IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4313 of 2014

M/s. Kalinga Sponge Iron Ltd., Sundargarh .... ***Petitioner***

Mr. Sidhartha Ray, Advocate

-versus-

Commissioner of Commercial Taxes, Orissa, Cuttack and another .... ***Opposite Parties***

Mr. S.K. Pradhan, Additional Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
12.12.2022

Order No.

06. 1. Notice was issued in the present petition which challenges an assessment order dated 20th June, 2013 passed under Section 43 of the Orissa Value Added Tax Act, 2004 (OVAT Act) for the period of 1st April, 2007 to 31st March, 2011 on 2nd July, 2014. On the same day, an interim order was passed staying the said assessment order.

2. Despite lapse of over eight years now, no counter affidavit has been filed.

3. In particular, there is no denial of the averment of the Petitioner that prior to the proceedings under Section 43 of the OVAT Act for the aforementioned period, even before the completion of the self-

assessment as well as the audit assessment. This averment in Para-3.5, 3.7 and 4.2 has remained uncontroverted.

4. In view of the legal position explained by this Court in ***Keshab Automobiles v. State of Odisha*** (Order dated 1st December, 2021 in STREV No.64 of 2016) which has been upheld by the Supreme Court of India, the impugned assessment order cannot obviously be sustained in law and is accordingly hereby set aside. The consequential demands raised are also hereby quashed.

5. Accordingly, the writ petition is allowed in the above terms but, in the circumstances with no order as to costs.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S. Behera