IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.62 of 2011

M/s. Sri Ram Enterprisers, Cuttack	....	***Petitioner***
		Mr. Tusar Kanti Satpathy, Advocate
	-versus-	
State of Orissa, represented by Commissioner of Sales Tax, Orissa, Cuttack	....	***Opposite Party***
		Mr. S. K. Pradhan, ASC

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAIK

<u>ORDER</u>
28.06.2022

<u>Order No.</u>

07. 1. The present petition by the Assessee-Petitioner arises from an order dated 21st March, 2011 passed by the Orissa Sales Tax Tribunal, Cuttack (Tribunal) dismissing the Petitioner-Assessee's appeal i.e. S.A. No.951 of 2007-08 and thereby affirming the order dated 30th April, 2007 passed by the Assistant Commissioner of Sales Tax (ACST) confirming the Assessment order of the Sales Tax Officer (STO) for the year 2002-03 under Section 12 (4) of the Orissa Sales Tax Act, 1947 (OST Act) raising an extra demand of Rs.2,21,548/-.

2. The Assessee is a manufacturer of wooden furniture, doors and shutter and also trading in sized wood.

3. While completing the assessment, the STO took note of a fraud case report dated 26th February, 2004 submitted against

the Assessee. The gross turnover was enhanced by Rs.17,63,506.50 on the basis of “purchase suppression” established at Rs.3,35,906/-. After allowing deduction towards the sale of first point tax paid goods and collection of sales tax respectively, the taxable turnover was determined by the STO at Rs.19,26,395.55 on which tax @ 12% and surcharge @ 10% were levied. After adjusting the sum of Rs.32,736/- already paid by the Assessee, a demand of Rs.2,21,548/- was raised.

4. The admitted position is that the permit found in the premises was not in the name of the Petitioner. He had also not maintained any purchase register. As noted by the Tribunal, the IST detected purchase which was not reflected in the purchase register. Further, the dealer had purchased sized woods from the selling dealer out of his accounts. The Tribunal has specifically noted “during the time of confrontation, he was not able to give satisfactory answer for these transactions.”

5. Having heard learned counsel for the parties, the Court is not persuaded that the Tribunal has committed any grave error, which calls for interference. The case turned on the factual basis as noted hereinbefore with the original forest permit standing in the name of M/s. J.K.Patel and Company and P.K. Timbers, neither of whom is related to the Assessee. In the absence of any satisfactory answer to the queries of the Department, no fault can be found with the Department in proceeding with the Assessment and levying penalty five times of suppression. The

orders of the ACST and STO to that effect also do not call for interference.

6. No substantial question of law arises. The petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda