IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 13591 of 2009

M/s. Sree Metaliks Ltd. .... ***Petitioner***

Mr. Sidhartha Ray, Advocate

-versus-

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

Mr. S.N. Das, Addl. Standing Counsel (State)
Mr. S.S. Padhy, Addl. Standing Counsel (Sales Tax)

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
24.02.2022

Order No.	
06.	1. Mr. Sidhartha Ray, learned counsel appearing for the Petitioner draws the attention of this Court to its judgment in ***Visa Steel Ltd. v. State of Orissa 2010 (II) OLR 792*** wherein in para 18, it has been held as under:

> "18. In view of the aforesaid law laid down by the Hon'ble Supreme Court we apply the principle of ejusdem generis to clause (m) of Sub-Section (8) of Section 20 & are of the considered view that the present notification impugned hereinabove cannot stand the test of application of the principle of ejusdem generis. Accordingly, we are of the considered view that the impugned notification vide S.R.O. No.34/2009 dated 27.1.2009, limited to declaring 'coal & 'furnace oil' as goods at serial 1 & 2 thereof is illegal & therefore declare that the said notification would not have any application & will stand quashed to the aforesaid extent, since the impugned notification is ultra virus Section 20(3) (b) read with Section 2(25) & 2(27) of the OVAT Act. 2004 & consequently purchase made by the Petitioner manufacturers of the aforesaid

item, i.e., coal & furnace oil within the State from a registered dealer holding a valid registration certificate in respect of goods intended for the purpose of use as input and/or consumable directly used in respect of manufacture of finished product is clearly contrary to the legislative mandate."

2. It is not in dispute that the issue in the present case is squarely covered in favour of the Petitioner and against the Opposite Parties in view of the above judgment of this Court.

3. Consequently, the impugned notification dated 27th January, 2009 (Annexure-1) as regards item No.1 and 2 thereof is declared to be ultra vires the Orissa Value Added Tax Act and is hereby quashed. Consequently, directions are issued to the Opposite Parties to allow the input tax credit on coal and furnace oil used by the Petitioner company for the manufacture of sponge iron, pig iron, billets, MS Ingots etc.

4. The writ petition is allowed in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/P.A.