**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No. 23338 of 2021**

***M/s. Sky Automobiles*** .... ***Petitioner***

Mr. R.P. Kar, Advocate

*-versus-*

***The Deputy Commissioner of Sales Tax, Cuttack and Others*** ... ***Opposite Parties***

Mr. Sunil Mishra, Addl. Standing Counsel

**CORAM:**
**THE CHIEF JUSTICE**
**JUSTICE M.S. RAMAN**

**ORDER**
**13.12.2022**

**Order No.**

06. 1. The challenge in the present petition is to an order dated 16th August, 2017 passed by the Deputy Commissioner of Sales Tax, Cuttack-II Circle, Cuttack (DCST) upholding the demand for interest under Section 13(6) of the Orissa Sales Tax Act, 1947 (OST Act) for the period from 1st January, 2002 to 31st March, 2002. By the said order, the Petitioner was asked to pay interest the amount of Rs.5,36,189/- within seven days. The challenge has also been made to the revisional order dated 7th April, 2021 of the Additional Commissioner of Sales Tax, Territorial Range, Cuttack-II upholding the above order.

2. While directing notice to issue in the present petition on 9th September, 2021 the Court had further directed that subject to the Petitioner paying the Opposite Party 50% of the demanded amount in terms of the impugned order dated 16th August, 2017 of the DCST within a period of four weeks there would be a stay of the recovery of the balance amount. Mr. R.P. Kar, learned counsel appearing for the Petitioner confirms that the aforesaid interim order of this Court has been complied with by the Petitioner by paying 50% of the demanded amount to the Department.

3. One of the contentions raised is regarding the manner of computation of the amount on which interest is payable by the Petitioner. Another issue raised is whether the Petitioner would at all be liable to pay interest?

4. As regards the contention that the Petitioner had already paid certain amounts even before the order dated 16th August, 2017 it appears that the said fact has not been taken note of either by the order of the DCST or the revisional order. In particular, Mr. Kar pointed out how the Petitioner had in fact made payment to Rs.1,80,000/- during pendency of the second appeal on or before 16th January, 2004 but this amount was not taken into account while computing the interest payable.

5. Having heard learned counsel for the parties, the Court is of the view that the issue of levy of interest itself is required to be revisited by the Department in the facts and circumstances set out by the Petitioner in the present petition. Accordingly, while setting aside

the impugned order dated 16th August, 2017 and the consequential revisional order dated 7th April, 2021 the Court remits the matter to the DCST for re-determining whether at all any interest is payable and if payable the amount on which interest should be paid.

6. The matter will now be listed before the DCST on 1st February, 2023 on which date the Petitioner will remain present through an authorized representative. After hearing the Petitioner the DCST will pass a fresh order specifically dealing with the above two issues pointed out in this order. The fresh order will be passed by the DCST within a period of three months thereafter.

7. The Court clarifies that it has not expressed any opinion on the merits of the two issues as pointed out in this Court

8. The writ petition is disposed of in the above terms. 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.*