IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5086 of 2014

M/s. Kanakadhara Mining & Minerals Pvt. Ltd.	....	***Petitioner***

Mr. Sidhartha Ray, Advocate

-versus-

Commissioner of Commercial Taxes, Odisha, Cuttack & another	....	***Opposite Parties***

Mr. Sunil Mishra, Addl. Standing Counsel for the CT & GST Organization

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
17.11.2022

Order No.

04. 1. The challenge in the present writ petition is to the notices dated 2nd January, 2014 issued under Rule 15 B (1) of the Orissa Entry Tax Rules, 1999 (OET Rules) as well as the Audit Visit Report, and the consequential assessment order dated 21st March, 2014 passed by the Sales Tax Officer, Barbil under the Orissa Entry Tax Act (OET Act) for the period 1st April, 2007 to 31st March, 2008.

2. One of the grounds to the challenge is that the audit report was submitted more than a week after the visit by the Audit Team.

3. This issue in the context of the assessment under the Odisha Value Added Tax Act (OVAT Act) stands covered in favour of the Assessee by the order of this Court dated 31st March, 2022 in

W.P.(C) No.16957 of 2009 (***M/s. Pal Construction v. The Assessing Authority, Bhubaneswar-I Circle and others***).

4. Since the wording of Section 41 (4) of the OVAT Act is *pari materia* with Section 9B(2) of the OET Act, this Court, following the aforementioned judgment in *Pal Construction case (supra)*, quashes the impugned notice, the Audit Visit Report as well as the consequential assessment order and demand, if any, raised as a result thereof.

5. The writ petition is allowed in the above terms. No order as to costs.

5. Issue urgent certified copy of this order as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

MRS/Laxmikanta