# IN THE HIGH COURT OF ORISSA AT CUTTACK

## ITA No.16 of 2004

***M/s. Orissa Mining Corporation Ltd.,*** .... ***Appellant***

Mr. Sidhartha Ray, Advocate

*-versus-*

***The Deputy Commissioner of Income Tax, Special Range (S/R), Bhubaneswar and another*** .... ***Respondents***

Mr. T.K. Satapathy, Senior Standing Counsel

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

**<u>Order No.</u>**

**<u>ORDER</u>**
**07.03.2022**

06. 1. This is an appeal by the Assessee against an order dated 3rd September 2003, passed by the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) in ITA No.219/CTK/94 for the Assessment Year (AY) 1991-92. While admitting this appeal on 10th January 2005, the following question was framed by this Court for consideration:

> "Whether the Tribunal was justified in remanding the matter to the Assessing Officer so far as it relates to the claim of interest as business expenditure in the face of the order of the Tribunal in ITA Nos. 157/CTK/93, 537/CTK/92, 197/CTK/92, 539/CTK/92, 158/CTK/93 and 159/CTK/1993 in which similar claim of the assessee has already been accepted".

2. It is seen that an earlier order of the Tribunal dated 25th February, 1994 for the earlier AYs, i.e., from 1984-85 to 1990-91 already contained the direction to the Assessing Officer (AO) to allow the claim of interest as business expenditure of the Assessee-Company.

3. Consequently, there was no occasion for the Tribunal that the impugned order while partly allowing the appeal of the Revenue to ask the AO to again examine the matter.

4. In similar circumstances, this Court has by its order dated 2nd February, 2022 in ITA No.12 of 2004 for the AY 1987-88 involving the same Assessee, answered the question in favour of the Assessee.

5. For all of the aforementioned reasons, the question framed, is answered in the negative i.e., in favour of the Assessee and against the Revenue.

6. The appeal is allowed but, in the circumstances, with no orders as to costs.

***(Dr. S. Muralidhar)***
***Chief Justice***

***(R. K. Pattanaik)***
***Judge***

S. Behera