IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.30929 of 2022

Gangadhar Jena	....	***Petitioner***
		Mr. Rudra Prasad Kar, Advocate

-versus-

Principal Chief Commissioner of Income Tax, Odisha, Bhubaneswar & another	....	***Opposite Parties***

Mr. R.S. Chimanka, Sr. Standing Counsel for O.P. No.1
Mr. Abinash Kedia, Jr. Standing Counsel for O.P. No.2

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
30.11.2022

Order No.

01. 1. The challenge in the present writ petition is to an order dated 29th September, 2022 passed by the Assistant Commissioner of Income Tax (Central Circle-2), Bhubaneswar under Section 271(1)(c) of the Income Tax Act, 1961 (Act) imposing penalty of Rs.52,24,669/- on the Petitioner for the assessment year (AY) 2016-17.

2. The grievance of the Petitioner as articulated by his counsel Mr. R.P. Kar, is that despite the pendency of an appeal against the original assessment order and stay having been continued by the same officer on 27th October, 2022 subject to the petitioner depositing 10% of the demanded tax in six installments, he has nevertheless proceeded to pass the penalty order. The apprehension is that the said impugned order will be enforced.

3. The Court notes that the impugned order is an appealable one. Consequently, the following directions are issued:

> (i) If an appeal is filed by the Petitioner against the impugned order not later than 2nd January, 2023 accompanied by an application for condonation of delay, explaining the delay on account of the pendency of the present writ petition, the same will be considered in accordance with law by the Appellate Authority.
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> (ii) Till such time, the Appellate Authority passes an order on the application for stay to be filed along with the said appeal within the same time by the Petitioner, the impugned order dated 29th September, 2022 shall be kept in abeyance.

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

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

MRS/AKS