IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No.9 of 2018

Principal Commissioner of Income Tax, Cuttack Charge	....	***Appellant***

Mr. R. Chimanka, Senior Standing Counsel along with
Mr. A. Kedia, Junior Standing Counsel

-versus-

M/s. Sonali Jewelers	....	***Respondent***

Mr. B. Panda, Senior Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

<u>ORDER</u>
02.05.2022

<u>Order No.</u>

04. 1. The Revenue is in appeal against an order dated 19th September 2017 of the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) in ITA No.162/CTK/2017 for the assessment year (AY) 2013-14.

2. The question sought to be urged is whether the ITAT erred in setting aside the order passed on 23rd March 2017 by the Principal Commissioner of Income Tax (Pr. CIT) under Section 263 of the Income Tax Act, 1961 (IT Act) setting aside an assessment order and requiring the Assessing Officer (AO) to adjudicate the issues afresh.

3. It is seen that the order of the Pr. CIT, the operative portion, read as under:

> "In view of the above, the assessment order in question is hereby set aside to the AO for adjudication of the issues afresh and to reframe the assessment after proper appreciation of facts

> and application of law. However, the AO may examine the implications coming out of decision in the case of Gunvantrai Seth stated to be pending before the ITAT. Needless to say while reframing the assessment order, the AO should provide adequate opportunity to the assessee."

4. Mr. Panda, learned Senior Advocate appearing for the Assessee points out that the decision referred to in the above paragraph was of the ITAT and it was dated 6th August 2018 in ITA No.517/CTK/2017 for the AY 2012-13 involving the same entity i.e., Gunvantrai Seth, Proprietor of M/s. Babulal & Co. Incidentally, the proprietor of the present Respondent i.e. M/s. Sonali Jewelers is the same person.

5. A perusal of the impugned order dated 6th August 2018 of the ITAT in the case of reveals that it had decided the issues raised in the appeal concerning Gunvantrai Seth, Proprietor of M/s. Babulal & Co in favour of the Assessee and against the Revenue. The said order dated 6th August 2018 of the ITAT has attained finality since the Revenue has not further challenged it.

6. In that view of the matter, no substantial question of law arises in the present appeal and the appeal is dismissed as such.

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

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin