IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 50 of 2019

M/s. Vijay Enterprises .... ***Petitioner***

Mr. Sidhartha Ray, Senior Advocate
Mr. K.K. Sahoo, Advocate

-versus-

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

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

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
06.02.2023

Order No.

04. 1. The present revision petition is restored in view of the order passed today in CMAPL No.58 of 2023.

2. Admit.

3. The following questions of law are framed for consideration by this Court:

> "Whether in the facts and circumstances of the case, learned Tribunal was justified in remanding the case to the learned Assessing Officer when it was found that the assessment under Sections 39, 41 and 42 of the OVAT Act ?"

4. Having heard learned counsel for the parties, it is seen that in view of the judgment of this Court dated 1st December, 2021 read with a subsequent order dated 8th April, 2022 in STREV No.64 of 2016 ***(M/s. Keshab Automobiles v. State of Odisha)***, which has been affirmed by the Supreme Court of India in ***Deputy Commissioner of Sales Tax v. M/s. Rathi Steel and Power Limited*** by order dated 13th July, 2022 in Special Leave to Appeal (C) No.9912 of 2022, the

above question is answered in the negative i.e., in favour of the Assessee and against the Department.

5. Consequently, the impugned order of the Tribunal and the corresponding orders of the First Appellate Authority and the Assessing Officer are hereby set aside. The revision petition is disposed of in the above terms.

6. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M.S.Raman)
Judge

S.K. Jena/Secy.