IN THE HIGH COURT OF ORISSA AT CUTTACK

I.T.A. No.29 of 2012

Manas Ranjan Mohanty .... ***Appellant***
Mr. P.K. Sethi, Advocate

-versus-

Asst. Commissioner of Income Tax, Circle-1(2), Bhubaneswar and others .... ***Respondents***
Mr. T.K. Satpathy, Sr. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK

ORDER
24.02.2022

Order No.

05. 1. This Assessee's appeal is against an order dated 4th April, 2011 passed by the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) in IT(SS)A No.04/CTK/2010 for the Assessment Year (AY) 2002-03.

2. At the outset, it has to be noted that although the learned counsel for the Assessee appellant sought to urge some legal issues arising under Section 153A read with Section 153C of the Income Tax Act, 1961 ('the Act'), this Court is not inclined to permit him to do so since in para 2 of the impugned order it has been categorically noted by the ITAT "the assessee has raised the sole issue challenging the addition of Rs.4 lakhs made by the Assessing Officer and upheld by the learned CIT(A) without appreciating the facts of the case properly."

3. Consequently, the present appeal is being entertained confined to the following question: 'Was the ITAT justified in sustaining the addition of Rs.4 lakhs to the taxable income of the Assessee thereby concurring with the views of the AO and the CIT (A)?'

4. It is seen from para 7 of the impugned order that the Assessee was able to explain some portion of the sum of Rs.4 lakhs by placing on record details of withdrawal from the bank accounts to the extent of Rs.2,95,600/-. If indeed an explanation was offered for the above amount, there is no justification for sustaining the addition of the entire sum of Rs.4 lakhs. At the highest the addition ought have been the amount constituting the difference between Rs.4 lakhs and Rs.2,95,600/-.

5. Learned counsel for the Assessee sought to argue that he was not been obliged to give an explanation for the sum of Rs.4 lakhs since it was not shown to be cash belonging to him and not found in course of search in his premises. It was a deposit in a bank account made from previous withdrawals.

6. A careful reading of the impugned order reveals that the Assessee volunteered to explain the said deposit by referring to withdrawals from the account which total to Rs.2,95,600/-. It is only the balance sum of around of Rs.1 lakh for which there was no explanation.

7. Consequently, the impugned order of the ITAT and corresponding orders of the CIT(A) are modified by reducing the addition to the taxable income of the Assessee for the AY in question to the differential amount of Rs.4 lakhs minus Rs.2,95,600/-.

8. The question of law is answered accordingly. The appeal is disposed of.

9. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

KC Bisoi