IN THE HIGH COURT OF ORISSA AT CUTTACK

I.T.A. No.93 of 2013

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

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

-versus-

M/s. POSCO India Pvt. Ltd. .... *Respondent*

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK

ORDER
21.02.2022

Order No.

02. 1. The present appeal of the Department arises from an order dated 14th February, 2013 passed by the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) in ITA No.460/CTK/2011 for the Assessment Year (AY) 2007-08.

2. The issue sought to be urged before this Court is whether the ITAT was justified in allowing claim of 10% of the interest income claimed under Section 57(iii) of the Income Tax Act, 1961 (IT Act), when the assessee could not establish that the expenditure was incurred wholly and exclusively for earning the interest income?

3. The Court finds that by the impugned order the ITAT has merely remanded the matter to the Assessing Officer (AO) with a direction to follow its order for AY 2008-09 in respect

of same assessee where the issue had been decided in its favour.

4. In other words, the ITAT is merely requiring the AO to follow the rule of consistency which has been reiterated by the Supreme Court in ***Radhasaomi Satsang v. Commissioner of Income Tax (1992) 193 ITR 321 (SC).*** Consequently, this Court finds no reason to interfere with the impugned order of the ITAT. No substantial question of law arises. The appeal is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

KC Bisoi