

IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 32 of 2015

M/s. Shivam Agro

..... *Petitioner*

Mr. R.P. Kar, Advocate

-versus-

*State of Odisha, represented by the ...
Commissioner of Sales Tax*

Opposite Party

Mr. S.K. Pradhan, Addl. Standing Counsel

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

Order No.

**ORDER
12.12.2022**

07. 1. On being mentioned, the matter is taken up today.
2. Perused the memo filed today in Court. The Court clarifies that after para 4 of the order dated 7th December, 2022; the following para will be added as para 5 and the existing para 5 will be renumbered as para 6:
- “5. It will be open to the Assessee now to apply for refund of any excess amount paid by it in accordance with law.”
3. Accordingly, the order dated 7th December, 2022 is modified as under:
- “1. Admit.
2. The following question is framed for consideration by this Court:
- “Whether ‘Chokad’ is exigible to Entry tax as per Entry 66 of the Part I of the Schedule appended to the Orissa Entry Tax Act ?

3. The above question now stands answered in favour of the Assessee by virtue of the judgment dated 2nd August, 2022 in STREV No.31 of 2011 (*State of Odisha v. M/s. Geetashree Industries*). Accordingly, the said question is answered in the negative i.e. in favour of the Petitioner-Assessee and against the Department.

4. As a result, the impugned order of the Tribunal upholding the liability under the OET Act against the present Petitioner is hereby set aside. The consequential imposition of penalty by the Tribunal under Section 9C (5) of the OET Act is also hereby set aside.

5. It will be open to the Assessee now to apply for refund of any excess amount paid by it in accordance with law.”

6. The revision petition is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.”

4. The order dated 7th December, 2022 is modified to the extent indicated above.

5. Remove the already uploaded order dated 7th December, 2022 from the website and corrected order be uploaded.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Jena/Secy.