IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 11 of 2015

M/s. Damas Kaushal Food & Beverages .... ***Petitioner***

Mr. B. Panda, Advocate

-versus-

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

Mr. Susanta Kumar Pradhanm, ASC

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
24.11.2022

Order No.

02. 1. Heard.

2. Admit.

3. The following question of law is framed for consideration by this Court:

> "Whether in the facts and circumstances of the case, the learned Tribunal is justified to hold that the re-assessment U/s. 43 of the OVAT Act is legally sustainable under the law in absence of valid assessment made U/s. 39 of the OVAT Act?"

4. The above question stands answered in favour of the Assessee and against the Department by this Court vide the judgment dated 1st December, 2021 in STREV No.64 of 2016 (***M/s. Keshab Automobiles v. State of Odisha).***

5. The order sheet, which is at Annexure-5 reveals that there is no communication to the Petitioner of the acceptance of self-assessment.

6. In that view of the matter, the question of law framed is answered in the negative i.e. in favour of the Assessee and against the Department. The impugned order of the Odisha Sales Tax Tribunal and the corresponding orders of the First Appellate Authority are, accordingly, set aside.

7. The STREV is allowed in the above terms. No order as to costs.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

MRS/Laxmikant