

IN THE HIGH COURT OF ORISSA AT CUTTACK

ITA No.40 of 2020

And

ITA No.41 of 2020

ITA No.40 of 2020

Principal Commissioner of Income Appellant
Tax (Central), Direct Tax Building,
M.V.P. Colony, Visakhapatnam.

Mr. Radheyshyam Chimanka, Sr. Standing Counsel

-versus-

M/s. Basukinath Roadways Private Respondent
Limited

Mr. Saswat Kumar Acharya, Advocate
Mr. Abhijeet Agarwal, Advocate

ITA No.41 of 2020

Principal Commissioner of Income Appellant
Tax (Central), Direct Tax Building,
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-versus-

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Mr. Saswat Kumar Acharya, Advocate
Mr. Abhijeet Agarwal, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
17.11.2022

Order No.

03. 1. These two appeals have been directed against the common order dated 20th February, 2020 passed by the Income Tax Appellate Tribunal, Cuttack bench, Cuttack in CO Nos.20 and 21/CTK/2019

(arising out of IT(SS)A Nos.141 and 142/CTK/2018 for the assessment years (AY) 2009-10 and 2010-11).

2. The questions of law sought to be urged by the Revenue in the present appeals concern the additions made in assessments under Section 153A of the Income Tax Act despite there being no incriminating material found during the course of search. Similar questions sought to be raised by the Revenue has been negatived by this Court by its order dated 5th July, 2022 in in ITA No.94 of 2018 (*Principal Commissioner of Income Tax (Central), Vishakhapatnam v. M/s. Midas Capital Pvt. Ltd.*). In coming to the above conclusion, this Court relied on the earlier two decisions of this Court in *Smt. Jami Nirmala v. Pr. CIT, Bhubaneswar [2021] 437 ITR 573 (Orissa)* and *Smt. Smrutisudha Nayak v. Union of India [2021] 439 ITR 193 (Orissa)* adopting the line of reasoning of the High Court of Delhi in *CIT v. Kabul Chawla [2016] 380 ITR 573 (Delhi)*.

3. Consequently, the Court declines to frame the questions as urged by the Revenue in the present appeals. Both the appeals are, accordingly, dismissed.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

MRS/Laxmikanta