

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No. 9297 of 2022

Prasanta Kumar Pradhan

....

Petitioner

Mr. Sidhartha Ray, Advocate

-versus-

***Joint Commissioner of Income Tax,
Central Circle 1, Bhubaneswar and
another***

.... ***Opposite Parties***

Mr. R.S. Chimanka, Senior Standing Counsel

**CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

**ORDER
16.08.2022**

Order No.

02.

1. The challenge in the present petition is to the notice dated 10th March 2022, issued by the Assistant Commissioner of Income Tax, Central Circle-1, seeking to reopen the Petitioner's assessment under Section 148 of the Income Tax Act, 1961 as well as to the initial notice dated 17th March 2021, the consequent order of assessment dated 22nd March, 2022 and the demand notice issued to the Petitioner for the Assessment Year 2017-18.

2. This Court has heard learned counsel for the Parties.

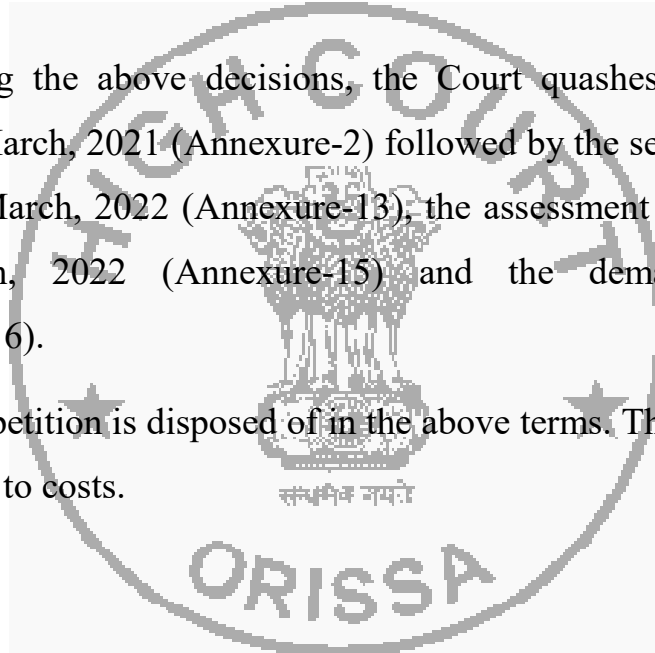
3. One of the grounds on which the challenge has been raised is that contrary to the dictum of the Supreme Court in ***GKN Driveshafts (India) Ltd. v. Income Tax Officer [2003] 259 ITR 19 (SC)***, the Department has, without disposing of the Petitioner's objections to the notice dated 17th March, 2021 (Annexure-2) issued under Section 148 of the Act continued the re-assessment proceedings

culminating in the impugned notice dated 10th March, 2022 (Annexure-13) and the assessment order dated 22nd March, 2022 (Annexure-15) and the consequent demand notice (Annexure-16).

4. In similar circumstances, this Court had in ***Viresh Hemani v. Income Tax Officer [2021] 435 ITR 376 (Orissa)*** and in its decision dated 15th February, 2022 in W.P.(C) No.25229 of 2017 (***M/s. Tuff Tubes (Orissa) Pvt. Ltd. v. The Deputy Commissioner of Income Tax***) quashed the reassessment order as well as the notice.

5. Following the above decisions, the Court quashes the notice dated 17th March, 2021 (Annexure-2) followed by the second notice dated 10th March, 2022 (Annexure-13), the assessment order dated 22nd March, 2022 (Annexure-15) and the demand notice (Annexure-16).

6. The writ petition is disposed of in the above terms. There shall be no orders as to costs.



(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S. Behera