IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11362 of 2022

Goutam Pattanaik .... ***Petitioner***

M/s. Chitrasen Parida, Advocate and associates

-versus-

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

Mr. T.K. Satapathy, Sr. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
15.11.2022

Order No.

04. 1. The short ground on which the impugned notice under Section 148 of the Income Tax Act, 1961 dated 31st March 2021 for the assessment year (AY) 2014-15 is challenged is that the reasons for reopening of the assessment were never supplied to the Petitioner despite repeated requests.

2. In the counter affidavit filed by the Opposite Parties-Department, it is sought to be explained in para 7 that although reasons were not provided to the Petitioner initially, in the draft assessment order issued under Section 144B of the Act the reasons were set out.

3. The requirement for supplying reasons for reopening the assessment is mandatory as has been explained by the Supreme Court in ***GKN Driveshafts ((India) Ltd v. Income Tax Officer (2003) 259 ITR 19 (SC)***. The reasons cannot be supplied with the

draft order under Section 144 B of the ACT as the Petitioner would be deprived of an opportunity of filing objections at the initial stage.

4. Consequently, this Court has no hesitation in setting aside the impugned notice dated 31st March 2021, and the consequential assessment order dated 28th March, 2022. This will however not prevent the Department from proceeding afresh in accordance with law, if so permissible.

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

6. Issue urgent certified copy of this order as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Guin