IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No.22 of 2010 and ITA Nos.21 & 22 of 2009

M/s. D.D.Pati and others .... ***Appellants***
Mr. B.Panda, Sr.Advocate

-versus-

Asst.Commissioner of Income Tax, Circle-1,Bhubaneswar& Others .... ***Respondents***
Mr. T.K.Satpathy, Senior Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK

Order No.	**ORDER** **08.02.2022**
4.	1. These three appeals pertain to Assessment Years (AYs) 2003-04, 2004-05 and 2006-07.

2. Admit. The following substantial question of law is framed for consideration:

> "Whether in the facts and circumstances of the case the Tribunal was justified in denying the allowable deduction of the sum paid to the partners of the Appellant No.1 firm towards salary and interest keeping in view of the principles of law and statutory provisions made even in estimating of income?"

3. At the outset, Mr. Panda, learned Senior counsel appearing for the Appellants Assessees points out that for the AYs 2001-02 and 2002-03, the Assessing Officer (AO) had himself allowed such deduction. Again, for AY 2007-08, the ITAT allowed the

deduction by the order dated 5th August, 2011 in ITA No.412/CTK/2010.

4. The above facts are not disputed by the learned counsel for the Department. Accordingly, invoking the rule of consistency as explained in ***Radhasaomi Satsang v. Commissioner of Income Tax (1992) 193 ITR 321 (SC),*** the Court answers the question in favour of the Appellants- Assessees and against the Department and permits the deduction of the sum paid to the partners of the Appellant No.1 firm towards salary and interest.

5. The impugned orders of the ITAT and the corresponding orders of the CIT (A) and AO are accordingly hereby set aside.

6. These three appeals are accordingly allowed in the above terms, but in the circumstances, with no order as to costs.

7. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K.Pattanaik)
Judge

kabita