IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 11181 of 2022

Nutan Bhusan Jena .... ***Petitioner***

Mr. Rudra Prasad Kar, Advocate

-versus-

The Principal Commissioner of Income Tax, Bhubaneswar-1 and others .... ***Opposite Parties***

Mr. T.K. Satapathy, Senior Standing Counsel for IT Department

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

<u>ORDER</u>
06.05.2022

<u>Order No.</u>

01. 1. The Court has been shown the Judgment dated 4th May 2022, passed by the Supreme Court of India in Civil Appeal No.3005 of 2022 and batch ***(Union of India & others v. Ashish Agarwal)***, where the issue taken up for consideration was the correctness of the orders passed by the High Courts of Delhi, Rajasthan, Calcutta, Madras and Bombay on the question of the validity of notices issued by the Income Tax Department (Department) under Section 148 of the Income Tax Act, 1961 (Act) in light of the amendment by the Finance Act 2021, which introduced the new amended provisions i.e., Sections 147 to 151 with effect from 1st April, 2021.

2. On reading the entire Judgment, it becomes clear that the Supreme Court only partly allowed the appeals of the Union of India and made a distinction between notices issued by the

Department on or after 1st April, 2021 and those that have been issued prior thereto. As regards the notices issued after 1st April 2021, the Supreme Court has in its operative portion held as under:

> "11. The present order shall be applicable **PAN INDIA** and all judgments and orders passed by different High Courts on the issue and under which similar notices which were issued after 01.04.2021 issued under section 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that present order shall also govern the pending writ petitions, pending before various High Courts in which similar notices under Section 148 of the Act issued after 01.04.2021 are under challenge."

3. Consequently, the Supreme Court has in Para-12 ordered as under"

> "12. The impugned common judgments and orders passed by the High Court of Allahabad and the similar judgments and orders passed by various High Courts, more particularly, the respective judgments and orders passed by the various High Courts particulars of which are mentioned hereinabove, shall stand modified/ substituted to the aforesaid extent only."

4. In the present case, the notice under Section 148 of the Act pertaining to the Assessment Year (AY) 2013-14 was issued on 30th March 2021, i.e., prior to 1st April 2021. Also, it was beyond

the period of six years after the expiry of the AY in question. Consequently, both in light of the Judgment of the Supreme Court in ***Union of India & others v. Ashish Agarwal*** (*supra*) and the Order of this Court dated 24th January 2022 in W.P.(C) No.20919 of 2021 and batch of writ petitions in ***M/s. Ambika Iron and Steel Pvt. Ltd. and others v. Principal Commissioner of Income Tax and others,*** the impugned notice is hereby quashed and all the subsequent orders and proceedings are also hereby quashed.

5. The writ petition is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S. Behera