IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.19 of 2015

M/s. Shiv Shakti Trading Co. .... ***Petitioner***

Mr. B. Panda, Advocate

-versus-

State of Odisha .... ***Opposite Party***

Mr. S. K. Pradhan, Additional Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
06.12.2022

Order No.

07. 1. While admitting the present revision petition on 10th November 2015, the following question of law was framed for consideration:

> "Whether in the facts and circumstances of the case, the Tribunal was justified to hold re-assessment under Section 43 of the OVAT Act to be legally sustainable in absence of valid assessment made under Section 39 (2) of the OVAT Act without mentioning date, month and year in the so called order passed?"

2. In view of the decision of this Court dated 1st December 2021 in STREV No.64 of 2016 read with a subsequent order dated 8th April, 2022 in STREV No.64 of 2016 ***(M/s. Keshab Automobiles v. State of Odisha)***, which has been affirmed by the Supreme Court of India in ***Deputy Commissioner of Sales Tax v. M/s. Rathi Steel and Power Limited*** by order dated 13th July, 2022 in Special Leave to Appeal (C) No.9912 of 2022, the question is answered in the negative i.e., in favour of the Petitioner-Dealer and against the Department.

3. The revision petition is allowed in the above terms. LCR be returned forthwith.

4. Issue urgent certified copy of this order as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

S. K. Guin