IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.5 of 2006

M/s. Jananta General Store .... ***Petitioner***

M/s. J.M. Patnaik, Advocate and associates

-versus-

The State of Orissa represented by the Commissioner of Commercial Taxes, Orissa, Cuttack .... ***Opposite Party***

Mr. S.S. Padhy, A.S.C.

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

Order No.

ORDER
21.03.2022

09. 1. While admitting the present revision petition on 24th July, 2006, the following questions of law were framed for consideration:

> (1) Whether on the facts and in the circumstances of the case, the learned Sales Tax Tribunal is justified in confirming the enhancement at Rs.7,00,000/- made in case of search and seizure operation conducted by the department in an exhaustive manner against the detected suppression was at Rs.2,25,770/- or irresistible inference drawn by the learned Sales Tax Tribunal at Rs.1,80,000/- which ought to have restricted to the extent of detection of suppression as per the report of investigating authorities either at Rs.2,25,770/- or inference drawn by the learned Tribunal at Rs.1,80,000/- conducting search due to exhaustive enquiry as per the settled position of law ?
>
> (2) Whether on the facts and in the circumstances of the case, the learned Sales Tax Tribunal is justified in disallowing the deductions towards first point tax paid goods, thereby adding the amount in taxable turnover?

2. As far as Question No.(1) is concerned, the Court finds that the Tribunal has in fact reduced the amount of addition from Rs.10lakh to Rs.7lakh in a matter of detected suppression of Rs.2,25,770/-

3. Having heard learned counsel for the parties, the Court does not consider the Tribunal having erred in making such reduction and is unable to agree with the Assessee that the addition should have been restricted to the amount of suppression.

4. As far as Question No.(2) is concerned, the Tribunal on facts found that the Assessee was unable to produce documents to show that tax had in fact been paid at the first point. As far as the decision in ***State of Orissa v. Fancy Motors Accessories Agency Vol.69 1988 STC 34*** is concerned, the Court finds that it has turned on facts and is distinguishable.

5. In that view of the matter, both the questions are answered in favour of the Department and against the Assessee. The revision petition is accordingly disposed of.

6. Urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin