

IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 118 of 2009

M/s. Mahabir Prasad Ganesh Narayan* *Petitioner

Mr. M. Agrawal, Advocate

-versus-

State of Orissa* *Opposite Party

Mr. Sunil Mishra, Addl. Standing Counsel

**CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK**

ORDER

22.06.2022

Order No.

05. 1. This is an Assessee's revision petition against an order dated 25th February 2009, passed by the Orissa Sales Tax Tribunal (OSTT) in S.A. No.1495 of 2000-01. By the impugned order, the Tribunal has allowed the aforementioned appeal by the State and set aside the order of the Assistant Commissioner of Sales Tax (ACST) while restoring the order of the Sales Tax Officer (STO).
2. One of the issues raised by the State before the Tribunal was that the ACST was in error in accepting the case of the Assessee that it had not paid freight on the goods moving outside the State of Odisha to the purchasers and that it had accordingly raised bills only on the cost of cement.
3. The Tribunal noted that the Assessee had failed to produce any evidence to show that the freight charges had directly been paid by the purchasers as contended by it.
4. Learned counsel for the Petitioner referred to the averments of the Petitioner in the above regard but was unable to show that there was any agreement between the purchaser and the Petitioner to the

effect that the purchaser would directly pay the freight charges. As rightly pointed out by the Tribunal the onus was on the Petitioner in this regard which it failed to discharge.

5. The other ground urged was that the Tribunal could not have allowed the appeal just on one ground without dealing with the other grounds. Considering that the appeal was of the State and the Tribunal found justification to reverse the order of the ACST on the aforementioned ground, the Court is unable to find any error having been committed in not dealing with the other grounds raised.

6. Consequently, no substantial question of law arises for consideration from the impugned order of the Tribunal. The revision petition is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

S. Behera