

IN THE HIGH COURT OF ORISSA AT CUTTACK

STREV No. 79 of 2011

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

Mr. Sunil Mishra, Addl. Standing Counsel

-versus-

M/s. Chief Construction Engineer ... **Opposite Party**
(Mech)

None

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

Order No.

ORDER
04.07.2022

05. 1. The State has filed this revision petition against an order dated 9th June, 2011 passed by the Orissa Sales Tax Tribunal, Cuttack (Tribunal) dismissing the State's appeal being S.A. No.99(C) of 2001-02.
2. The question sought to be urged for consideration by this Court in the present revision petition is "*whether the Tribunal was justified in agreeing with the Assessee that the Sales Tax Officer was in error in holding that the goods purchased from outside the State of Odisha on the strength the declaration forms 'C' were not utilized for the purpose for which the goods so purchased*".
3. It is seen from the facts of the case that the purchase of the goods was for the purpose of generation of electricity. Prior to imposing the penalty, the STO apparently issued show cause notice to which the Assessee filed a reply. The reply was not

accepted by the STO on the ground that it was not satisfactory. The fact of the matter is that in reply the Assessee pointed out the goods purchased on the strength of 'C' form were utilized "by the divisions" under the Project for gate work, Indiravati Dam, Muran Dam, Construction of Tunnel Dyke Works Colony Road and for running of transport and inspection vehicles." All of the above works are only for generation of electricity at Indiravati Dam and therefore, it cannot be said that the goods purchased were not used for generation of electricity. There is no justification therefore, the STO holding that the dealer had contravened Section 10(d) of the CST Act and imposing a penalty. The Tribunal has rightly interfered with the impugned orders of the STO and the ACST and to decide the issue in favour of the Assessee. The Court is therefore not inclined to frame the question as urged by the State.

4. The revision petition is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/Secy.