(2021) 12 OHC CK 0018

In the Orissa High Court

Case No : Writ Petition (C) No. 31350 Of 2011

M/s. Konark Gas & Tools, Cuttack — APPELLANT

Vs

State Of Odisha And Others — RESPONDENT

Date of Decision : 03-12-2021

Acts Referred:
Odisha Value Added Tax Rules, 2005 — Rule 34(12)(b)

Citation : (2021) 12 OHC CK 0018

Hon'ble Judges : Dr. S. Muralidhar, CJ;A. K. Mohapatra, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. It is stated that the main ground in which the impugned assessment order in this petition has been challenged is contrary to Rule 34(12)(b) of the Orissa Value Added Tax Rules (OVAT Rules). The Sales Tax Officer, Cuttack (STO) in question, who passed the order, was not "assessing authority of the range" as mandatory in that OVAT Rules.

2. Mr. Sahoo, learned Senior Counsel appearing for the Petitioner points out that although that Rules stands repealed with effect from 25th February, 2009, it was very much in operation when the impugned order was passed.

3. In view of the judgment of this Court in Madras Cement Ltd. v. State of Orissa [2007] 10 VST 187 (Orissa), the impugned assessment order is quashed.

4. It will be open to the Petitioner to seek recovery of the amount paid pursuant to the interim order passed by this Court.

5. Mr. Padhy, learned Additional Standing Counsel for the Revenue Department seeks liberty to the Department to initiate appropriate proceeding in accordance with law.

6. Considering the submissions made and without expressing any opinion on the merits of the case, the writ petition is disposed of..

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