

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8152 of 2022

Siba Sankar Das (since dead) through Petitioner
his legal heir- Ritanjali Das

Mr. Prajnaraj Mohanty, Advocate

-versus-

ACIT/DCIT, Circle-2(1), Sambalpur Opposite Parties
& Others

Mr. Sidharth Sankar Mohapatra, Sr. Standing
Counsel for Income Tax Department

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
16.11.2022

Order No.

01. 1. The ground on which the impugned notice dated 31st March, 2020 under Section 148 of the Income Tax Act, 1961 (for short, 'the Act') has been challenged, is that the notice was served beyond the period of six years after expiry of the relevant assessment year (A/Y) i.e. 2013-14.
2. In para-4 (c) of the writ petition, it is averred that the notice was in fact dispatched through post on 1st May, 2020 and, therefore, notice was not served within the period of limitation. Annexure-2 series to the writ petition contain the relevant document showing that the dispatch happened only on 1st May 2020. In the counter affidavit filed, there has been no denial whatsoever of the same.

3. Although there is a second ground urged that the Petitioner had already expired on 17th September, 2018 and, therefore, notice was issued to a dead person, there is no such pleading in the petition itself and, therefore, there was no occasion to the Department to answer the said point.

4. Nevertheless, since it is apparent that the notice was dispatched to the Petitioner by the Department only on 1st May, 2020, i.e., beyond the expiry of 6 years after the end of the relevant assessment year, it is plain that the initiation of the proceeding under Section 148 of the Act was time-barred.

5. In view of the decision of this Court dated 24th January, 2022 passed in W.P.(C) No. 20919 of 2021 (*M/s. Ambika Iron and Steel Pvt. Ltd v. Principal Commissioner of Income Tax and Others*), the impugned notice and all proceedings consequent thereto are hereby quashed.

6. The writ petition is, accordingly, disposed of with the above terms.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

Aks/Laxmikant