IN THE HIGH COURT OF ORISSA AT CUTTACK
O.J.C. No. 11733 of 2001

M/s. Chandi Khadya Bhandar, Cuttack …. ***Petitioner***
Mr. A. Mohanty, Advocate

-versus-

Tax Recovery Officer, Cuttack and Others … ***Opposite Parties***
Mr. S.S. Padhy, Addl. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
11.07.2022

Order No.	
22.	1. The present petition challenges an attachment notice dated 10th July, 2001 issued by the Tax Recovery Officer, Cuttack.

2. While issuing notice in the present petition on 7th December, 2001 this Court directed that the present petition would be heard along with OJC No.6414 of 2001. On 19th December, 2002 it was directed that no coercive action would be taken against the Petitioner.

3. The Court has been informed that OJC No.6414 of 2001 was filed to challenge the original assessment order dated 26th March, 2001 passed under Section 12(4) of the Orissa Sales Tax Act, 1947 (OST Act) for the year 1997-98. That writ petition stood disposed of as withdrawn by an order dated 12th April, 2019 of this Court permitting the Petitioner to approach the Appellate Authority.

4. Pursuant thereto, the Petitioner filed an appeal which has come to be allowed on 18th November, 2019 by the Joint Commissioner

of Sales Tax (Appeal), C.T. and G.S.T. Territorial Range, Cuttack. The operative portion of the said order reads as under:

> "In the result, the assessment is set-aside with an instruction to the learned Assessing Officer of Cuttack-I East Circle, Cuttack to complete the assessment of the dealer afresh on the basis of above observations as expeditiously as possible, within a period of three months from the date of receipt of this order. The appeal is disposed of accordingly."

5. Learned counsel for the Petitioner informs the Court that the fresh assessment is yet to be completed pursuant to the above order.

6. Inasmuch as the assessment order pursuant to which the impugned attachment notice has been issued has been set aside, it is plain that the attachment notice cannot survive in the eyes of law. Accordingly, the impugned attachment notice dated 10th July, 2001 and all proceedings pursuant thereto, (Annexures I and II) are hereby quashed. It will be open to the Department to take appropriate steps depending the outcome of the fresh assessment proceedings.

7. The writ petition is disposed of in the above terms. An urgent certified copy of this order be issued as per Rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/Secy.