IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 41 of 2012

Tata Sponge Iron Ltd. .... ***Petitioner***

Mr. B. Mohanti, Senior Advocate

-versus-

State of Odisha, represented by the Commissioner of Sales Tax .... ***Opposite Party***

Mr. Sunil Mishra
Additional Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
16.08.2022

Order No.

02. 1. This is the Assessee's revision petition arising out of an order dated 12th January 2012, passed by the Sales Tax Tribunal, Orissa, Cuttack in S.A. No.2(C) of 2001-02.

2. The question sought to be urged for consideration by the Assessee is whether the Sales Tax Department (hereinafter Department) is justified in levying the Central Sales Tax (CST) on "estimated turnover of rejected goods"?

3. The rejected goods in question are 'iron ore fines' and 'iron ore lumps' which admittedly are produced in the course of the Petitioner's main manufacturing activity.

4. While the debate before the Sales Tax Officer (STO) and thereafter the ACST and the Tribunal turned on whether the above products were to be categorized as 'by-products' as claimed by the

Department, or just as incidental products as claimed by the Petitioner Assessee, the fact remains that there was nothing on record before the STO to show that these incidental products had actually been accounted for in the determination of taxable turnover by the Petitioner.

5. The concurrent finding in this regard is that in the absence of the Petitioner accounting for the quantities of the incidental products, the Department had to resort to an estimation and levy tax at 1% of the turnover determined by including the quantities of such incidental products.

6. Having heard Mr. B. Mohanti, learned Senior Counsel for the Petitioner and Mr. Sunil Mishra, learned Additional Standing Counsel for the Department, the Court is not persuaded to come to a conclusion different from that concurrently reached by the STO, the ACST and the Tribunal. The decision seems to have turned on a purely factual basis with the Petitioner not accounting for the above products in its taxable turnover. Consequently, the question is answered against the Assessee and in favour of the Department.

7. Accordingly, the revision petition is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S. Behera