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IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.4 of 2017

M/s. S.K. Dal Industries

....

Petitioner

Mr. Jagabandhu Sahoo, Senior Advocate
with Ms.Kajal Sahoo, Advocate

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. Susanta Kumar Pradhan,
ASC for CT & GST Organization

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

**ORDER
08.12.2022**

Order No.

M. S. Raman, J.

07. 1. The petitioner challenged Order dated 03.12.2016 in Second Appeal No.71(C) of 2011-12 passed by the learned Odisha Sales Tax Tribunal, Cuttack directed against Order dated 23.12.2011 of the Deputy Commissioner of Sales Tax, Puri Range, Puri, confirming assessment framed pertaining to tax periods from 01.04.2006 to 30.06.2006 by the Assistant Commissioner of Sales Tax, Jatni Circle, Jatni under Rule 12(4) of the Central Sales Tax (Odisha) Rules, 1957 (in short referred to as, "CST(O) Rules").
2. While issuing notice, this Court *vide* order dated 28th March, 2017 framed the following questions of law:-

"a) Whether on the facts and circumstances of the case rejection of claim of export sales under Section 5(3) of the

CST Act supported by declaration Form 'H' and bill of lading can be sustained in law?

(b) Whether in the facts and circumstances of the case disallowance of rate of tax @1% as per Finance Department notification dated 31.03.2001 is lawful and valid?"

3. Heard Mr. Jagabandhu Sahoo, learned senior advocate for the Petitioner and Mr. Susanta Kumar Pradhan, learned Additional Standing Counsel for CT & GST Organization.

4. The fact narrated by the petitioner and not disputed by the Revenue is that the petitioner is engaged in decortication of groundnut pods and sale of groundnut kernel. Having supplied groundnut to the exporter in the course of inter-State trade or commerce, the petitioner has stated to have furnished Certificate of Export in Form 'H' issued by the Exporter namely Sakuma Export Pvt. Ltd. and M/s. Divya Corporation in order to claim exemption from payment of Central sales tax under provisions of Section 5(3) of the Central Sales Tax Act, 1956 (for brevity referred to as "CST Act").

5. From the Assessment Order it is revealed that the assessee-petitioner had furnished copy of purchase order, copies of bill of lading, etc. However, since the petitioner-dealer could not produce the export order or agreement between the foreign buyers and Indian exporters, the Assessing Authority rejected the claim of exemption under Section 5(3) of the CST Act on account of penultimate sale in course of inter-State trade or commerce. Having disallowed the exemption so claimed, the Assessing Authority proceeded to determine the tax liability under the CST Act. While doing so, the Assessing Authority disputed the contention of the petitioner that

decortication of groundnut being a manufacturing activity carried in the small scale industrial unit it is entitled to be charged with Central sales tax @ 1%. He recorded finding that groundnut kernel is only a change in form of groundnut and thereby no new commodity comes into existence by the process of decortication. Said Authority determined tax liability by applying rate of tax @ 4% in terms of Section 8(2) of CST Act read with Section 5 and Section 3B of the Odisha Sales Tax Act, 1947 and discarded claim of the dealer at concessional rate of tax @ 1% on the transactions up to 15.06.2006 and @ 2% thereafter as declared under Finance Department Notification No.14700-CTA-37/2001 (pt.)-F (SRO No.160/2001), dated 31.03.2001 with effect from 01.04.2001 read with No.26867-CTA-87/2005-F (SRO No.334/2006), dated 16.06.2006, issued in exercise of Section 8(5) of the CST Act.

6. Being aggrieved by said Assessment Order, the petitioner-dealer has preferred Appeal before the Deputy Commissioner of Sales Tax, Puri Range, Puri who affirmed the Assessment Order. The Appellate Authority on scrutiny of photocopy of contract between the foreign buyer and the Indian Exporter observed that signature of buyer was missing on the document and therefore, rejected the claim of the petitioner.

7. The matter was carried to the Odisha Sales Tax Tribunal in second appeal where the second appeal of the petitioner was dismissed. Therefore, this revision petition has been preferred with the aforementioned questions of law.

8. Mr. Jagabandhu Sahoo, learned Senior Advocate appearing for the petitioner advanced two fold arguments.

Referring to sub-section (4) of Section 5 of the CST Act, he submitted that there is no denial that the petitioner has furnished Form 'H' as prescribed under Rule 12(10) of the Central Sales Tax (Registration and Turnover) Rules, 1957, and therefore, there was no justifiable reason available for the Revenue to counter that in absence of production of agreement between the exporter and the foreign buyer the petitioner-penultimate seller of goods is not entitled to claim benefit of tax exemption as per Section 5(3) of the CST Act.

He next contended that the Assessing Authority while determining the tax liability misapplied the rate of tax inasmuch as the petitioner being certified as small scale industrial unit by the District Industries Centre, it is entitled for concessional rate of tax on the inter-State sale of goods in terms of Finance Department Notification No.14700-CTA-37/2001 (pt.)-F (SRO No.160/2001), dated 31.03.2001 with effect from 01.04.2001 read with No.26867-CTA-87/2005-F (SRO No.334/2006), dated 16.06.2006, issued in exercise of Section 8(5) of the CST Act.

Mr. Sahoo, learned Senior Counsel urged that the Order of the Odisha Sales Tax Tribunal is vulnerable inasmuch as it has conspicuously ignored to take into consideration the provisions contained in sub-sections (3) and (4) of Section 5 in proper perspective. Therefore, he prayed to set aside the Order passed in Second Appeal.

9. Mr. Sushanta Kumar Pradhan, learned Additional Standing Counsel for the (CT&GST) Organisation submitted that since there is requirement in Form 'H' for furnishing details of agreement

number with date, *etc.* there is no scope to dispense with submission of agreement between the exporter and the foreign buyer so as to rule out possibility of false claim for exemption being made under Section 5(3) of the CST Act. So far as application of rate of tax is concerned no interference is required as the Assessing Authority had rightly levied Central sales tax @ 4% under the CST Act in view of provisions of Section 8(2) and such rate of tax is prescribed against the commodity “groundnut” declared to suffer purchase tax under Section 3B under the Odisha Sales Tax Act read with Section 14(vi)(i) of the CST Act. Removing outer covering of groundnut does not change essential characteristic of the commodity. So, the activity of decorticating cannot be treated to fall within the ambit of the term “manufacture” as defined under Section 2(ddddd) of the Odisha Sales Tax Act.

10. The provisions contained in sub-section (3) and sub-section (4) of Section 5 of CST Act stood as follows during the period in question:

“(3) Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

(4) The provisions of sub-section (3) shall not apply to any sale or purchase of goods unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the exporter to whom the goods are sold in a prescribed form obtained from the prescribed authority.”

10.1. Rule 12(10) of the Central Sales Tax (Registration and Turnover) Rules, 1957, prescribes as follows:

“(10) (a) The declaration referred to in sub-section (4) of Section 5 shall be in Form H and shall be furnished to the prescribed authority upto the time of assessment by the first assessing authority.

(b) The provisions of the rules framed by the respective State Government under sub-sections (3), (4) and (5) of Section 13 relating to the authority from whom and the conditions subject to which any form of certificate in Form ‘H’ may be obtained, the manner in which such form shall be kept in custody and records relating thereto maintained and the manner in which any such forms may be used and any such certificate may be furnished in so far as they apply to declaration in Form ‘C’ prescribed under these rules shall mutatis mutandis apply to certificate in Form ‘H’.”

10.2. Conjoint reading of aforesaid provisions makes it clear that exemption from payment of Central sales tax on the transactions falling under sub-section (3) is available to the selling dealer on compliance of terms of sub-section (4) of Section 5 of the CST Act in the manner prescribed under Rule 12(10) of the Central Sales Tax (Registration and Turnover) Rules. However, none of the provisions requires the penultimate supplier of goods to the exporter to furnish copy of the agreement entered into between the exporter and the foreign buyer. Minute reading of Form ‘H’ reveals that the only requirement is while issuing Form ‘H’, the exporter is required to fill up the blank placed contained therein and supply information as is required therein. In Certificate-I appended to said Form ‘H’, it is the exporter who is to supply the details of “agreement or order number”. However, there is no requirement to furnish copy of

agreement by the penultimate seller which is not within his possession.

10.3. To strengthen argument, the senior counsel for the petitioner Sri Jagabandhu Sahoo placed reliance on the decision of Hon'ble Madras High Court rendered in the case of *V. Win Garments Vrs. Additional Deputy Commercial Tax Officer, Central-I Assessment Circle, Tirupur, (2011) 42 VST 330 (Mad)*. In the said decision it has been observed as follows:

*“4. According to the learned counsel for the petitioner, though the petitioner has not produced the agreement with foreign buyers, the petitioner has filed Form-H and other documents in support of his claim and the order of the assessing authority without insisting those documents and by considering the production of agreement with foreign buyers, is unfair and arbitrary and is bad in law. This Court finds considerable force in such argument advanced on the side of the petitioner. **What is required on the part of the petitioner is to prove the factum of the transaction and once he is able to do so with sufficient and satisfactory documents, the value of the same is exempted from tax liability and no rule lays it mandatory to produce the agreement with the foreign buyers.** That being so, the failure on the part of the assessing authority to consider the documents already produced by the petitioner and to pass appropriate orders in the light of the same amounts to non-application of mind and the impugned order, which is the outcome of the same cannot be legally allowed to stand. The learned counsel for the petitioner has also in the course of hearing, produced the copy of the order passed by our High Court dated 30.08.2004 in W.P. No. 24354 of 2004 made in *M/S. Rolls Appliances (P) Limited v. The Commercial Tax Officer* and order dated 05.04.2004 in W.A. No.4 of 2003 in *M/S. South India Hosiery Manufacturers Association v. The State of Tamil Nadu and others*. The perusal of the orders reveal that identical issue was raised in both the matters before the Hon'ble Division Bench and the learned Single Judge*

and our High Court has in both the cases considering the submission made by the petitioners therein, set aside the identical impugned orders and remanded the matter to the assessing authority with liberty given to the petitioner therein, to produce sufficient materials to convince the assessing authority about the genuineness of the claim made by the petitioner. In my considered view, the petitioner herein, is also entitled to get such opportunity as such the impugned order passed by the appellate authority is hence to enable the petitioners to avail such opportunity, set aside.”

10.4. In the present case the transaction between the petitioner and the exporter has not been disputed or doubted. The Assessing Authority has rejected the claim of exemption on account of penultimate sale in the course of export under Section 5(3) by observing as follows:

*“*** The two requirements of sub-section (3) of Section 5 of the CST Act which have to satisfy for deeming the last sale or purchase of any goods within the State to be in the course of export are: (i) that such sale or purchase of the goods should take place after the agreement or order for or in relation to their export and (ii) such sale or purchase should take place for the purpose of complying with such agreement or order. Both the conditions have to be satisfied cumulatively. It is insufficient for the dealer to merely produce the Form H and the bill of lading because the most important evidence that is required to be produced as per requirements of law is the export agreement. The purpose behind the insistence on this provision is in order to ensure that there was not only in existence a valid agreement for export and an order but also to be able to identify the particular export goods and to establish a link or nexus between those goods and the export agreement. In this background, the dealer failed to establish the factum of export within the framework of the requirement of Section 5(3) of the CST Act. Therefore, the dealer’s claim for exemption under Section 5(3) of the CST*

Act is disallowed and the sale of groundnut kernel worth Rs.34,42,975.00 is subject to tax at the appropriate rate.”

10.5. Such a ground of rejection does not appeal this Court to be just and proper. None of the authorities including the learned Odisha Sales Tax Tribunal has noticed provision contained in sub-section (4) of Section 5. The agreement binds *inter se* parties, namely the exporter and the foreign buyer, and therefore, the penultimate supplier of goods to the exporter who is not privy to such contract cannot be supposed to furnish copy of the same. While the statutory provisions merely speak of furnishing of Form ‘H’ issued by the exporter to the penultimate seller (petitioner), without indicating any defect in such Form H, the assessing authority could not have insisted upon such document which is not in possession of the petitioner. From the portion of the Assessment Order which is extracted herein above it is clearly understood that the petitioner-dealer by filing copies of bill of lading could demonstrate that the goods supplied by him to the exporter in fact left the territory of India.

10.6. Be that be, the petitioner could manage to produce copy of agreement before the First Appellate Authority who discarded such evidence in absence of signature of foreign buyer on the agreement. The learned Odisha Sales Tax Tribunal also confirmed such a finding to disallow the claim of exemption by the petitioner. The orders speak of the petitioner having furnished the Form ‘H’ supported by copies of bill of lading and none of the authorities has pointed out any defect or deficiency with regard to supply of information as required in said form by the exporter. In absence of any contrary finding by the Revenue that the goods supplied by the

petitioner to the exporter has left for foreign destination, there is no scope to doubt the genuineness of transaction. Thus, the finding of fact by the learned Odisha Sales Tax Tribunal being perverse, is liable to be set aside, which this Court hereby does.

11. As regards question No.(b), it may be relevant to notice provisions of the statute.

11.1. Section 8(2) as it stood during the relevant point of time is reproduced hereunder:

“(2) The tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within sub-section (1), shall be at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State.

Explanation.—

For the purposes of this sub-section, a dealer shall be deemed to be a dealer liable to pay tax under the sales tax law of the appropriate State, notwithstanding that he, in fact, may not be so liable under that law.”

11.2. Section 5 of the Odisha Sales Tax Act provides for rate of tax and under Section 3B thereof the State Government is empowered to declare any goods or class of goods to be liable to tax on turnover of purchases. “Groundnut” is placed at Entry 14(i) of list of goods under the category of “oil seed” declared for levy of tax on purchase under the Odisha Sales Tax Act and subject to tax at the rate of 4% and said commodity is also declared under Section 14(vi)(i) of the CST Act as one of the items under the classification of “oil seed”. Therefore, groundnut sold in the course of inter-State trade or commerce attracts levy of tax @ 4%. However, if the “goods

manufactured by small scale industrial units when sold directly or marketed by Odisha Small Industries Corporation or National Small Industries Corporation after purchasing the same from such Small Scale Industrial units” in the course of inter-State trade or commerce, the same is subject to levy of “one percent” subject to condition of furnishing Form ‘C’ by virtue of Finance Department Notification No.14700-CTA-37/2001 (pt.)-F (SRO No.160/2001), dated 31.03.2001 with effect from 01.04.2001 issued in exercise of power under Section 8(5). “Two percent” is substituted for “one percent” *vide* Finance Department Notification No.26867-CTA-87/2005-F (SRO No.334/2006), dated 16.06.2006.

11.3. This takes this Court to find out whether decortication of groundnut pod to produce groundnut kernel is “manufacture” falling within the meaning of definition of said term as per Section 2(ddddd) of the Odisha Sales Tax Act. Section 2(ddddd) defines the term “manufacture” *inter alia* to mean “producing, extracting, altering, ornamenting, finishing or otherwise processing or adopting any goods”. Mere decortication would not lead to manufacture as no new commodity comes into existence. Mere change of form does not fall within said definition of the term “manufacture”.

11.4. The question arising for decision in *Tungabhadra Industries Ltd. Vrs. Commercial Tax Officer, Kurnool*, (1960) 11 STC 827 (SC) was whether hydrogenated oil continued to be groundnut oil. It was decided that hydrogenated groundnut oil continued to be groundnut oil. In arriving at that conclusion it was taken into consideration that the essential nature of the goods had not

been changed after the groundnut oil had been subjected to chemical process.

Similar view was taken in *State of Gujarat Vrs. Sakarwala Brothers, (1967) 19 STC 24 (SC)*, wherein the question whether patasa, harda and alchidana could be considered as 'sugar'. It was held that when sugar was processed into patasa, harda and alchidana, it did not change its essential characteristic. Its identity continued to be the same. In the same breath it can be said in the instant case that by decortication of groundnut pod the essential characteristic of the commodity does not change.

In *Sterling Foods Vrs. State of Karnataka, (1986) 63 STC 239 (SC)* the Hon'ble Supreme Court was called upon to decide whether raw shrimps, prawns and lobsters after suffering processing of cutting heads and tails, peeling, deveining, cleaning and freezing retain their original character or identity or become a new commodity to attract the applicability of Section 5(3) of the Central Sales Tax Act. In that case, the assessee was purchasing raw shrimps, prawns and lobsters for the purpose of fulfilling the existing contracts for export and after the said purchase, the assessee was subjecting the purchased goods to the process of cutting heads and tails, peeling deveining, cleaning and freezing before export. In such a fact-situation, the Supreme Court held that even after the above process of cutting heads and tails, peeling deveining, cleaning and freezing, the goods remained the same goods in commercial parlance and, therefore, the process to which the purchased raw shrimps, prawns and lobsters were subjected did not involve manufacturing activity.

In *Deputy Commissioner of Sales Tax Vrs. Pio Food Packers* (1980) 46 STC 63 (SC), what fell for consideration was whether the process adopted by the assessee to convert pineapple fruits into pineapple slices for the purpose of being sold in sealed cans for consumption involved manufacturing activity or not. The Supreme Court opined that the process did not involve manufacturing activity. The reason given by the Supreme Court in so opining is quite apposite which reads as under:

“The dealer and the consumer regard both as pineapple. The only difference is that the sliced pineapple is a presentation of fruit in a more convenient form and by reason of being canned it is capable of storage without spoiling. The additional sweetness in the canned pineapple arises from the sugar added as a preservative. On a total impression, it seems to us, the pineapple slices must be held to possess the same identity as the original pineapple fruit”.

In *State of Orissa Vrs. Satyanarayan Ramshankar*, (1987) 65 STC 268 (Ori) it has been observed that applying the process of cleaning and separating the “*chopa*” from “*dhania*” there was no material change in the nature of the commodity. Mere change in the shape of the original commodity would not attract contravention of declaration.

The Hon’ble Madhya Pradesh High Court has gone to observe in *Govindji Jamunadas Vrs. CST*, (1983) 53 STC 120 (MP) that when a new commercial product comes into existence, it is then and then alone that it can be said that a commodity ceased to be in the same form. It is always a question of fact and degree as to when application of certain processes leads to manufacture or production of a new commodity. If the commodity which is subjected to the

processes retains its identity, it cannot be said that a new commodity has come into existence.

11.5. In *State of Jharkhand Vrs. La Opala*, (2014) 70 VST 342 (SC) it has been observed that in taxing statute the terms and expressions must be seen in their common and popular parlance and not be attributed their scientific or technical meanings. In common parlance, the two words 'type' and 'form' are not of the same import. According to the *Oxford Dictionary*, whereas the meaning of the expression 'types' is 'kind, class, breed, group, family, genus'; the meaning of the word 'form' is 'visible shape or configuration of something' or the 'style, design, and arrangement in an artistic work as distinct from its content'. Similarly, *Macmillian Dictionary* defines 'type' as 'a group of people or things with similar qualities or features that make them different from other groups' and 'form' as 'the particular way in which something appears or exists or a shape someone or something.' Therefore 'types' are based on the broad nature of the item intended to be classified and in terms of 'forms', the distinguishable feature is the particular way in which the items exist. An example could be the item 'wax'. The types of wax would include animal, vegetable, petroleum, mineral or synthetic wax whereas the form of wax could be candles, lubricant wax, sealing wax, etc. Therefore, in view of decision rendered by the Hon'ble Supreme Court of India, reliance placed by Sri Jagabandhu Sahoo, learned Senior Advocate on *State of Odisha Vrs. Haji Ebrahim Haji Jamal Noor Mohammed and Co.*, (1975) 35 STC 275 (Ori) is inappropriate. In the case of *Haji Ebrahim Haji Jamal Noor Mohammed and Co. (supra)*, the decision turned on the fact that "Black gram and green gram were converted into dal which was

sold inside Odisha. But the goods were not sold in the same form and the declaration was infringed inasmuch as such goods as purchased were not sold inside Odisha as undertaken". The said case is distinguishable on facts and interpretation put forth by the Hon'ble Supreme Court is subsequent to said decision. In the case of *Azad Coach Builders Pvt. Ltd. Vrs. State of Karnataka, (2001) 123 STC 473 (Kar)*; affirmed in *State of Karnataka Vrs. Azad Coach Builders, (2010) 36 VST 1 (SC)* rendered in the context of exemption claimed under Section 5(3) of the CST Act can be referred to. In this case on the fact that an exporter-manufacturer of bus chassis in the State of Tamil Nadu after securing order for export of buses, sends the chassis to a dealer in Karnataka for supply of bus bodies and the supplier of bus bodies after fitting on chassis delivered the same at a sea port for export, it was held that the dealer of bus bodies is entitled to exemption for the supply of bus bodies as a penultimate sale under Section 5(3) of the Central Sales Tax Act.

11.6. "Manufacture" implies a change but every change is not "manufacture", and yet every change of an article is the result of treatment of labour and manipulation. Processing essentially effectuates a change in form, contour, physical appearance or chemical combination or otherwise by artificial or natural means and in its more complicated form involves progressive action in performing, producing or making something. Thus, a statute is required to be interpreted strictly and the definition clause must be examined in a correct perspective giving the meaning of each word contained therein. Reference is made to *Saraswati Sugar Mills Vrs. Haryana State Board, AIR 1992 SC 224; CCE Vrs. Tarpaulin*

International, (2010) 34 VST 97 (SC); *Sonebhadra Fuels Vrs. Commissioner of Trade Tax*, (2006) 147 STC 580 (All).

11.7. What is stated in unambiguous terms in *Deputy Commissioner of Sales Tax Vrs. Coco Fibres*, (1991) 80 STC 249 (SC) and *Orient Paper & Industries Ltd. Vrs. State of Madhya Pradesh*, (2006) 148 STC 649 (SC) that by manufacture something is produced and brought into existence which is different from that out of which it is made in the sense that the thing produced is by itself a commercial commodity capable of being sold or supplied. The material from which the thing or product is manufactured may necessarily lose its identity or may become transformed into the basic or essential properties.

11.8. A pertinent observation in the matter of *Motilal Hariprasad and Brothers Vrs. The State of Andhra*, (1955) 6 STC 654 (Andhra) deserves mention for the present purpose. In the said reported case a Division Bench of the Hon'ble High Court of Andhra way back on 11th July, 1955 observed as follows:

“*** But it is contended that Rule 4(2) applies only to groundnut but not to groundnut kernel and support is sought to be derived for this contention from the omission of the word ‘kernel’ in Rule 4(2)(a) and the specific inclusion of it in Rule 18(2). It is also said that whenever kernel is intended to be included, the rules expressly provide for it as in the case of cotton.

We cannot accept the argument. Groundnut is a more comprehensive term, which obviously takes in kernel. The word groundnut is used to connote both the shell and the kernel within it. We cannot discover any reason nor is any suggested to us, why the rule should make a distinction between groundnut and groundnut kernel and why

*groundnut should be taxed at the purchase point and groundnut kernel at sale point. ****

Our conclusion is also in accord with the view expressed by a Division Bench of the Madras High Court in Radhakrishna Groundnut Oil Mill Vrs. State of Madras, (1954) 2 MLJ 550 = 5 STC 357 (Mad). Rajagopalan, J., negating a similar contention, says at page 551 as follows:

*‘Groundnut kernel is certainly part of groundnut’
***’’*

11.9. Taking into consideration aforesaid discussions made in different decisions, this court is of the opinion that after decortication of the groundnut into kernel, one may not find any qualitative difference in the kernel itself. There will not be any qualitative difference in the kernel as such before or after decortication. Under the above premise, applying the ratio of aforesaid decisions, it can safely be concluded that on decorticating groundnut pod, there may be change in “form” but not “type”. Therefore, there being no manufacturing activity carried on in producing groundnut kernel by decorticating groundnut pod, the inter-State sale of groundnut kernel after decorticating cannot be subject to benefit of concessional rate of tax as contained in Finance Department Notification No.14700-CTA-37/2001 (pt.)-F (SRO No.160/2001), dated 31.03.2001 with effect from 01.04.2001 issued in exercise of power under Section 8(5) read with Finance Department Notification No.26867-CTA-87/2005-F (SRO No.334/2006), dated 16.06.2006.

12. For the reason stated above, whereas question No.1 is answered in the negative in favour of the petitioner-assessee and against the

Revenue; question No.2 is in the affirmative in favour of the Revenue and against the petitioner-assessee.

13. Therefore, matter is remitted to the Assessing Authority to examine the Form H supported by the documents furnished and to be furnished by the petitioner and determine the tax liability afresh.

14. With the aforesaid observation, the STREV is, accordingly, disposed of.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

Laxmikant

