IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7117 of 2004

M/s. Premier Cables and Conductors Pvt. Ltd., Bhubaneswar and another .... ***Petitioners***

Mr. Amit Pattanaik, Advocate

-versus-

M/s. National Aluminium Company Ltd., (NALCO) Bhubaneswar and others .... ***Opposite Parties***

Mr. B. K. Sharma, Advocate for NALCO and
Mr. S. S. Padhy, ASC for Sales Tax Department

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAIK

<u>ORDER</u>
08.02.2022

<u>Order No.</u>

13. 1. The prayer in the present writ petition is for a direction to the Sales Tax Department to refund to the Petitioner a sum of Rs.3,41,253.20, which the Opposite Party No.1-NALCO had deposited with the Sales Tax Officer (STO), Angul Circle, Dhenkanal-Opposite Party No.4.

2. In the counter affidavit filed by NALCO, it is stated in Paras-3 and 4 as under:

> "3. That on 1.5.1999 Despatch Instruction No.6010076 and on 26.5.1999 another Despatch Instruction No.6010165 were issued in favour of the petitioners. At the time of issuance of Despatch instruction, the petitioners had not submitted I-D Form (to avail sales tax exemption) and as a result of which 4% tax has been

> levied on sale of raw-materials by the Opp. Party no.1-Company.
>
> 4. That since the petitioners have failed to produce the requisite I-D Form which would have entitled them to avail the sales tax exemption, the Opp. Party No.1-company had no other option but to levy and collect appropriate rate of tax on sale of raw-materials to the petitioners. The entire amount towards sales tax collected by the Opp. Party no.1-company from the Petitioners has been deposited with the Sales Tax Authorities."

3. No rejoinder has been filed countering to the above averments of NALCO. It is thus not in dispute that the Petitioner failed to submit the I-D Form for availing of sales tax exemption at the time of issuance of the despatch instructions. In that view of the matter, the NALCO cannot be faulted for collecting 4% tax and depositing it with the STO.

4. With the facts not in dispute, there is no occasion for this Court to grant the prayer made in the present petition. The writ petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda