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IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 114 of 2013

M/s. Chilika Fishing Materials & Co. .... ***Petitioner***
Mr. U.C. Behura, Advocate

-versus-

State of Odisha .... ***Opposite Party***

Mr. Sunil Mishra, ASC for Ct & GST Organization

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
31.10.2022

Order No.

Dr. S. Muralidhar, CJ.

04. 1. This is a revision petition by the Assessee arising from an order dated 1st August, 2013 of the Sales Tax Appellate Tribunal, Cuttack in allowing S.A. No. 52 & 53(ET) of 2012-13 filed by the State against the common order dated 30th April, 2012 passed by Joint Commissioner of Sales Tax, Puri Range, Puri in F.A. Nos. 36/OET and 37/OET for the tax period from 1st April, 2005 to 31st March, 2006 and from 1st April, 2006 to 31st October, 2006 respectively. The Joint Commissioner reduced the demand for both periods by the Assessing Officer (A.O.), Jatni Circle by his assessment order dated 10th May, 2007.

2. The question before the Tribunal was whether entry tax could have been imposed on schedule goods like fishing net, fishing twine and rope purchased from outside the state of Odisha. One contention

was that such goods could not be brought within the purview of Sl. No. 23 of Part-1 of the scheduled goods under the Orissa Entry Tax Act (OET Act).

3. The Tribunal negatived the above contention by holding that the fish net, fishing twine and rope were in fact made from High Density Poly Ethylene (HDPE) and Poly Propylene (PP) and, therefore, stood covered under Entry Sl. No. 23 of Part I of the Schedule to the OET Act. Reference was made by the Tribunal to the decision of the Supreme Court in ***Municipal Corporation Thane v. ASMACO Plastic Industries (1999) 1 SCC 372***. It is this finding that is sought to be questioned in the present revision petition.

4. The submissions of the learned counsel for the Parties have been heard. Entry 23 of Part I of the Scheduled of the OET Act reads as under:

> "Polythene, High Density Poly Ethylene (HDPE), Poly Propylene (PP) including woven sack, Plastic Goods, moulded luggage excluding plastic or moulded furniture."

5. The above Entry No. 23 is wide enough to include all forms of goods made of HDPE or PP including plastic goods. The word 'including' indicates the wide range of products that can be brought within the scope of the above entry. The expression 'plastic goods' is also wide enough to include all the secondary products of plastic. What is only excluded is furniture which is plastic or moulded.

6. Consequently, the Court finds no error having been committed by the Tribunal in allowing the appeal of the State and holding that the product in question i.e., fish net, fish net twine and fish net rope are

made of HDPE materials and as such being the secondary form of HDPE and PP would be covered under Entry No.23 of Part I of the Schedule to the OET Act and are exigible to entry tax @ 1%.

7. Consequently, this Court upholds the order of the Tribunal and declines to admit the reference.

8. Accordingly, the STREV is disposed of.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

Laxmikant/Aks