

IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.164 of 2007

State of Orissa represented by the *Petitioner*
Commissioner of Sales Tax, Orissa

Mr. Sunil Mishra, Additional Standing Counsel

-versus-

The Divisional Manager, Orissa Forest *Opposite Party*
Development Corporation Ltd.

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
13.04.2022

Order No.

05. 1. Mr. Sunil Mishra, learned Additional Standing Counsel for the Petitioner-Sales Tax Department refers to the judgments of this Court in *Similipahar Forest Development Corporation Limited v. State of Orissa (1995) 96 STC 627* as well as *A.V. Thomas & Co. Ltd. v. Deputy Commissioner of Agricultural Income Tax & Sales Tax, Trivandrum AIR 1964 SC 569* to urge that the auction sale of timber by the Assessee-OFDC would amount to an intra-state sale and not an inter-state sale even if it is made to purchasers from outside Odisha.
2. This Court has on 3rd May 2008 already framed the following question of law for consideration:

“Whether on the facts and in the circumstances of the case, the finding of the Tribunal in holding that the transaction of auction sale effected by the Assessee is without link between sale and movement of the goods is correct?”

3. The sole Opposite Party-OFDC has already been served. In fact, at one stage, Mr. Basudev Panda, learned Senior Advocate had filed the appearance. Today, however, his associate Mr. B. Panda, learned counsel states that they have been disengaged and perhaps new panel of lawyers have been engaged for OFDC. However, today, none is appearing on behalf of OFDC.

4. With the position in law being clear by virtue of the aforementioned two decisions, the question framed is answered in favour of the Department and against the Assessee by holding that the Tribunal erred in treating the auction sale effected by the Assessee as an inter-state sale when in fact it was an intra-state sale.

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

6. Urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Guin