IN THE HIGH COURT OF ORISSA AT CUTTACK

TREV Nos.36 and 37 of 2002

M/s. Dey's Medical Stores(Mfg)Ltd. .... ***Petitioner***

Mr. J. Sahoo, Sr. Advocate

-versus-

State of Orissa .... ***Opposite Party***

Mr. Ishwar Mohanty, AGA

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

ORDER
25.07.2022

Order No.

08. 1. These revision petitions by the Assessee assail the common order by the Orissa Sales Tax Tribunal dismissing the appeals of both the State as well as the Assessee for the year 1987-88.

2. By the order dated 4th March, 2004 the question that was framed for consideration was whether there was justification in enhancing the taxable turnover by ten times in respect of suppression of Rs. 2,04,131/-? On the same date, an interim order was passed by this Court directing that subject to the Petitioner paying Rs. 1 lakh, the recovery of the balance tax amount would be stayed.

3. The question addressed by the Sales Tax Officer was whether there was a suppression by the Assessee of sales of medicines worth Rs.2,04,131/- which had not been accounted for by it. This particular consignment had been received through a transporter, Carry Co.. The case of the petitioner was that it normally received all its consignments only through M/s ATC transporters and

therefore, the above consignment could not have been received by it at all. This has been disbelieved by the Tribunal by holding that no documentary evidence was produced by the Petitioner to show that it used to be receive its consignments only through one transporter.

4. Mr. Sahoo, learned Senior Counsel for the Petitioner, refers to the affidavit of the Chief Accountant of the Petitioner stating that the receipt of consignments was only through M/s. ATC. He also refer to certain invoices raised by M/s. ATC.

5. The above documents do not demonstrate that the consignment received by the Petitioner of medicines worth of Rs. 2,03,141 did not in fact pertain to it at all. The better course would have been for the Petitioner to have summoned a witness from Carry Co. to show that the said consignment was not received by the Petitioner.

6. For the aforementioned reasons, the question framed is answered in favour of the Department and against the Assessee.

7.Accordingly the revision petitions are dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Dr. S.K. Panigrahi)
Judge

L. Behera