IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 5 of 2014

State of Orissa, represented through Commissioner of Sales Tax .... ***Petitioner***

Mr. S.K. Pradhan, Additional Standing Counsel

-versus-

M/s. Divisional Manager, Odisha Forest Development Corporation .... ***Opposite Party***

None

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
06.12.2022

Order No.

06. 1. One Mr. Natabar Mohanty, Advocate was earlier appearing for the Opposite Party. Today, however, none appears.

2. The present revision petition by the State arises from an order dated 2nd September, 2013 of the Orissa Sales Tax Tribunal in S.A. No.1413 of 2006-07 relating to the Assessment Year 2002-03. It was admitted by this Court by an order dated 18th November, 2015 and the following questions were framed for consideration:

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal is not justified in reversing concurrent finding of the assessing authority as well as the first appellate authority and the order passed in second appeal is perverse wherein it was held that royalty is not includible in "turnover of purchase" for the purpose of determining purchase tax liability of the opposite party-

> Corporation which purchased bamboo agreed to be severed from the Forest Department of the Government of Odisha?
>
> (ii) Whether on the facts and in the circumstances of the case, royalty paid to the Government of Odisha by the opposite party- Odisha Forest Development Corporation for procuring bamboo agreed to be severed is regarded as purchase price for the purpose of levy of purchase tax?"

3. The above questions are no longer *res integra* and appear to have been decided in favour of the Department and against the Assessee by this Court in ***D. Ch. Guruvalu Son & Co. v. Sales Tax Officer, Koraput-II Circle (2008) 14 VST 509 (Ori).*** It was categorically held by this Court that royalty was includible in the taxable turnover for the purpose of payment of tax under the Orissa Sales Tax Act, 1947.

4. For the aforementioned reasons, the questions framed above are answered in favour of the Department and against the Assessee. In other words, the impugned order of the Tribunal as far as the above two questions are concerned, is set aside.

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

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S. Behera