IN THE HIGH COURT OF ORISSA AT CUTTACK

I.T.A. No.79 of 2012

Commissioner of Income Tax,
Bhubaneswar .... ***Appellant***

Mr. T.K. Satpathy, Sr. Standing Counsel

-versus-

Smt. Sarmistha Rath .... ***Respondent***

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK

ORDER
21.02.2022

Order No.

02\. 1. This is an appeal filed by the Department against an order dated 25th April, 2012 passed by the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) in IT(SS) A No.96/CTK/2009 for the Assessment Year (AY) 2005-06.

2\. One of the points urged before this Court is that the ITAT was not justified in permitting the filing of a revised return by the Assessee pursuant to the notice under Section 153A of the Income Tax Act (IT Act) when there is no such provision in the Act. The Court finds that in the impugned order of the ITAT it has been observed that a disclosure was made by the Assessee in the revised return which, in fact, was relied upon by the Assessing Officer (AO) and the CIT (A). It could therefore not be characterized as 'undisclosed' since in any event such disclosure was made by the Assessee prior to the return being picked up for scrutiny.

3. It is then argued the ITAT failed to consider the issue of delay in filing the original return itself. The Court finds that there is no such discussion in the impugned order. In fact, no submission in this regard was made by the Department before the ITAT. The Court does not therefore permit the Department to raise this contention now.

4. The Court finds no legal error vitiating the impugned order of the ITAT. No substantial question of law arises. The appeal is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

KC Bisoi