IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No.125 of 2012

The Commissioner of Income Tax, Cuttack	....	***Appellant***

Mr. S.S. Mohapatra, Sr. S.C, Income Tax

-versus-

M/s. Utkal Highway, Cuttack	....	***Respondent***

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAIK

ORDER
21.02.2022

Order No.

4. 1. The Department is directed against the impugned order dated 25th June, 2012 passed by the Income Tax Appellate Tribunal, Cuttack Bench Cuttack in the ITA No.23/CTK/2012 for the Assessment Year 2008-09.

2. One question is urged by the Department is whether ITAT is right in holding that unless there is a cessation of liability, income cannot be added under Section 41(1) of the Act.

3. The contention of the Department was that since the assessee received the payment indirectly through credit into its account it would amount to reduction of its liability. However, the ITAT has rejected the above contention by holding that in terms of the judgment of the Supreme Court in ***CIT v. Sugauli Sagar Works (P) Ltd 236 ITR 513 (SC)*** and of the Gujarat High Court in ***CIT v.***

Silver Cotton Mills Co. Ltd., 254 ITR 728 (Guj) unless there is a cessation of liability, income cannot be added under Section 41(1) of the Act. Actually, even on 31st March, 2007, the liability owing to M/s. Balaji Associates is shown Rs. 1661281/-. Consequently, liability had not ceased.

4. Since the entire decision is based on facts, this Court is not inclined to entertain the appeal. No substantial question of law arises. The appeal is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

T.TUDU