

IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No. 12 of 2004

M/s. Orissa Mining Corporation Ltd.,
Bhubaneswar

Appellant

Mr. Sidhartha Ray, Advocate

-versus-

The Deputy Commissioner of Income Tax, Bhubaneswar and Another

Respondents

Mr. T.K. Satapathy, Senior Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
02.02.2022

Order No.

05. 1. This matter is taken up by video conferencing mode.
2. While admitting this appeal directed against the order dated 3rd September, 2003 passed by the Income Tax Appellate Tribunal in ITA No.199/CTK/92 for the assessment year (AY) 1987-88 this Court by its order dated 10th January, 2005 framed the following question of law for determination:
- “Whether the Tribunal is justified to remand the dispute for further adjudication to the Assessing Officer without proper direction in terms of rule 28 of the Appellate Tribunal Rules, 1963.”
3. In another three other appeals being ITA Nos.13, 14 and 15 of 2004 involving the same assessee for the different AYs, this Court has by order dated 9th January, 2019 allowed the appeals and set

aside the remand order of the ITAT by answering the question in favour of the Assessee and against the Department.

4. In that view of the matter, the question framed in the present appeal is again answered in favour of the Assessee and against the Department. The impugned order of the ITAT is set aside.

5. The appeal is allowed in the above terms, but in the circumstances, with no order as to costs.

6. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos. No.514 and 515 dated 7th January, 2022.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge