IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 107 of 2011

State of Odisha, represented by the Commissioner of Sales Tax	....	***Petitioner***
		Mr. Sunil Mishra, Addl. Standing Counsel
	-versus-	
M/s. Ashoka Re-Rolling Mills (P) Ltd.	....	***Opposite Party***
		None

CORAM:
THE CHIEF JUSTICE
DR. JUSTICE S.K. PANIGRAHI

ORDER
26.07.2022

Order No.

06. 1. Despite service of notice, none appears for the Opposite Party (Assessee).

2. The present revision petition arises from an order dated 14th February, 2011 passed by the Odisha Sales Tax Tribunal, Cuttack (Tribunal) in S.A. No.2088 of 2004-05 allowing the appeal filed by the Assessee against the order dated 28th September, 2004 passed by the Assistant Commissioner of Sales Tax (ACST), Sundargarh Range, Rourkela in First Appeal No.AA 443 (RL II) of 2003-04 for the assessment year (AY) 2002-03.

3. On 10th January, 2013 the following questions were framed for consideration by this Court:

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal is justified in holding that there was ambiguity in the Finance Department Notification bearing No.14687-CTC-37/2001 (Pt.) F-(SRO No.149/2001), dated 31.03.2001 and

required interpretation in favour of the dealer-assessee particularly when plain reading of the said notification would lead to understand that the dealer-manufacturer is entitled to claim set off of tax on purchase of raw materials separately indicated on the body of the bill/invoice ?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal committed error of law in holding that set off of sales tax is required to be computed on the basis of sales tax paid by a manufacturer on purchase of raw materials in a financial year against sales tax due in that financial year on the sale of finished goods produced out of such tax paid raw materials irrespective of the year of its purchase ?

4. The above questions stand answered in favour of the Department and against the Assessee (Opposite Party) in view of the order dated 19th July, 2022 of this Court in STREV No.136 of 2011 (***State of Odisha v. Ginni Metal Industries (P) Ltd.)***

5. Consequently, the impugned order of the Tribunal is hereby set aside and the corresponding order of the ACST is restored to file.

6. The revision petition is allowed in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(Dr. S.K. Panigrahi)
Judge

S.K. Jena/Secy.