IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 18698 of 2015

M/s. Bateman Engineering (India) Private Limited .... ***Petitioner***

Mr. Subash Ch. Lal, Advocate

-versus-

Commissioner of Sales Tax, Orissa and others .... ***Opposite Parties***

Mr. S.K. Pradhan, Additional Standing Counsel
& Mr. Sunil Mishra, Additional Standing Counsel
For Revenue Department

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
20.12.2022

Order No.

04. 1. The challenge in the present writ petition is to an assessment order dated 11th September, 2015 passed by the Deputy Commissioner of Sales Tax, Barbil under Section 42 of the Orissa Value Added Tax Act, 2004 (OVAT Act) for the tax period from 1st April, 2011 to 31st March, 2013.

2. While directing notice to issue in the present writ petition on 4th November, 2015 this Court stayed the demand raised by the said order.

3. The facts in brief are that a notice was issued in Form VAT 301 on 5th October, 2013 fixing the date of the audit visit as 24th October, 2013. The Petitioner states that it produces the required documents for the purpose of audit. The audit was completed and

the Audit Visit Report (AVR) was submitted on 7th April, 2014. On that basis, a notice in Form VAT IV was issued to the Petitioner by the Department on 17th September, 2014.

4. Mr. Sunil Mishra, learned Additional Standing Counsel appearing for the Opposite Party-Department informs the Court by perusing the original record that the AVR is received on 14th May, 2014.

5. The mandatory nature of the time limits set out in Section 41(4) of the OVAT Act that the report must be submitted within seven days of the conclusion of the audit visit has been emphasized by this Court in its order, in the context of an identical provision i.e. Section 9-B (2) of the Orissa Entry Tax Act, 1999 (OET Act), in an order dated 28th June, 2022 in W.P.(C) No.9856 of 2010 (***M/s. Grihasthi Udyog v. Commissioner of Sales Tax***).

6. With the said time limit not having been adhered to as far as the present case is concerned, the Court has no hesitation in concluding that all proceedings consequent to the said AVR including the impugned assessment order are unsustainable in law. The impugned assessment order and all proceedings and orders consequent thereto are accordingly set aside.

7. 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