

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.4321 OF 2007

Khulana Sahoo

..... ***Petitioner(s)***
Mr.T.Barik,Adv.

-versus-

State of Orissa and others

..... ***Opposite Party(s)***
Mr.S.Mishra,ASC
Mr.M.Mishra,Adv.

CORAM:
JUSTICE BISWANATH RATH

ORDER
31.10.2022

Order No.

04.

1. Heard learned counsel for the Parties.
2. In course of hearing taking this Court to the pleadings and also reading through Annexures-1 & 2, an allegation is made that when the Petitioner's residential house was assessed to a sum of Rs.312/- per annum in the year 2004 and 2005 there has been reassessment of the house vide Annexure-2 fixing the holding tax of such building to a sum of Rs.2295/-. In the circumstance it is alleged there is exorbitant enhancement of the holding tax involving a residential house.
3. Mr.Mishra, learned counsel appearing for the Municipality from the materials available submits it is false to claim by the Petitioner that the house involved is solely a residential house on the other hand the house involved herein was a residential-cum-commercial house.
4. Learned State Counsel taking this Court the discussion in the impugned orders while admitting that the proceeding has been

disposed of ex-parte but in non-cooperation of the Petitioner. However for the observations made therein, Mr.Mishra, learned Additional Standing Counsel contends that there is no illegality or infirmity required interference in such orders.

5. Be that as it may the materials discloses the Petitioner has already approached this Court in W.P.(C) No.4991 of 2006, this matter appears to have been disposed of permitting the Petitioner to raise grounds raised therein in Appeal. As a consequence it appears Municipal Tax Appeal No.46 of 2006 was registered and disposed of vide Annexure-6. In reading the order-sheet involved Municipal Tax Appeal No.46 of 2006, this Court finds the order dated 19.07.2006 therein reads as follows:-

19.07.2006 The Appellant is absent on call. Parawise comments from Choudwar Municipality has been received.

Case posted for orders basing on the documents on record.

The next order pronouncing the order dated 23.8.2006 reads as follows:-

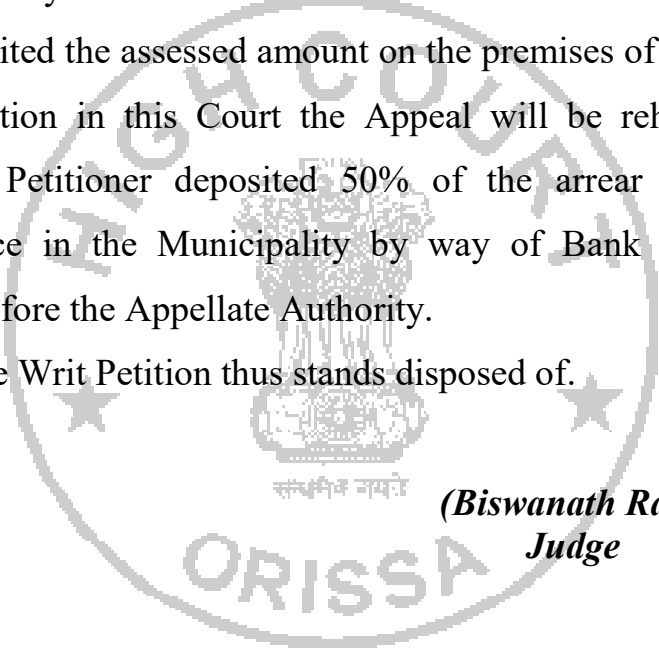
“Pronounced in the open Court today.”

Reading the order dated 19.07.2006 this Court finds, the appellant himself was absent on call and the matter was processed for final outcome only by way of judgment. It appears the case is decided only on the basis of pleading of the appellant and on the basis of parawise comments from Choudwar Municipality. In the circumstance, this court finds, there is undisputedly disposal of a tax appeal ex-parte may be in non-cooperation of the Petitioner. For the nature of dispute involved herein and since under the previous round of litigation, this Court in disposal of W.P.(C) No.4991 of 2006 permitted the Petitioner to agitate all such grounds in raising

Municipal Tax Appeal, the matter should have been disposed of in the involvement of Petitioner, the Appellant.

6. In the circumstance, this Court interferes in the impugned order and sets aside the same and remits the matter to the Collector, Cuttack for rehearing of the Appeal involved and deciding the same at least within a period of three months on the submission of copy by either parties. Both parties are directed to appear before the competent authority on 10th November, 2022 along with certified copy of this order. It is here taking into consideration that the assessment was made in the year 2006 this Court observes in the event Petitioner has not deposited the assessed amount on the premises of pendency of the Writ Petition in this Court the Appeal will be reheard subject to however Petitioner deposited 50% of the arrear along with his appearance in the Municipality by way of Bank draft files such receipt before the Appellate Authority.

7. The Writ Petition thus stands disposed of.

The seal of the Orissa High Court is a circular emblem. It features the Ashoka Lion Capital in the center, with the motto 'Satyameva Jayate' in Devanagari script below it. The word 'ORISSA' is written in large, bold, capital letters at the bottom. Two stars are positioned on either side of the central emblem.
(Biswanath Rath)
Judge

Swarna