IN THE HIGH COURT OF ORISSA AT CUTTACK

TREV No.161 of 2001

State of Orissa represented by Commissioner of Sales Tax, Orissa	....	***Petitioner***
		Mr. S. S. Padhy, ASC
-versus-		
M/s. Sunayana Metal Industries, Sundargarh	....	***Opposite Party***
		None

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAIK

<u>ORDER</u>
11.07.2022

<u>Order No.</u>

16. 1. The State-Petitioner is seeking to question an order dated 9th December, 1994 passed by the Orissa Sales Tax Tribunal, Cuttack (Tribunal) in S.A. No.31-32 (C) of 1993-94. By the impugned order dated 9th December 1994, the Tribunal allowed the appeals filed by the Dealer-Appellant for the years 1986-87 and 1987-88.

2. The question sought to be urged is whether the transaction in question would be treated as intrastate sale or interstate sale within the meaning of Section 3(a) of the Central Sales Tax Act, thus, making a dealer liable to pay tax thereunder?

3. From the impugned order of the Tribunal, it is seen that the attempt at categorizing the transactions as interstate sale was only on the basis that "the raw materials purchased by the Appellant have been sold and transported in the same trucks to the parties outside the State."

4. Clearly, there was no other basis for drawing an inference about interstate sale when in fact there is not a single way bill produced by the State to show that the dealer had dispatched goods as consigner to outside State parties.

5. This being purely factual, the Court is not persuaded to frame the question as suggested by the State. There is no merit in the present petition. It is dismissed as such.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda