(2022) 08 OHC CK 0128

In the Orissa High Court

Case No : Writ Petition (C). No. 10425 Of 2022

Pradeep Kumar Pradhan — APPELLANT

Vs

Joint Commissioner of Income Tax, Central Circle 1, Bhubaneswar And Another — RESPONDENT

Date of Decision : 16-08-2022

Acts Referred:
Income Tax Act, 1961 — Section 148

Citation : (2022) 08 OHC CK 0128

Hon'ble Judges : Dr. S. Muralidhar, CJ;Chittaranjan Dash, J

Bench : Division Bench

Advocate : Sidhartha Ray, R.S. Chimanka

Final Decision : Disposed Of

Judgement

1. The challenge in the present petition is to the notice dated 10th March 2022, issued by the Assistant Commissioner of Income Tax, Central Circle-1, seeking to reopen the Petitioner’s assessment under Section 148 of the Income Tax Act, 1961 as well as to the initial notice dated 17th March 2021, the consequent order of assessment dated 22nd March, 2022 and the demand notice issued to the Petitioner for the Assessment Year 2017-18.

2. This Court has heard learned counsel for the Parties.

3. One of the grounds on which the challenge has been raised is that contrary to the dictum of the Supreme Court in GKN Driveshafts (India) Ltd. v. Income Tax Officer [2003] 259 ITR 19 (SC), the Department has, without disposing of the Petitioner’s objections to the notice dated 17th March, 2021 (Annexure-1) issued under Section 148 of the Act continued the assessment proceedings culminating in the impugned notice dated 10th March, 2022 (Annexure-11) and the assessment order dated 22nd March, 2022 (Annexure-12).

4. In similar circumstances, this Court had in Viresh Hemani v. Income Tax Officer [2021] 435 ITR 376 (Orissa) and in its decision dated 15th February,

2022 in W.P.(C) No.25229 of 2017 (M/s. Tuff Tubes (Orissa) Pvt. Ltd. v. The Deputy Commissioner of Income Tax) quashed the reassessment order as well as the notice.

5. Following the above decisions, the Court quashes the notice dated 17th March, 2021 (Annexure-1) followed by the second notice dated 10th March, 2022 (Annexure-11), the assessment order dated 22nd March, 2022 (Annexure-12).

6. The writ petition is disposed of in the above terms. There shall be no orders as to costs.

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