IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No. 95 of 2018

Principal Commissioner of Income Tax, Sambalpur	....	***Appellant***

Mr. S.S. Mohapatra, Senior Standing Counsel

-versus-

M/s. Mahanadi Coalfields Ltd.	....	***Respondent***

None

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER

Order No. **24.11.2022**

02. 1. The challenge by the Revenue in the present appeal is to the order dated 19th March, 2018 of the Income Tax Appellate Tribunal, Cuttack Bench, Cuttack (ITAT) allowing ITA No.300/CTK/2014 filed by the Respondent-Assessee for the Assessment Year (AY) 2009-10. The Revenue seeks to urge the question whether the ITAT was right in accepting the plea of the Respondent that the reopening of the assessment for the aforementioned AY only on the basis of an audit report and in the absence of any new tangible material is sustainable in law?

2. The factual position is that the Assessing Officer initiated the assessment proceedings only on the basis of a tax audit report and financial statements which were already before the AO in the scrutiny proceedings under Section 143(3) of the Act.

3. It being the settled position of law that reopening of an assessment cannot be based on the same materials already available before the

AO in the original assessment proceedings, the Court sees no substantial questions of law arising from the impugned order of the ITAT.

4. The appeal is, accordingly, dismissed.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Jena/Secy.