

IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.5 of 2018

M/s. Loknath Enterprises

.... ***Petitioner***
Mr. B. Panda, Advocate

-versus-

The State of Odisha

.... ***Opposite Party***
Mr. Sunil Mishra, Addl. Standing Counsel

**CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN**

ORDER
29.11.2022

Order No.

03. **Misc. Case No.10 of 2018**

1. For the reasons stated therein, the filing of the certified copy of the Annexures 1, 2 & 4 is dispensed with.
2. The Misc. Case is disposed of.

STREV No.5 of 2018

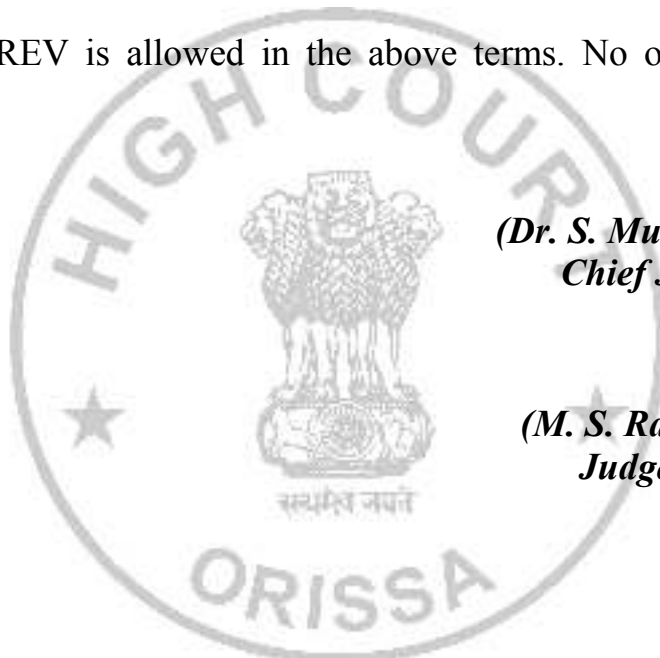
3. Heard.
4. Admit.
5. The following question of law is framed for consideration by this Court:

“Whether in the facts and circumstances of the case, the Tribunal is legally correct to sustain the order passed U/s.43 of the OVAT Act unless the orders of assessment are made U/s.39, 42 or 44 of the OVAT Act?”

6. The above question stands answered in favour of the Assessee and against the Department by this Court vide the judgment dated 1st December, 2021 in STREV No.64 of 2016 (*M/s. Keshab Automobiles v. State of Odisha*).

7. The impugned order of the Tribunal and the corresponding order of the First Appellate Authority and the Assessing Officer are hereby set aside.

8. The STREV is allowed in the above terms. No order as to costs.



(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

Aks/Laxmikant