IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 29 of 2009

M/s. Shree Maa Laxmi Traders .... ***Petitioner***

Mr. Jagabandhu Sahoo, Senior Advocate

-versus-

State of Odisha and Others ... ***Opposite Parties***

Mr. Sunil Mishra, Addl. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
16.08.2022

Order No.

03. 1. At the outset, Mr. Jagabandhu Sahoo, learned Senior Advocate for the Petitioner states that the Petitioner is pressing just the following question in the present revision petition by the Assessee arising from an order dated 7th June, 2008 of the Odisha Sales Tax Tribunal, Cuttack (Tribunal) in S.A. No.960 of 2001-02:

> "Whether in the facts and circumstances of the case realization of tax and penalty at the check post by Check Post Officer under Rule 94 of the OST Rules can be the further basis to sustain further enhancement of turn over?"

2. Mr. Sahoo, learned Senior Counsel relies on the judgment of this Court dated 16th March, 2022 in STREV No.78 of 2004 ***(M/s. Indera Garments, Rourkela v. State of Odisha)*** to urge that the same transaction cannot be subject to sales tax twice over. In the present case, according to Mr. Sahoo, sum of Rs.12,682/- was

already paid at the check post and, therefore, there was no occasion to further enhance the taxable amount.

3. On the other hand, Mr. Sunil Mishra, learned Additional Standing Counsel for the Department points out that the judgment in ***M/s. Indera Garments*** *(supra)* was only in the context of transporter of the goods being subject to tax at the check post and subsequently, the dealer being taxed for the same transaction whereas in the present case, there is no double taxation i.e. once at the hands of the transporter and the other at the hands of the dealer. Here the dealer himself was being assessed and in respect of the same transaction.

4. The Court finds merit in the contention of learned counsel for the Department. The Court is satisfied that due adjustment has been given by the Department to the amount already paid by the dealer at the check post. The Court is, therefore, satisfied that the order in ***Indera Garments*** *(supra)* has no application in the facts of the present case. The question is accordingly answered in favour of the Department and against the Petitioner dealer.

5. The STREV is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S.K. Jena/Secy.