
(2008) 08 OHC CK 0106
In the Orissa High Court

Chowhan Machinery Mart

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 12-08-2008

Acts Referred:

Central Sales Tax Act, 1956 — Section 10, 8

Citation : (2008) CLT 327 Supp : (2008) 2 OLR 942 Supp : (2009) 19 VST 178

Hon'ble Judges : B.S. Chauhan, C.J;B.N. Mahapatra, J

Bench : Division Bench

Judgement

B.N. Mahapatra, J.—The grievance of the petitioner is that the Commercial Tax Officer, Sambalpur-I Circle, Sambalpur-O. P. No. 3 (hereinafter referred to as, "the CTO") and Sales Tax Officer, Ward D, Sam-balpur I Circle, Sambalpur-O. P. No. 4 (hereinafter referred to as "the STO") have illegally refused to issue declaration forms "C" to which the petitioner is entitled in terms of Section 8 of the Central Sales Tax Act, 1956 (hereinafter referred to as, "the CST Act") read with Rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 [hereinafter referred to as, "the CST (R&T) Rules] to purchase goods from outside State at a concessional rate of tax, on the ground that the petitioner has not paid entry tax under the Orissa Entry Tax Act, 1999 (hereinafter referred to as, "the OET Act") and Rules framed thereunder.

2. The petitioner's case, in a nutshell, is that it is a registered dealer under the provisions of the Orissa Value Added Tax Act, 2004 (hereinafter referred to as, "the OVAT Act") bearing Registration Certificate No. 21481702909, CST (R&T) Rules, 1957 bearing Registration Certificate No. SAIC1289 and OET Act. It deals with rice huller, flour mills, hand tools, domestic grinders, belting, manually operated agricultural implements, ball bearings, etc. According to it, none of these items are manufactured in Orissa, for which, it purchases them from outside States in course of inter-State trade and commerce. The petitioner applied to opposite party No. 4 for supply of one book of "C" forms vide application dated April 17, 2008 (annexure 1). On April 23, 2008, O. P. No. 4

passed order to ask the petitioner to explain about non-payment of Orissa Entry Tax Act, OVAT Act and to consider issue of ten sheets of "C" forms according to dealer's requirement. Again on April 24, 2008, CTO-O. P. No. 3 directed STO to call for an explanation from the petitioner as to why "C" forms shall not be refused to it on the ground of non-payment of entry tax on the goods purchased from outside State without issuing said ten number of "C" forms. On May 21, 2008, when the STO visited the shop of the petitioner, the petitioner submitted the explanation that the goods it dealt with are not manufactured in Orissa. Application for issue of "C" forms was also given. On May 30, 2008, the petitioner wrote a letter vide annexure 3 that since the matter is pending before the honourable Supreme Court, it undertook to pay the entire entry tax dues if the honourable Supreme Court will take a decision for payment of entry tax by the petitioner. In the said letter, the petitioner also requested to issue "C" forms to it. On the said date, the STO passed order to consider issue of four sheets of "C" forms. On the same day, CTO-O. P. No. 3 directed to assess the petitioner provisionally and to inform the Assistant Commissioner of Sales Tax (hereinafter referred to as, "the ACST") to suspend the registration certificate of the petitioner for non-payment of entry tax. Further direction was given to issue only two sheets of "C" form. On June 7, 2008, the petitioner wrote a letter vide annexure 5 to the STO for supply of balance 23 sheets of "C" forms disclosing details of its requirement. On June 10, 2008, the STO sought clarification from the ACST regarding payment of Orissa entry tax.

3. Mr. S.C. Lal, learned Counsel appearing on behalf of the petitioner, vehemently argued that the petitioner being a registered dealer is entitled to purchase goods at concessional rate of tax by furnishing "C" forms to the outside State registered dealer. The "C" forms are secured documents and are supplied by opposite parties 3 and 4, after a utilisation account of last supplied "C" form is furnished by the dealer. He submitted that as required under Rule 6 of the Central Sales Tax (Orissa) Rules, 1957 [hereinafter referred to as, "the CST (O) Rules"], the petitioner has paid fees of Rs. 21 for 25 numbers of blank declaration forms and utilisation account of the last supplied "C" forms. He also furnished a list showing detail particulars of selling registered dealers to whom the balance 23 numbers of "C" forms are to be supplied. But, in spite of that opposite party Nos. 3 and 4 refused to issue "C" forms on the ground of non-payment of entry tax on the goods the petitioner dealt with. After much persuasion only two sheets of "C" forms were supplied to it finally. According to him, once the conditions stipulated for obtaining the "C" forms are fulfilled, the assessing officer is not justified to refuse issue of "C" forms to the petitioner. In support of his contention, Mr. Lal relied on the decision of the Kerala High Court in *Salvicate (Bangalore) Private Limited v. Sales Tax Officer* [1998] 109 STC 543 and some other decisions. He further submitted that the goods dealt with by the petitioner being not manufactured in Orissa and the petitioner having purchased the same from outside the State of Orissa, it is not liable to pay entry tax on the purchase of those goods in view of the judgment dated February 18, 2008 of this Court

passed in W. P. (C) No. 6515 of 2006 [Reliance Industries v. State of Orissa [2008] 16 VST 85) and disposed of on February 18, 2008. The said judgment of the Orissa High Court is binding on all the Revenue authorities of the State. In support of the said contention, he relied on the judgment of the honourable Supreme Court in East India Commercial Co. Ltd., Calcutta and Another Vs. The Collector of Customs, Calcutta, . He vehemently argued that the conduct of opposite party No. 3, the STO, amounts to arm-twisting method to harass the petitioner and to defy the judgment of this Court. According to him, non-payment of entry tax is not a valid reason and on that basis supply of "C" forms under the CST Act cannot be refused. The opposite party's attempt to make provisional assessment and to suspend the registration certificate is illegal and arbitrary. He further submitted that even though on April 23, 2008, the opposite party No. 4 was directed to issue ten sheets of "C" form, the same was not issued to the petitioner arbitrarily. In course of hearing of this petition, very strong dissatisfaction was expressed at the Bar with regard to conduct of the Revenue authorities in issuing statutory forms like declaration in forms "C" and "F", way-bill, etc.

4. Per contra, learned Counsel appearing on behalf of the Revenue submitted that in order to prevent misuse of "C" forms, the STO is justified to regulate the supply of the same. He further submitted that on enquiry it was found that the goods dealt with by the petitioner are manufactured in the State of Orissa, and, therefore, the petitioner is liable to pay the entry tax and if the petitioner does not pay the entry tax opposite parties 3 and 4 are justified in their action in not issuing the declaration form "C".

5. On rival contentions of the respective parties, the following questions fall for consideration by this Court:

(i) Whether, on the facts and circumstances of the case, a dealer registered under the CST Act is entitled to get adequate number of "C" forms, as per his requirement, to purchase goods from outside the State to avail concessional rate of tax as provided u/s 8 of the Act read with Rule 12 of the CST (R&T) Rules and the same cannot be refused on any ground other than those stipulated in Rule 6 of the CST (O) Rules ?

(ii) Whether, on the facts and circumstances of the case, the judgment of this Court passed in W. P. (C) No. 6515 of 2006 (Reliance Industries v. State of Orissa [2008] 16 VST 85) disposed of on February 18, 2008 is binding on all the parties while SLP against the said judgment has been admitted in the apex court and pending disposal ?

(iii) Whether, on the facts and circumstances of the case, the Revenue authorities are authorised to cancel the registration certificate of a dealer and proceed with the provisional assessment of entry tax for non-payment of entry tax on the basis of the judgment of this Court in W. P. (C) No. 6515 of 2006 (Reliance Industries v. State of Orissa [2008] 16 VST 85) disposed of on February 18,

2008 ?

6. In order to deal with the first question, it is necessary to know the relevant provisions contained in the CST Act, CST (R&T) Rules and CST (O) Rules. The relevant provisions are Section 8 of the CST Act, Rule 12 of the CST (R&T) Rules, Rule 6 of the CST (O) Rules. The relevant provisions of Section 8 of the CST Act are reproduced below:

8. Rates of tax on sales in the course of inter-State trade or commerce.-(1) Every dealer, who in the course of inter-State trade or commerce,:

(a) sells to the Government any goods ; or

(b) sells to a registered dealer other than the Government, goods of the description referred to in Sub-section (3),

shall be liable to pay tax under this Act, which shall be four per cent of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, whichever is lower.

(2) The tax payable by any dealer on his turnover insofar as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within Sub-section (1)-

(a) in the case of declared goods, shall be calculated at twice the rate applicable to the sale or purchase of such goods inside the appropriate State ; and

(b) in the case of goods other than declared goods, shall be calculated at the rate of ten per cent or at the rate applicable to the sale or purchase of goods inside the appropriate State, whichever is higher.

...

(3) the goods referred to in Clause (b) of Sub-section (1)- . . . (b) are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for resale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power ;

(c) are containers or other materials specified in the certificate of registration of the registered dealer purchasing the goods, being containers or materials intended for being used for the packing of goods for sale ;

(d) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in Clause (b) or for the packing of any containers or other materials specified in the certificate of registration referred to in Clause (c).

(4) The provisions of Sub-section (1) shall not apply to any sale in the course of

inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner,-

(a) a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority; or

(b) if the goods are sold to the Government, not being a registered dealer, a certificate in the prescribed form duly filled and signed by a duly authorised officer of the Government:

Provided that the declaration referred to in Clause (a) is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit.

7. Section 8 of the CST Act deals with rate of tax on sale in course of inter- State trade or commerce. For this purpose, the section makes classification between inter-State sale to Government against prescribed forms and inter-State sale made by a dealer of one State to a registered dealer of other State of goods specified in the certificate of registration of the purchasing dealer against prescribed form. A further classification has also been made between declared goods and un-declared goods. Section 8(2) provides the general rate of tax. In the case of declared goods if the dealer failed to furnish declaration in form "C" the rate of tax shall be twice the rate applicable to the sale or purchase of such goods inside the State. In case of non-declared goods such rate is 10 per cent of the turnover. However, if the rate applicable to sale or purchase of such goods inside the appropriate State is higher than 10 per cent, the rate of tax under the CST Act would be such higher rate. We are here concerned with the sales effected by a registered dealer of one State to a registered dealer of other State as prescribed u/s 8(1)(b) of the Act. In order to avail concession under Clause (b) of Section 8(1), the sale must be of goods specified in registration certificate of the purchasing registered dealer or packing materials, etc., and the purchasing goods must have been intended for any of the purpose specified in Section 8(3). When the selling registered dealer fails to file form "C" before the assessing authority he shall pay general rate of tax as provided in Section 8(2) of the Sales Tax Act. Thus, in order to avail the concessional rate of tax the selling dealer must obtain declaration in form "C" from the purchasing dealer and also collect such concessional rate of tax from the buying dealer. If the buying dealer fails to furnish declaration in form "C" to the selling dealer, the selling dealer shall levy and collect higher percentage of tax as provided in Section 8(2)(a) and (b). Thus, the buying dealer in order to pay concessional rate of tax to the selling dealer must have to furnish declaration in form "C" to the selling dealer. This form he has to obtain from the prescribed authority who shall supply the same to a registered dealer as provided in Rule 12 of the CST (R&T) Rules. The relevant provision of Rule 12 of the CST (R&T) Rules is reproduced below:

12(1). The declaration and the certificate referred to in Sub-section (4) of

Section 8 shall be in forms "C" and "D", respectively:

...

8. Rule 6 of the CST (O) Rules deals with authority from which declaration forms may be obtained, use, custody and maintenance of records of such forms and matters incidental thereto. The relevant provisions of Rule 6 of the CST (O) Rules is reproduced below:

6. Authority from which declaration forms may be obtained, use, custody and maintenance of records of such forms and matters incidental thereto.-(a)(i) A registered dealer, who wishes to purchase goods from another such dealer on payment of tax at the rate applicable under the Act to sales of goods by one registered dealer to another for the purchase specified in the purchasing dealer's certificate of registration, shall obtain on application, affixed with a fee of rupees twenty-one in court fee stamps for every 25 blank declaration forms applied for, from the notified authority as defined in the Central Sales Tax (Registration and Turnover) Rules, 1957 (hereinafter referred to as the notified authority), blank declaration forms prescribed under Rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957, for furnishing them to the selling dealer:

Provided that the notified authority may refuse issue of such form to a dealer who has failed to comply with the order demanding security or additional security, as the case may be, under Sub-rule (2) of Rule 3 of these Rules. The notified authority shall supply to the dealer applying in this behalf such number of blank declaration forms as appears to him to be reasonable at any one time:

Provided further that no second or subsequent supply of declaration forms shall be made to any such dealer unless he furnishes to the notified authority a true copy of the accounts, certified by him under his signature, of the forms last supplied to him as maintained in form V referred to in Clause (d):

Provided further that for the purpose of this sub-rule the application shall be signed by any person who is authorised to sign a return under Rule 11.

9. Rule 6 of the CST (O) Rules provides that a registered dealer shall obtain 25 blank declaration forms on application affixed with fee of Rs. 21 in court fee stamps. The first proviso says a notified authority may refuse issue of declaration forms to a dealer who has failed to comply with the order demanding security or additional security or as the case may be, under Sub-rule (2) of Rule 3 of the CST (O) Rules. It further provides that the notified authority shall supply to the dealer applying in this behalf such number of blank declaration forms as appears to him to be reasonable at any one time. The second proviso says that no second or subsequent supply of declaration form shall be made to any dealer unless he furnishes to the notified authority a true copy of accounts certified by him under his signature of the forms last supplied to him as maintained in form V referred to in Clause (d). The third proviso says that for the purpose of this sub-rule the application shall be signed by any person who is authorised to sign the return

under Rule 11.

10. Under the provisions of Section 8(1) of the CST Act read with Rule 8(4), a 10 registered dealer has a right to obtain declaration form from the prescribed authority in order to avail concession in payment of tax on inter-State transactions. Neither Section 8 of the Act nor Rule 12 imposes any restriction on supply of "C" declaration form by the notified authority to a dealer registered under the Act. Under the provisions of Section 10 of the CST Act only if a person misuses the "C" form he is liable to penalty. It is only Rule 6 of the CST (O) Rules which imposes certain restriction on supply of "C" declaration form.

A coherent reading of Section 8 of the Act, Rule 12 of the CST (R&T) Rules and Rule 6 of the CST (O) Rules, makes it amply clear that once a dealer satisfies the conditions that he is a registered dealer authorised to purchase goods mentioned in the certificate of registration and charges for obtaining "C" forms were paid and a true copy of the accounts of the forms last supplied was furnished, the authorities are bound to issue him "C" form and the same cannot be refused on any ground other than those stipulated in Rule 6 of the CST (O) Rules so long his certificate of registration remains valid.

11. In this context, it is necessary to refer some of the decisions of High Courts.

12. The Kerala High Court in *Salvicate (Bangalore) Private Limited* [1998] 109 STC 543 held that withholding of "C" forms may sometimes result in the complete destruction of trade or business in which event it may amount to total restriction which is impermissible under the law.

13. The Madras High Court in *W. P. Nos. 1379 and 1380 of 1967 and 840 of 1971 (Nambiar v. State of Madras)* by order dated April 27, 1971 held that there is no provision in the Act which authorises the Commercial Tax Officer to refuse to provide the assessee with "C" forms. If the assessee misused the "C" form, that will be punishable u/s 10 of the Central Act. Beyond that, it had no effect, not even in tax. The Commercial Tax Officer was not constituted as a policeman to regulate and conduct the assessee along the virtuous path. *Nambiar's* case (*W. P. Nos. 1379 and 1380 of 1967 and 840 of 1971*, decided on April 27, 1971) has been referred in *Chanda Paints (Madras) Ltd. v. Commercial Tax Officer* [1986] 61 STC 335.

14. In the present case, the petitioner has paid Rs. 21 for 25 numbers of blank forms and also furnished a true copy of the account of "C" forms last furnished. In addition to those it has also furnished a list showing detail particulars of selling registered dealers to whom "C" forms are to be supplied.

15. It is not the case of the Revenue authority that the petitioner has failed to comply with the order demanding security or additional security, as the case may be. It is also not the case of the Revenue that the petitioner failed to furnish true copy of the accounts certified by him under his signature of the forms last supplied to him maintained in form V referred to in Clause (d). It is also not the

case of the Revenue that the application has not been signed by the person who is authorised to sign return under Rule 11. The only ground for which the opposite parties 3 and 4 refused to issue declaration in form "C" is that the dealer failed to pay entry tax on the goods purchased from outside State. The stand of the petitioner is that he is not liable to pay entry tax on purchase of goods from outside the State as those were not produced or manufactured inside the State and this Court in O. J. C. No. 6515 of 2006 (Reliance Industries Limited v. State of Orissa [2008] 16 VST 85) disposed of on February 18, 2008 held in such an event no entry tax is leviable. In his explanation dated April 24, 2008 (annexure 2) the petitioner explained as follows:

We have not paid the entry tax because of the decision of the honourable High Court dated February 18, 2008 in the case W. P. (C) No. 6515 of 2006 (Reliance Industries Limited v. State of Orissa [2008] 16 VST 85). The goods brought by me are not produced or manufactured in the State of Orissa.

16. Rule 6 of the CST (O) Rules provides for payment of Rs. 21 for 25 numbers of blank declaration "C" forms. From the said provision it appears that usually a registered dealer is entitled to get twenty-five copies of blank "C" forms on payment of Rs. 21 in the shape of court fee at a time provided he furnishes a true copy of the account of "C" forms last supplied. If a registered dealer satisfies the notified authority about the requirement of more number of blank "C" forms which is very often necessary in case of big business houses, the assessing officer shall issue such more number of blank "C" declaration forms after being satisfied about such requirement. However, if for any sufficient reason the assessing officer feels that a lesser number of "C" forms shall be supplied to any registered dealer, he must record the reason for the same. For example, this situation may arise in a case where the business turnover of the dealer is so small that issue of twenty-five copies of blank "C" declaration forms at a time is not necessary and supply of any lesser number of "C" declaration forms will meet the requirement of the dealer. In that situation he may issue "C" declaration forms of less than twenty-five copies at a time. While exercising this discretion he must be very careful and should not act in a manner which will hamper any registered dealer's business. This discretionary power has to be exercised judicially and in our opinion it should be exercised for the reasons to be recorded in writing. The action of the authority should be fair and transparent. Needless to say that action of the authority should not be such that it will hamper the free-flow of the inter-State trade. When exercising power under Rule 6 of the CST (O) Rules in the matter of issuing "C" form it would not be appropriate for the authority to delve into the aspect whether entry tax is payable on the goods brought from outside the State. While issuing form "C" or even other statutory form there is no scope for analysing controversial issues. Such controversies should be determined and adjudicated at the time of regular assessment. The Andhra Pradesh High Court in *Sim Oil Rotary v. Commercial Tax Officer II* [2005] 142 STC 129 held that where the only condition prescribed for issue of way-bills of payment of costs and payment of tax is not one of the conditions prescribed,

in that event if any tax is due from the petitioner denial of the way-bills is not the proper way to recover the tax. Thus, the sales tax authorities cannot refuse adequate number of declaration forms to the petitioner on the ground that he has not paid entry tax, on the basis of the judgment of the High Court passed in O. J. C. No. 6515 of 2006 [Reliance Industries v. State of Orissa [2008] 16 VST 85 (Ori)] disposed of on February 18, 2008 which was challenged in the honourable Supreme Court. Even if the dealer would be found to be liable to pay entry tax, that cannot be a ground to refuse issue of "C" forms to the petitioner.

17. It is expressed at the Bar that registered dealers are prevented from carrying on their business smoothly as the selling registered dealers of outside the State express their reluctance for selling goods to the registered dealers of the State at a concessional rate of tax as they do not get "C" forms in time. It is a matter of grave concern. A State cannot financially develop unless its trade and commerce flourish. This should be kept in the mind of the Revenue authorities. Every citizen of the country has a fundamental right to carry on business. It does not depend upon the whims and caprice of the Revenue authorities. The Revenue authorities must see that there is flourishing of trade and commerce in the State so as to enrich the State exchequer. In this context, it may be necessary to know the background in which the provisions under the Central Sales Tax Act and Rules have been made to enable a registered dealer of one State to purchase goods at a concessional rate from the dealers of other States on the strength of "C" declaration forms. The historic background leading to the enactment of Section 8 as recommended by the Taxation Enquiry Commission [Report of the Taxation Enquiry Commission (1953-54); Vol. III page 57], inter alia, is as follows:

...the proposed Central legislation, for levy of sales tax on inter-State trade or commerce will have also to specify the rate at which the tax on sales in the course of inter-State trade or commerce should be levied. Since, in permitting the levy of sales tax on inter-State trade, the main intention is to ensure that some revenue accrues to the exporting State without raising unduly the burden on consumers in the importing State, it is necessary that the rate to be specified in the Central legislation should be comparatively low ...

18. This being the reason for enacting Section 8 of the CST Act, which in our view is in public interest, the Revenue authorities should not act in any manner so as to defeat the very purpose for which Section 8 of the CST Act was enacted. The statute provides that "C" form should be issued under a particular manner. It must be strictly adhered to. If a dealer fulfils the conditions required under the statute for getting "C" form or any other statutory forms, the Revenue authorities are bound to issue such forms. They cannot refuse to issue "C" forms or other statutory forms on some plea or other. It is well-settled position of law that what cannot be done "per directum is not permissible to be done per obliquum", meaning thereby, whatever is prohibited by law to be done, cannot legally be effected by an indirect and circuitous contrivance, on the principle of "quando aliquid prohibetur, prohibetur et omne per quod devenitur ad illud". In

the present case, it is further found that the authorities are not issuing required number of "C" forms on irrelevant ground. The "C" forms are issued in piecemeal manner without any justification. Such unwarranted delayed practice of issuing the "C" forms on the part of the statutory authorities is certainly undesirable and liable to be deprecated. Necessary steps should be taken to minimise such practice of arbitrary use of power. This is not a healthy practice on the part of the authorities acting on behalf of the Revenue in the matter of collection of tax. In order to gain faith of the assesseees and create confidence in the minds of the taxpayers for smooth administration of tax law, the sales tax authorities must act in a fair and legal manner.

19. The honourable Supreme Court in *M/s. Dabur India Ltd. and Others Vs. State of Uttar Pradesh and others*, , observed that Government, Central or State, cannot be permitted to play dirty games with the citizens of this country to coerce them in making payments which the citizens were not legally obliged to make. If any money is due to the Government, the Government should take appropriate steps, but it should not take extra-legal steps or adopt the course of manoeuvring. Because of the above discontentment expressed by the Bar it has become necessary to provide guidelines for just exercise of the power of Revenue authorities. To prevent the abuse of power and to see that it does not become a new despotism, courts are gradually evolving the principles to be observed while exercising such power. New problems call for new solutions. The revenue officers, who are responsible to issue declaration form "C", form "F" and way-bills, etc., to the registered dealers must see that the adequate numbers of statutory forms should be issued to a registered dealer at a time without any delay provided the required fees and others conditions are fulfilled. In case any deviation is intended to issue a less number of statutory forms, he must record the reason for such deviation and should immediately intimate the said reason to the concerned registered dealer since the concerned dealer is bound to be materially prejudiced because of refusal of the Revenue authorities to issue adequate number of statutory forms to which he is legally entitled.

20. In this fact-situation, it is desirable that the superior authority in the hierarchy of the tax administration should take necessary steps to ensure that adequate numbers of statutory forms are supplied to the registered dealers according to their requirement in accordance with law. Needless to say, this will not prevent the Revenue authorities to take necessary action against unscrupulous and fraudulent dealers, who are involved in clandestine business and defraying Government Revenue by misutilising the statutory forms which are more grievous offences than those that are enumerated in Section 10 of the CST Act. In those cases, before stopping supply of declaration form, the Revenue authority may cancel the registration certificates of fraudulent dealers for the reason(s) stated in the concerned statutes after giving reasonable opportunity of being heard to such registered dealers.

21. So far as the second question is concerned, the law is well-settled that the

judgment of the High Court is binding on all concerned parties. The honourable Supreme Court in *East India Commercial Co. Ltd., Calcutta and Another Vs. The Collector of Customs, Calcutta*, held that:

...The law declared by the highest court in the State is binding on authorities or Tribunals under its superintendence, and that they cannot ignore it either in initiating a proceeding or deciding on the rights involved in such a proceeding. . .

22. The honourable apex court in the case of *Union of India and others Vs. Kamlakshi Finance Corporation Ltd.*, , in paragraph 6 has observed as follow"s:

... The High Court has, in our view, rightly criticised this conduct of the Assistant Collectors and the harassment to the assessee caused by the failure of these officers to give effect to the orders of authorities higher to them in the appellate hierarchy. It cannot be too vehemently emphasised that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities. The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of juridical discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not "acceptable" to the department-in itself an objectionable phrase-and is the subject-matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent court. If this healthy rule is not followed, the result will only be undue harassment to assesseees and chaos in administration of tax laws.

23. Therefore, the judgment of this Court passed in W. P. (C) No. 6515 of 2006 [*Reliance Industries limited v. State of Orissa* [2008] 16 VST 85] disposed of on February 18, 2008 is binding on all parties while SLP against the said judgment has been admitted in the apex court and is pending disposal.

24. The petitioner in the instant case has not paid the entry tax on the goods purchased from outside State on the ground that those goods are not produced and manufactured inside the State. The said stand of the petitioner is supported by the decision of this Court in W. P. (C) No. 6515 of 2006 (*Reliance Industries Limited v. State of Orissa* [2008] 16 VST 85) disposed of on February 18, 2008 wherein this Court, inter alia, held as follows : (at page 114 of 16 VST)

... State has no jurisdiction to impose tax on such goods imported from outside and are not manufactured within the State of Orissa. Therefore, the opposite parties may make scrutiny of the same and not realise entry tax on such goods but for this the Act cannot be declared ultra vires.

25. In such a situation, the authorities are not competent to cancel the registration certificate of the petitioner. However, order-sheet entry dated May

21, 2008 reveals that the STO has made enquiry into the business premises of the petitioner and noted that the major goods dealt with by the dealer are manufactured inside the State of Orissa whereas the dealer's stand is that the goods dealt with by it are neither produced nor manufactured inside the State. These are purely disputed questions of fact. Such factual disputed questions cannot be adjudicated by this Court in exercise of its writ jurisdiction. Hence, the Revenue authorities may proceed with the assessment after affording reasonable opportunity of hearing to the petitioner and confronting it with the materials collected against it that the goods dealt with by it are manufactured in the State of Orissa. The petitioner shall also have right to adduce evidence in support of its contention that goods dealt with by him are neither produced nor manufactured inside the State of Orissa. However, it is made clear that the Revenue authorities, in the circumstances of the case, cannot suspend the registration certificate of the petitioner. Applications of the petitioner for supply of declaration in forms "C" be considered and disposed of in accordance with law without any delay.

26. With the above observation, the writ petition is disposed of. No order as to costs.

B.S. Chauhan, C.J.

27. I agree.