



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.10407 of 2025

Jyotsnarani Dash ***Petitioner***

Mr. Kshirod Kumar Bal, Advocate

-versus-

Principal Commissioner of Income Tax, Bhubaneswar-1 and others ***Opposite Parties***

Mr. Subash Chandra Mohanty, Senior Standing Counsel
along with Mr. Avinash Kedia, Junior Standing Counsel

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

27.11.2025

Order No.

01. ***I.*** Being aggrieved by the Assessment Order dated 12th March, 2025 passed under Section 147 read with Section 144B of the Income Tax Act, 1961 (for short, "IT Act") (Annexure-6) passed by the Assessing Officer E-Assessment Unit, Income Tax Department, pertaining to Assessment Year 2020-21, the petitioner has approached this Court by way of filing this writ petition invoking provisions under Articles 226 and 227 of the Constitution of India with the following prayer(s):-

"It is, therefore, prayed that, in the interest of justice, this Hon'ble Court may graciously be pleased to admit this writ Application, issue Rule Nisi, calling upon the opposite parties to show cause as to why order dated 12.03.2025 under Annexure-6 passed under Section 147 read with Section 144B of the I.T. Act and consequential demand under annexure-7 shall not be quashed declaring the same as illegal and arbitrary and without jurisdiction.



And if the opp. parties failed to show cause or show insufficient cause/irrelevant cause, than make the aid rule nisi absolute;

And

Pass any other order/s, direction/s as may deem fit and proper in the facts and circumstance of the case;

And

For this act of kindness the petitioner shall as in duty bound ever pray."

2. Mr. Kshirod Kumar Bal, learned Advocate for the petitioner submitted that the Jurisdictional Assessing Officer has never called for disclosure of any evidence in support of cost of acquisition, cost of improvement, investment in acquisition of new asset and difference between the sale consideration disclosed by the petitioner-assessee and the sale consideration reflected in the investigation report. Since there was flagrant violation of principles of natural justice for not affording opportunity by the Jurisdictional Assessing Officer to the petitioner-assessee to explain in support of claim of deductions towards cost of acquisition, cost of improvement and investment in acquisition of new capital asset for claiming deduction under Section 54F of the IT Act, the order deserves to be interfered with.

2.1. He further submitted that the Jurisdictional Assessing Officer should have made proper enquiry under Section 148A of the IT Act and, as such, the show-cause notice issued is bad in law.

2.2. He also submitted that the reply furnished in connection with the notice issued under Section 148 of the IT Act has not been appropriately dealt with by the assessing officer.

2.3. Since the assessing authority has not considered the explanation or reply of the petitioner in the proceeding in



connection with Section 148A of the IT Act, the assessment order passed pursuant to notice under Section 148 cannot be sustained.

3. Mr. Subash Chandra Mohanty, learned Senior Standing Counsel along Mr. Avinash Kedia, learned Junior Standing Counsel for the Income Tax Department opposing the contention of Mr. Kshirod Kumar Bal, learned Advocate submitted that prior to initiation of the proceeding for assessment under Section 147 read with Sections 144 and 144B of the IT Act, opportunity was given to participate in connection with notice under Section 148A. Objection has been raised by the learned Senior Standing Counsel that the grievance of the petitioner can well be considered before the fact-finding authority vested with power under the IT Act. Since there exists alternative remedy to challenge the assessment order and the petitioner-assessee shall have scope to place material before the appellate authority with respect to non-adherence to the principles of natural justice as also adduce evidence for appreciation of the appellate authority with respect to claim of deductions or exemptions, this Court should be loathed in entertaining this writ petition.

4. Heard Mr. Kshirod Kumar Bal, learned counsel for the petitioner and Mr. Subash Chandra Mohanty, learned Senior Standing Counsel along with Mr. Avinash Kedia, learned Junior Standing Counsel for the Income Tax Department.

5. Perused the record.

6. The basic averments and contentions of the petitioner appears to be against the order passed under Section 148A pursuant to which proceeding under Section 148 was initiated. This Court appreciates the objection of the Senior Standing Counsel that



explanation, if any, submitted to the authority concerned with respect to claim of exemptions/deductions *inter alia* on the transaction of capital gains is required to be factually adjudicated upon. The appellate authority is competent to deal with such issues which are raised before this Court.

7. Hence, this Court, without entering into the merits of the case, disposes of the writ petition with an observation that the petitioner may avail alternative remedy to challenge the impugned assessment order, as available under law, if so advised and raise all such contentions including the jurisdictional issues, if any, before the appellate authority.

8. As a result of disposal of the writ petition, pending Interlocutory Application(s), if any, is also disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

MRS/Laxmikant

Signature Not Verified

Digitally Signed
Signed by: LAXMIKANT MOHAPATRA
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 28-Nov-2025 16:24:43

