IN THE HIGH COURT OF ORISSA AT CUTTACK

TREV Nos. 118 and 228 of 2001

State of Odisha, represented by the Commissioner of Sales Tax .... ***Petitioner***

Mr. S.S. Padhy, Addl. Standing Counsel

-versus-

M/s. National Seeds Corporation Ltd. .... ***Opposite Party***

None

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
19.07.2022

Order No.

06. 1. These revision petitions arise from an order dated 31st March, 1995 passed by the Orissa Sales Tax Tribunal (Full Bench), Cuttack (Tribunal) in S.A. Nos.586-587 of 1988-89 for the year 1983-84 holding that paddy seed, maize seed and wheat seed are to be subjected to sales tax @ 4% on par with rice, maize and wheat which are declared goods under the Central Sales Tax Act, 1957 (CST Act).

2. Thereafter, on an application being made by the State under Section 24(1) of the Orissa Sales Tax Act, 1947 (OST Act), the Tribunal by an order dated 23rd September, 1995 stated a case to this Court and referred to the following question this Court for its opinion:

> "Whether on the facts and in the circumstances of the case, paddy seeds, maize seeds and wheat seeds

> are ‘cereals’ within the ambit of Section 14 of the C.S.T. Act and therefore, the rate of tax under the State Act shall not exceed 4% in view of the restriction and condition imposed in Sl.15 of the C.S.T. Act ?”

3. Initially, the references were numbered as SJC Nos.165 and 166 of 1995 and subsequently got renumbered as one case viz., TREV 118 of 2001. The last order passed in this case was on 5th September, 2001 where some correction to the numbering of the case was asked to be carried out by the Deputy Registrar (Judicial) of the Court.

4. For 21 years now, the case has not been listed thereafter, as a result, no notice went to the Opposite Party in all these 21 years.

5. As far as the present revision is concerned, there are decisions of the Patna High Court in ***M/s. SPIC PHI Ltd. v. State of Bihar (2005) 142 STC 241 (Patna)*** as well as the decision in Gauhati High Court in ***Assam Seeds Corporation Limited v. Commissioner of Taxes, Assam (2006) 145 STC 274*** both holding that seeds are distinct from cereals and cannot be treated as cereals for the purposes of sales tax. Therefore, the aforementioned question referred to this Court for its opinion has to be answered in the negative i.e. in favour of the Department and against the Assessee.

6. Considering that the Assessee has not been issued notice in all these 20 years and the Court does not propose to do so at this stage, particularly, when there being no interim order in the meanwhile, while answering the questions as above, the Court directs that vis-à-

vis Assessee no further steps to recover the differential tax amount need be taken.

7. The petitions are disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/Secy.