IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9712 of 2019
&
I.A. No. 13065 of 2022

Brace Iron & Steel Private Limited ... ***Petitioner/Applicant***
Mr. Rudra Prasad Kar, Advocate
& Mr. Anup Narayan Mohanty, Advocate

-versus-

State of Odisha & Others ... ***Opposite Parties***
Mr. Sunil Mishra,
Additional Standing Counsel
for CT & GST Organization

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
23.09.2022
I.A. No. 13065 of 2022
&
W.P.(C) No.9712 of 2019

Order No.

05. This matter is taken up by virtual/physical mode.

1. Challenge is laid to the order dated 15th March, 2019 passed by the Deputy Commissioner of Sales Tax, Dhenkanal Circle, Dhenkanal under Section 43 of the Odisha Value Added Tax Act, 2004 (in short "OVAT Act") pertaining to the tax periods from 20th February, 2015 to 30th September, 2015 raising a demand to the tune of Rs.8,29,36,500/- including penalty under Section 43(2). The Petitioner has preferred this writ petition alleging that by way of Asset Purchased Agreement dated 23.02.2015 with M/s. Bhushan Steel Limited, machinery and equipments with accessories of Oxygen Plant were transferred and the same were again taken back by virtue of Lease Agreement. The grievance of the Petitioner is that the Assessing Authority failed to appreciate the transactions in proper perspective and refused to allow input tax credit on the sale and purchase transaction. By doing so, the Authority raised huge arbitrary demand of tax and imposed penalty mechanically.

2. Today I.A. No. 13065 of 2022 is listed, wherein the Petitioner has prayed for withdrawal of the writ petition with leave to file better petition with additional materials.

3. Upon notice of the application, Mr. Sunil Mishra, Additional Standing Counsel appeared for the Opposite Parties and has no objection if the main case is ordered to be taken up along with I.A. today itself. He has also no objection if writ petition is disposed of in terms of the prayer made in the I.A.

4. Ordered accordingly for taking up the main case for hearing today.

5. Mr. Rudra Prasad Kar, Advocate for the petitioner referring to Paragraph 2 of Application for withdrawal submitted that after the brief being transferred from earlier set of lawyers, on perusal of pleadings it is found that due to inadvertence certain mistakes have crept in which requires amendment of the writ petition. Therefore, he prayed for liberty to file fresh writ petition.

6. The prayer in I.A. is considered and the same is allowed. As a consequence, the writ petition is allowed to be dismissed as withdrawn with liberty to file a fresh petition on the same cause of action with better particulars.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Laxmikant September 23, 2022 Cuttack