IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 177 of 2008

State of Orissa .... ***Petitioner***

Mr. Sunil Mishra, Addl. Standing Counsel

-versus-

M/s. Branch Manager, T.D.C.C., Orissa Ltd. .... ***Opposite Party***

None

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAIK

ORDER
20.04.2022

Order No.

06. 1. The following two questions were framed by this Court for adjudication in the present revision case by the order dated 19th February, 1999:

> "(i) Under the facts and circumstances of the case, whether the learned Sales Tax Tribunal is correct to hold that that royalty paid to the Forest Department on the collection of minor forest produces shall be the purchase turnover in the hands of the Assessee?
>
> (ii) Under the facts and circumstances of the case, whether the learned Tribunal is justified to hold that the payments made by the Assessee to the Tribals/sellers as "purchase rate" and the transport charges, handling charges and other expenditure incurred by the Assessee after collecting them at different centers are not the purchase price is not exigible to tax?

2. This Court has heard the submissions of Mr. Sunil Mishra, learned Additional Standing Counsel for the Department. Despite

service of notice and despite the counsel having entered appearance for the Opposite Party, today none appears.

3. Mr. Mishra placed before this Court the decisions of the Full Bench of this Court in ***D. Ch. Guruvalu Son and Company v. Sales Tax Officer 2008 (I) OLR 992*** which was constituted to decide the apparent conflict between the decisions of the Division Bench of this Court in ***P.R. Tata & Company v. Sales Tax Officer (1971) 27 STC 176*** and ***State of Orissa v. Iqbal Brothers (1990) 79 STC 337*** on the one hand and ***Iqbal Brothers v. State of Orissa*** (decision dated 17th November 1994 in S.J.C. No.49 of 1986) on the other.

4. The Full Bench in ***D.Ch. Guruvalu Son & Company*** (*supra*) came to the conclusion that there was no apparent conflict between the aforementioned two decisions in ***P.R. Tata & Company v. Sales Tax Officer*** and ***Iqbal Brothers v. State of Orissa***. Since in one set of cases, there was an agreement between the parties pursuant to which royalty was paid and the royalty was treated as purchase price whereas, in ***Iqbal Brothers v. State of Orissa*** (*supra*) there was no agreement between the parties and it was held that all the payments made by the Assessee to the Tribals/sellers would be treated as 'purchase price' and this would include transport charges, commission paid to Agents and handling charges etc.

5. Consequent upon the above decision of the Full Bench, a Division Bench again considered the issue in ***D. Ch. Guruvalu Son and Company vs. Sales Tax Officer 2008 (I) OLR 18*** and reiterated that where there was no agreement between the parties, the collection charges paid which would include the transport and handling charges would constitute the purchase price.

6. In that view of the matter, the questions are answered as under;

(a) Question (i) is answered in the negative by holding that the Tribunal was incorrect in concluding that the royalty paid to the Forest Department on the collection of minor forest produces shall be the purchase turnover in the hands of the Assessee.

(b) Question (ii) is answered by holding that payments made by the Assessee to the Tribals/sellers including the transport charges, handling charges and other expenditure incurred by the Assessee after collecting them at different centers would be treated as the purchase price in the hands of the Assessee.

7. The revision petition is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

S. Behera