

IN THE HIGH COURT OF ORISSA AT CUTTACK

I.T.A. No.26 of 2012

***Commissioner of Income Tax,
Cuttack***

....

Appellant

Mr. R.S. Chimanka, Sr. Standing Counsel

-versus-

M/s. Orissa Stevedors Ltd.

....

Respondent

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAİK**

ORDER

17.02.2022

Order No.

02.

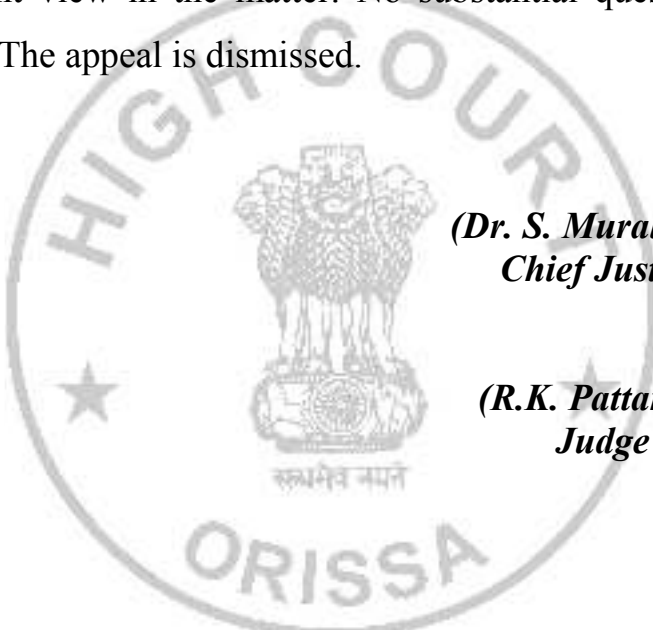
1. The challenge by the Department in the present appeal is to an order dated 22nd December, 2011 passed by the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) in a batch of appeal, i.e. ITA No.409, 410, 411/CTK/2011 for the Assessment Years (AYs) 2002-03, 2003-04 and 2004-05.

2. The short question is whether the assessment order was barred by limitation under Section 153(1) of the Income Tax Act, 1961 (IT Act)? Admittedly, the assessment order and demand notice both dated 29th December, 2009 were not served on the assessee before 31st December 2009. The Commissioner of Income Tax (Appeals) [CIT (A)] has held that although the assessment order was sent before expiry of limitation period but they were sent for communication to the assessee after expiry of time limit for passing the assessment

order. Factually, therefore, the assessment order and demand notice were barred by limitation.

3. The ITAT has agreed with the CIT(A) and after referring to decisions of the High Court and the Supreme Court dismissed the case.

4. Having heard Mr. R.S. Chimanka, learned Senior Standing Counsel for the Department, the Court is unable to take a different view in the matter. No substantial question of law arises. The appeal is dismissed.

The seal of the High Court of Orissa is a circular emblem. It features the State Emblem of India at the top center, which is a four-lion capital of an abacus. Below the emblem is the motto 'Satyameva Jayate' in Devanagari script. The words 'HIGH COURT' are written in a semi-circle at the top, and 'ORISSA' is written in a semi-circle at the bottom. There are two stars on either side of the central emblem.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge