IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.44 of 2017

M/s. S.B. Enterprises	....	***Petitioner***
		Mr. C.R. Das, Advocate

-versus-

State of Odisha, represented by the Commissioner of Sales Tax	....	***Opposite Party***
		Mr. Sunil Mishra, Addl. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
14.12.2022

Order No.

05. 1. On 20th July, 2017, this Court has framed the following questions of law:-

> "I) Whether, on the facts and circumstances of the case, the Division Bench-III, Odisha Sales Tax Tribunal is right in law to order for imposition of penalty under Rule 12(3)(g) of CST (O) Rules, on short payment of admitted tax of Rs.63,224.00 as being assessed is just and proper, more so when separate mechanism has been provided under Rule 8 and 8A of the CST (O) Rules for levy of interest and penalty respectively?
>
> II) Whether, on the facts and circumstances the Division Bench-III, Odisha Sales Tax Tribunal is right in law to hold, the petitioner is a fraudulent one for making false declaration and also not paying due tax to the State Exchequer and accordingly imposed penalty under Rule 12(3)(g) of CST (O) Rules?"

2. In view of the order passed today by this Court in *STREV No.36 of 2017 (Duro Pipes Pvt. Ltd. v. State of Odisha)*, the questions framed in the present revision petition by the order dated 20th July, 2017 are answered as under:

(i) Question No. I is answered by setting aside the impugned order of the Tribunal and remanding to the Assessing Officer i.e. State Tax Officer, CT & GST, Bhubaneswar-I Circle, Bhubaneswar the said question for a fresh determination in accordance with law.

(ii) In view of the answer to question No. I, question No.II need not be answered.

3. The STREV is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

Aks