

IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No.105 of 2017

Ashok Kumar Patra

.... ***Appellant***
Mr. B. Panda, Advocate

-versus-

***The Income Tax Officer, Ward-I(I),
Bhubaneswar and another***

.... ***Respondent***

Mr. T.K. Satpathy, Sr, S.C. (IT)

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

**ORDER
09.03.2022**

Order No.

04.

1. This is an appeal by the Assessee against the order dated 26th May, 2017 passed by the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) in ITA No.42/CTK/2017 for the Assessment Year 2009-10.

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

“Whether in the facts and circumstances of the case, the ITAT was justified in holding that there were undisclosed materials available for levy of penalty?”

3. In view of the order passed by this Court on 10th April, 2019 in ITA No.30 of 2005 (*Ananta Gopal Karatkal v. ITO, Balasore*), the impugned order of the Assessing Officer upheld by the CIT (A) and ITAT are hereby set aside. The appeal is allowed and the

question of law framed is answered in favour of the Assessee and against the Department.

4. The appeal is allowed in the above terms.

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

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge



T.TUDU