IN THE HIGH COURT OF ORISSA AT CUTTACK
STREV Nos. 524 and 525 of 2008

M/s. Eastern Confectionary Pvt. Ltd. .... ***Petitioner***
Mr. Jagabandhu Sahoo, Senior Advocate
-versus-
State of Odisha, represented by the Commissioner of Sales Tax ... ***Opposite Party***
Mr. Sunil Mishra, Addl. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
21.06.2022

Order No.

03. 1. The present revision petitions by the same Assessee are directed against the common order dated 12th March, 2008 passed by the Orissa Sales Tax Tribunal, Cuttack (Tribunal) in S.A. Nos.2176 of 2002-2003 and 332 of 2004-2005.

2. The aforementioned appeals were filed by the present Petitioner (Assessee) challenging the orders dated 29th August, 2002 and 27th August, 2003 of the Assistant Commissioner of Sales Tax (ACST) dismissing the Petitioner's appeals for the assessment years 1999-2000 and 2000-01 which in turn affirmed the assessment orders passed by the Sales Tax Officer (STO) under Section 12(4) of the Orissa Sales Tax Act, 1947 (OST Act) for the aforementioned periods.

3. The background facts are that the Petitioner carries on the business of manufacturing and selling biscuits. It was an SSI Unit duly verified by the District Industries Center, Cuttack and availed

of sales tax concession and exemption on purchase of raw materials and sell of finished products as per the Industrial Policy Resolution, 1989 (IPR, 1989).

4. The sales tax incentives/concessions granted under the IPR, 1989 were withdrawn by the Government of Odisha with effect from 1st August, 1999. Consequently, the STO included the purchase of raw materials and packing materials from 1st August, 1999 till 31st August, 2000 in the gross turnover (GTO) and taxable turnover (TTO) respectively. Sales for the aforementioned period was also included in the TTO by excluding the claim of exemption.

5. Mr. Jagabandhu Sahoo, learned Senior Counsel for the Petitioner contends that the Tribunal overlooked the judgment of this Court in ***Mansfield Electronics v. State of Odisha*** (judgment dated 1st May, 1992 in OJC No.4151 of 1990) where it was held that till the period of exemption is allowed to run as originally intended, the exemption cannot be withdrawn at any anterior point in time by the State Government.

6. On the other hand, Mr. Mishra, learned Additional Standing Counsel pointed out that the withdrawal of a similar notification which was challenged in this Court was negatived by it in the case of ***M/s. Shree Jagannath Packers v. State of Orissa*** aggrieved by which the Assessee went before the Supreme Court of India with Special Leave Petitions. Those were rejected by the Supreme Court by its order dated 4th March, 2005. Mr. Mishra accordingly submits that the withdrawal of exemption with effect from 1st

August, 1999 has implicitly been upheld by the Supreme Court of India and therefore, the impugned order of the Tribunal calls for no interference.

7. The fact of the matter is that the decision of the Supreme Court in ***Shree Jagannath Packers*** *(supra)* which upholds the validity of the notification in terms of which the exemption granted to the Petitioner and other similarly placed Assessees stood withdrawn from 1st August, 1999 holds the field . Since that is the very issue involved in the present case, there is no scope for this Court to remand the matter before the Tribunal for any fresh consideration as urged by Mr. Sahoo, learned Senior Counsel for the Petitioner. In view of the decision in ***Jagannath Packers (supra***), the decision of this Court in ***Mansfield Electronics (supra)*** holding that the entire period of exemption should be allowed to run to its completion, cannot stand.

8. In that view of the matter, the Court finds no reason to interfere with the impugned orders of the Tribunal. No substantial question of law arises. The revision petitions are accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/Secy.