IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No.8 of 2012

State of Odisha .... ***Petitioner***

Mr. S. Mishra, Sr. Standing Counsel

-versus-

M/s. Rashi Steels, Rourkela .... ***Opp. Party***

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK

ORDER

05.07.2022

Order No.

04. 1. The State has filed this revision petition against an order dated 23rd December, 2011 passed by the Orissa Sales Tax Tribunal ('Tribunal') allowing the Assessee's appeal in S.A. No.49(C) of 2009-10 for the year 2002-03.

2. The Assessee carries on business in trading iron and steel goods. On picking up the Assessee's return for the period in question for scrutiny, the Sales Tax Officer (STO) noticed short levy of Central Sales Tax (CST) due to irregular exemption in the sum of Rs.15,48,000/-. The dealer had been allowed the said exemption on sale of iron and steel goods as first point tax paid goods. Accordingly, the case was reopened and the STO completed the assessment on ex parte basis raising a tax demand of Rs.15,47,747/-.

3. The Assistant Commissioner of Sales Tax (ACST) in the appeal filed by the Assessee held that in terms of an amended provision of Section 8(5) of the CST Act with effect from 1st April, 2002, the Assessee is required to produce the declarations

in Form-C to avail exemption from the levy of tax. The declarations in Form-C were then produced, which were examined and found to be in order. Nevertheless, the ACST only reduced the tax demand to Rs.9,80,756/-.

4. The Assessee then went appeal before the Tribunal. As noted by the Tribunal, the Finance Department Notification dated 6th April, 1991 laid down certain conditions for excluding iron and steel from payment of tax. Condition No.3 required submission of declaration of Form-C. However, this condition was deleted by another Notification dated 16th September, 1994. This requirement was reintroduced by another amendment dated 13th October, 2003. In other words, during the period from 16th September, 1994 till 13th October, 2003 a person dealing in iron and steel was not required to file declarations in Form-C for claiming exemption. The period in question being 1st April, 2002 to 31st March, 2003 the Assessee here was not required to file such declaration.

5. The above legal position being clear, the Tribunal was justified in allowing the Assessee's appeal and deleting the demand. No substantial question of law arises. The revision petition is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

KC Bisoi