IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.105 of 2017

M/s. Jagannath Steels	....	***Petitioner***
	M/s. B.P. Mohanty, Advocate and associates	
	-versus-	
State of Odisha	....	***Opposite Party***
	Mr. Sunil Mishra, A.S.C.	

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
15.12.2022

Order No.

05. 1. While admitting the present revision petition on 12th March 2018, the following questions were framed for consideration:

> (i) Whether on the facts and in the circumstances of the case, the Assessment made U/s.43 of the OVAT Act for the tax period 01.04.2007 to 31.10.2010 is valid and sustainable in the eyes of law admitting when no assessment was made for the tax period 01.11.2009 to 31.10.2010 U/s.39 or 42 of the OVAT Act as legally required U/s.43 (1) of the OVAT Act ?
>
> (ii) Whether on the facts and in the circumstances of the case the Tribunal is justified in upholding the allegation of suppression of purchase or sales particularly when complete sets of books of accounts were examined in detail at the first appellate stage who came to the concrete finding that there is no scope of evasion of tax and to suppress the purchases or sales as well ?

2. It is pointed out at the outset by Mr. Mohanty, learned counsel appearing for the Petitioner that in question No.(i), the mention of

the period as "01.11.2009 to 31.10.2010" is a typographical mistake and should be read as "01.04.2007 to 31.10.2010".

3. In terms of the judgment 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 above question No.(i) is answered in the negative i.e., in favour of the Assessee and against the Department. In view of the answer to question No.(i), as a result of which the impugned order of the Tribunal and corresponding orders of the DCST and STO are set aside, there is no need to answer to question No.(ii).

4. The revision petition is allowed in the above terms.

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

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Guin