IN THE HIGH COURT OF ORISSA AT CUTTACK
STREV No. 488 of 2008

M/s. Garg Trading Co. Ltd. .... ***Petitioner***

Mr. R.P. Kar, Advocate

-versus-

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

Mr. S.S. Padhy, Addl. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
18.05.2022

Order No.

03. 1. Challenge in the present revision petition is to an order dated 20th May, 2008 passed by the Full Bench of the Orissa Sales Tax Tribunal, Cuttack (Tribunal) in S.A. No.818 of 1999-2000 for the year 1995-96.

2. Admit.

3. The following question of law is framed for consideration by this Court:

> "Whether the Tribunal is justified in sustaining the enhancement of the gross turnover (GTO) by Rs.10 lakh whereas the actual suppression worked out to Rs.66,435/- ?"

4. The operative portion of the order of the Tribunal reads as under:

> "7. The learned ACST has not quantified the total suppression but the learned counsel for the dealer has submitted that even if the allegations are taken to be true then also the price of 134 cartoons of

glazed tiles was about Rs.22,000/- under-invoicing of bath tub to the tune of Rs.43,715 and non-entry of purchase bill for Rs.720/- which in total comes to Rs.66,435/- and the enhancement of GTO at Rs.17,00,000/- in the facts and circumstances of the case is highly unreasonable. We find some force in the contention of the learned counsel. Taking into consideration the returned GTO of the dealer, the nature of transaction and the nature of allegation in the fraud case report and amount of suppression established. We, in our considered view, feel that the enhancement of GTO by Rs.10,00,000/- will meet the ends of justice. The stand of the Revenue that the learned ACST has unreasonably reduced the enhancement of GTO has got no basis at all."

5. Having heard learned counsel for the parties, the Court is of view that the enhancement up to an extent of ten times the amount suppression would serve the ends of justice. Accordingly, the enhancement of the GTO is reduced to Rs.6,64,350/-. The question is accordingly answered. The revision petition is disposed of in the above terms.

6. Any excess payment collected from the Petitioner will be refunded to it in accordance with law at the earliest and in any event not later than eight weeks from today.

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

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/Secy.