IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No.11 of 2013

The Commissioner of Income Tax, Cuttack	....	***Appellant***

Mr. R. Chimanka, Senior Standing Counsel

-versus-

Urban Co-operative Bank Ltd.	....	***Respondent***

None

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
18.02.2022

Order No.

02. 1. The present appeal by the Department is against an order dated 28th September 2012 passed by the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) dismissing the Department's appeal i.e. ITA No.332/CTK/2012 for the assessment year (AY) 2004-05.

2. The question sought to be urged by the Department for consideration is regarding the ITAT allowing the claim of deduction under Section 80 (P)(2)(a)(i) of the Income Tax Act, 1961 (IT Act) on interest income on investments made in unapproved securities given in Annexure-III under Section 24 of the Banking Regulation Act, 1949, made out of the surplus funds which according to the Department was not approved by the Reserve Bank of India.

3. It appears that this was virtually the second round of litigation before the ITAT. In the present round, after the

Assessing Officer (AO) passed an order dated 31st December 2009 determining the total income of the Assessee at Rs.2,64,87,840/-, the Assessee went in appeal before the Commissioner of Income Tax (Appeal) [CIT (A)]. The appeal was allowed in part by the CIT (A) by an order dated 29th February 2012 asking the AO to give appeal effect to the earlier order dated 2nd September 2008 of the ITAT, and paragraph-5 of an order dated 25th February, 2011. Thus, it is seen that the orders in the earlier round of litigation were in fact being given appeal effect in the present round.

4. After discussing the earlier orders, the ITAT has found that the CIT (A) committed no error in giving such appeal effect to the earlier orders and in determining the taxable income of the Assessee.

5. Having gone through the impugned order of the ITAT and having heard Mr. Chimanka, learned Senior Standing Counsel for the Department, the Court is unable to find any error committed by the ITAT. No substantial question of law arises. The appeal is dismissed. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin