khurda.

Q2. Kindly state your relationship with Sri P.K. Bidhar?

Ans: I am only concerned with for purchase of an agricultural land at Mouza: Bhuasuni, Chandaka, Bhubaneswar.

Q3. Whether you have given any sum to Mr. Prafulla Kumar Bidhar during the financial year 10-11?

Ans: Yes, I had given an amount of Rs. 8,00,000/- by cheque on 28.09.2010, on 05.02.2011 an amount of Rs. 6,00,000/- by cash. Total amount of Rs. 14,00,000/- paid during the F.Y 2010-11.

Q4. Kindly state about the source of such fund?

Ans: Sale of agricultural land an amount of Rs. 12,00,000/- at Pathorogadia, Daruthenga, Khurda and balance an amount of Rs. 2,00,000/- out of my personal savings.

Q5. Kindly state the purpose for which the above said amount was given?

Ans: The amount was given for purchase of agricultural land at Bhuasuni Mouza, Thana: Chandaka, Dist. Khurda.

Q6. Kindly state whether the said agreement for the purchase of land has been executed by you

Ans: Yes, the agreement was made on 28.09.2010. For purchase of land situated at Bhuasuni Mouza, and such property from the municipal area approximately 15KM from Bhubaneswar. The status of land is agricultural land.

Q7. Kindly state your Income Tax particular.

Ans: I am having PAN AJTPH2743M.

Q8. Do you want to speak anything more?

Ans: No.

I have given the statement without any fear or coercion.

Statement of **Shri Bimal Kumar Rout** recorded u/s 131 of the I.T Act 1961 in connection with the scrutiny assessment proceeding of Sri Praffulla Kumar Bidhar, in the official chamber of Income tax Officer ward-2(1), Bhubaneswar 3rd floor Aayakar Bhawan Bhubaneswar, on 18.03.2014.

"I swear in the name of God that I will speak the truth, only truth, and nothing but the truth."

Oath taken by me

Bimal Rout
(Bimal Kumar Rout)

Oath given by me

(D. Parija) 18/3/14
ITO Ward 2(1), Bhubaneswar

Q1. Please identify yourself.

Ans: I am Bimal Kumar Rout S/O Sri Nakula Chandra Rout, aged about 47 years resident of, At/Po: Balabhadrapur, Cuttack

Q2. Kindly state your relationship with Sri P.K. Bidhar?

Ans: I am only concerned with for purchase of an agricultural land at Mouza: Bhuasuni, Chandaka, Bhubaneswar.

Q3. Whether you have given any sum to Mr. Praffulla Kumar Bidhar during the financial year 10-11?

Ans: Yes, I had given an amount of Rs. 4,50,000/- by cash on 01.04.2010, on 05.02.2011 an amount of Rs. 6,50,000/- by cash. Total amount of Rs. 11,00,000/- paid during the F.Y 2010-11.

Q4. Kindly state about the source of such fund?

Ans: Sale of some old gold ornaments an amount of Rs. 3,87,000/-, Sale of agricultural land an amount of Rs. 5,15,000/- at Balabhadrapur, cuttack and balance an amount of Rs. 1,98,000/- out of my personal savings.

Q5. Kindly state the purpose for which the above said amount was given?

Ans: The amount was given for purchase of agricultural land at Bhuasuni Mouza, Thana: Chandaka, Dist. Khurda.

Q6. Kindly state whether the said agreement for the purchase of land has been executed by you

Ans: Yes, the agreement was made on 09.09.2010. For purchase of land situated at Bhuasuni Mouza, and such property from the municipal area approximately 15KM from Bhubaneswar. The status of land is agricultural land.

Q7. Kindly state your Income Tax particular.

Ans: I am having PAN AMWPR6077N.

8. Do you want to speak anything more?

Ans: No.

I have given the statement without any fear or coercion.

Bimal Rout

Statement of **Shri Bimal Kumar Rout** recorded u/s 131 of the I.T Act 1961 in connection with the scrutiny assessment proceeding of Sri Praffulla Kumar Bidhar, in the official chamber of Income tax Officer ward-2(1), Bhubaneswar 3rd floor Aayakar Bhawan Bhubaneswar, on 18.03.2014.

"I swear in the name of God that I will speak the truth, only truth, and nothing but the truth."

Oath taken by me

Bimal Rout
(Bimal Kumar Rout)

Oath given by me

(D. Parija) 18/3/14
ITO Ward 2(1), Bhubaneswar

Q1. Please identify yourself.

Ans: I am Bimal Kumar Rout S/O Sri Nakula Chandra Rout, aged about 47 years resident of, At/Po: Balabhadrapur, Cuttack

Q2. Kindly state your relationship with Sri P.K. Bidhar?

Ans: I am only concerned with for purchase of an agricultural land at Mouza: Bhuasuni, Chandaka, Bhubaneswar.

Q3. Whether you have given any sum to Mr. Praffulla Kumar Bidhar during the financial year 10-11?

Ans: Yes, I had given an amount of Rs. 4,50,000/- by cash on 01.04.2010, on 05.02.2011 an amount of Rs. 6,50,000/- by cash. Total amount of Rs. 11,00,000/- paid during the F.Y 2010-11.

Q4. Kindly state about the source of such fund?

Ans: Sale of some old gold ornaments an amount of Rs. 3,87,000/-, Sale of agricultural land an amount of Rs. 5,15,000/- at Balabhadrapur, cuttack and balance an amount of Rs. 1,98,000/- out of my personal savings.

Q5. Kindly state the purpose for which the above said amount was given?

Ans: The amount was given for purchase of agricultural land at Bhuasuni Mouza, Thana: Chandaka, Dist. Khurda.

Q6. Kindly state whether the said agreement for the purchase of land has been executed by you

Ans: Yes, the agreement was made on 09.09.2010. For purchase of land situated at Bhuasuni Mouza, and such property from the municipal area approximately 15KM from Bhubaneswar. The status of land is agricultural land.

Q7. Kindly state your Income Tax particular.

Ans: I am having PAN AMWPR6077N.

8. Do you want to speak anything more?

Ans: No.

I have given the statement without any fear or coercion.

Bimal Rout

3.1 It was the submission that admittedly before the Assessing Officer in setting aside proceedings, the assessee has not given the details. It was the submission that the in the original proceedings, the statements have been recorded and all five persons have confirmed the transaction. It was the submission that the addition made by the Assessing Officer and confirmed by the Id. CIT(A) may be deleted.

4. In reply, the Id. Sr. DR submitted that though admittedly all the five persons have confirmed the transaction but they have not given the source of their money for giving advance. It was the submission that in the absence of the assessee to prove the source of the source, the addition is liable to be upheld.

5. We have considered the rival submissions. A perusal of the fact of the present case clearly shows that the persons who have given the advance have confirmed the transaction and also have given the details of all the payments. It is also evident that the statements were recorded by the Assessing Officer at the office of the Assessing Officer. These are not identical printed out statements produced by the assessee. The persons who have given the advances have given statements before the Assessing Officer and also agreed of paying the amount. The Assessing Officer has not asked any question regarding the source. Just because the Assessing Officer does not feel convinced, the additions cannot be

made. The persons have admitted to the transactions which was very much available to the Assessing Officer and if he has any doubted with regard to the source, he can assess those individuals. The assessee has discharged its responsibility in providing the name and addresses and also the persons before the Assessing Officer and the persons have also confirmed the transaction. The onus now shifts to the revenue and the same has not been discharged by the revenue. This being so, the additions as made by the Assessing Officer and confirmed by the Id. CIT(A) of Rs.64,50,000/- stands deleted.

6. It was submitted by the Id. AR that the second issue is against the addition made by the Assessing Officer in regard to the advance for the construction of Boundry wall to the extent of Rs.16,88,000/-. It was fairly agreed by the Id. AR that the assessee had given the list of the persons from whom he has received this amount in the course of original assessment and the same is recorded in the original assessment at page 7. It was the submission that now it is a very old matter and the assessee is unable to produce any further evidence.

7. In reply, the Id. Sr. DR submitted that the assessee is unable to produce the details and the addition is liable to be confirmed.

8. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that the Assessing Officer has treated this

amount of Rs.16,88,000/- as advance of construction of boundry wall. This being so, considering the fact that the assessee is in the business of construction of real estate and that the Assessing Officer has also in other transaction assessed the income of the assessee at 8%, therefore, the Assessing Officer is directed to assess the income of the assessee at 8% of the amount of Rs.16,88,000/-. This ground of the assessee stands partly allowed.

9. It was the submission that the third issue is with regard to addition of Rs.17,00,000/- relating to cash withdrawal and deposits in the bank account. The ld. AR drew our attention to the cash flow statement at annexure-4 of the paper-book. It was the submission that this was the amount drawn from the bank account of the assessee and re-deposited. It was prayed that no addition is called for.

10. In reply, the ld. Sr. DR vehemently supported the order of the ld. CIT(A).

11. We have considered the rival submissions. As it is noticed that the said amount represents the amount which has been withdrawn from assessee's bank account and again re-deposited. We are of the view that no addition on this count is liable to be sustained. Thus, the addition of Rs.17,00,000/- stands deleted. Thus, this ground of the assessee is allowed.

12. ITA No.764/CTK/2025 – This appeal filed by the assessee against the penalty u/s 271(1)(c) for the assessment year 2011-12. It was submitted that out of the three additions made, the Tribunal has confirmed only an addition @8% of the advance in regard of boundry wall. It was prayed that it is estimated addition, no penalty is liable.

13. In reply, the ld. Sr. DR supported the orders of the Assessing Officer and ld. CIT(A).

14. We have considered the rival submissions. A perusal of the facts of the present case clearly shows that in the quantum appeal, the Tribunal has confirmed the addition @8% only on advance for construction of boundry wall. It is admittedly an estimated addition and the other two additions have been deleted. On estimation addition, no penalty is liable. This being so, the penalty levied by the Assessing Officer and confirmed by the ld. CIT(A) stands deleted.

15. In the result, ITA No.763/CTK/2025 is partly allowed whereas ITA No.764/CTK/2025 is allowed.

Kolkata, the 16th March, 2026.

Sd/-

[Rajesh Kumar]

लेखा सदस्य/Accountant Member

Sd/-

[George Mathan]

न्यायिक सदस्य/Judicial Member

Dated: 16.03.2026.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent –
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar