
(2006) 04 OHC CK 0046

In the Orissa High Court

Case No : S.J.C. No. 229 of 1995 and S.T. Rev. No. 14 of 2006

State of Orissa

APPELLANT

Vs

I.D.L. Chemical (P) Ltd.

RESPONDENT

Date of Decision : 11-04-2006

Acts Referred:

Central Sales Tax Act, 1956 — Section 3, 6A, 9

Explosives Rules, 1983 — Rule 7

Orissa Sales Tax Act, 1947 — Section 24(1), 24(2), 24(5), 3, 8(1)

Citation : (2006) 1 OLR 541 Supp : (2006) 147 STC 231

Hon'ble Judges : B.P. Das, J;A.K. Parichha, J

Bench : Division Bench

Advocate : Devi Pal and A.K. Mohanty and S. Jee, for the Respondent

Judgement

A.K. Parichha, J.—Both the S.J.C and the S.T. REV. arise out of references made by the Orissa Sales Tax Tribunal u/s 24(1) of the Orissa Sales Tax Act, 1947 (in short, "the Act"). Since identical disputes are involved in the references, they are disposed of by this common order.

2. The cases relate to assessment under the Central Sales Tax Act, 1956 for the years 1976-77, 1977-78 to 1983-84, 1989-90 and 1990-91 in respect of assessee, M/s. IDL Industries (formerly IDL Chemicals Ltd.), a company under the Indian Companies Act having its registered office at Kukatpalli, Andhra Pradesh, engaged in manufacturing explosives, detonators and accessories and holding licence under the Explosives Act, 1884. It has a manufacturing unit at Sonaparnat near Rourkela in Orissa which is also registered under both the Orissa Sales Tax Act, 1947 and the Central Sales Tax Act, 1956 with the Sales Tax Officer, Rourkela I Circle, Rourkela. M/s. IDL is a regular supplier of its products to different Government undertakings such as the Coal India Ltd. (hereinafter referred to as, "CIL"), National Mineral Development Corporation, Hindustan Zinc Ltd., etc., and supplies to these undertakings constitute almost 90 per cent of its total production. CIL placed orders on IDL, Rourkela, for supply

of explosive, detonators, accessories, etc., to its collieries inside and outside the State of Orissa with a stipulation that delivery shall be made against the indent placed by the collieries. IDL has its consignment agents at different places outside the State. During the above noted years, IDL effected supplies through its consignment agents against indents placed by the collieries and for this purpose it claimed to have dispatched the goods to its consignment agents on stock transfer basis otherwise than by way of sale. It is the claim of IDL that dispatches from its factory at Rourkela were stock transfers and are not liable to be assessed to tax under the C.S.T. Act as the sales took place when the supplies to the collieries were made against the indents placed by them.

3. The State, on the other hand, claimed that the supplies were made on account of order placed by CIL and the movement of goods from the State of Orissa to outside the State was incident of the CIL's order for supply. According to the State, the transactions are purely inter-State sale from the State of Orissa, as IDL would not have despatched the goods to outside the State for delivery to the collieries, had there been no order of CIL and also because consignee collieries and consignment agents of IDL are specifically named in the order placed by the CIL. The State also took the plea that the indents are not contract of sale and that the indents placed by the collieries were simple follow-up action of the purchase order of the CIL in compliance of the Indian Explosives Rules and Licence.

4. The original assessment for the year 1976-77 was completed on February 18, 1980. The claim of stock transfer to consignment agents against the order of CIL was disallowed and the transactions were treated as inter-State sale. The assessment was confirmed in first appeal on December 30, 1981. Upon challenge by the IDL in second appeal, learned Sales Tax Tribunal found that the forums below recorded their ultimate conclusion on the basis of generalities without examining the terms of the contract and details of transactions between assesses and the purchasers. Accordingly, by order dated July 15, 1986, the Tribunal remanded the matter to the Sales Tax Officer for reassessment in the light of the observations made in the order. The reassessment was completed on July 29, 1994 holding the despatches as inter-State sales. The first appellate authority, however, taking note of the order of the Tribunal dated January 30, 1995 in Second Appeal No. 83 of 1994-95 for the year 1989-90 held that the dispatches made by the IDL to its consignment agents were stock transfers. State filed second appeal against that order of the first appellate authority, which was, disposed of by the Tribunal in common order dated October 25, 1996.

5. The assessments for the years 1977-78 to 1983-84 were completed between February 20, 1981 and September 9, 1986 and were confirmed by the first appellate authority in orders passed during September 8, 1986 to February 25, 1987. The second appeals filed by the assessee against the orders of the first appellate authority for the years 1977-78 to 1982-83, i.e., Second Appeal Nos. 45(c) to 49(c) of 1986-87 and Second Appeal No. 69(c) of 1986-87 were

disposed of by the Tribunal in order dated April 27, 1987 with the finding that there is conceivable link of dispatch of goods by the IDL to the consignment agents in pursuance of the contract and the consignment agents simply functioned as custodian of materials for storage before those were delivered to the customers. It was concluded by the Tribunal that the taxability of such goods can arise only when the goods are actually delivered to the buyers. It directed to take into consideration only such transactions where the goods were actually supplied on receipt of requisition from the collieries under the contracts of sale entered into between CIL and the IDL and accordingly remanded the assessments to the S.T.O. for completion of reassessment in the light of observation made in the order. Second Appeal No. 91(c) of 1986-87 relating to the year 1983-84 was disposed of by order dated August 13, 1987 in the light of the order dated April 27, 1987 for the years 1977-78 to 1982-83.

6. During the assessment for the year 1990-91 the assessing officer found that IDL failed to produce the declaration in form C for Rs. 85,66,544.96 in support of concessional rate of tax. The copies of agreement, bills of lading towards export sale were also not produced. Accordingly, the assessing officer levied tax on those amounts and also disallowed freight charges to the extent of Rs. 24,63,132 on the ground that the same form inward freight includible in sale price. The assessing officer also rejected the exemption towards transfer of stocks to the consignment agents for sale outside the State to different collieries as he considered such movement of goods as inter-State sales and levied tax. The first appellate authority found that the assessee was not given reasonable opportunity to produce wanting declaration form C and necessary documents in support of sales claimed as export sale and accordingly accepted the declaration in form C which were produced and directed the assessing officer to consider those declarations in order to allow the claim if they are otherwise found to be in order and also to accept the documents in support of the claim of export sales. The appellate authority also allowed a sum of Rs. 24,63,132 separately charged in the bills towards freight. Such order of the Assistant Commissioner was assailed before the Sales Tax Tribunal by the State in S.A. No. 23(c) of 1996-97.

7. In the meantime, the assessee had filed writ petition bearing W.P. No. 938 of 1987 before the Supreme Court for issuance of a writ of prohibition to the State Government from proceeding with the reassessment pursuant to the orders dated July 15, 1986 passed by the Tribunal in respect of the assessments for the years 1976-77, 1977-78 to 1982-83. The apex Court by order dated August 11, 1987 rejected the said prayer with the observation that there was no justification to interfere with the order of remand passed by the Tribunal. A further writ petition being W.P. No. 1507 of 1987 challenging the assessment for the year 1985-86 was also disposed of by the apex Court by order dated December 18, 1987 holding that the case does not require interference as the principles upon which the transactions should be decided have been laid down in *Sahney Steel and Press Works Limited and Another Vs. Commercial Tax Officer and Others*, and some other decisions of the apex Court.

8. Reference applications were made before this Court for the years 1977-78 to 1983-84 in S.J.C. Nos. 2 to 8 of 1989. The same were disposed of vide order dated February 11, 1992 and the matters were remanded for inquiry and fresh disposal after consideration of minutes of discussions, terms of the contract, etc. The Sales Tax Tribunal in the order passed on May 15, 1992 u/s 24(5) of the O.S.T. Act modified the second appeal orders dated April 27, 1987 and August 13, 1987 in terms of the order dated February 11, 1992 of this Court. The reassessments for the years 1977-78 to 1983-84 following the abovesaid order of remand were completed treating the transactions as inter-State sales and the said assessments were confirmed in first appeal order dated January 16/18, 1990. IDL filed second appeals being S.A. Nos. 105(c) to 111(c) of 1989-90 before the Tribunal. But these appeals were dismissed in view of the order dated February 11, 1992 of this Court disposing of the reference against orders dated April 27, 1987 and August 13, 1987. Subsequent to the order of remand dated February 11, 1992 of this Court and the order dated February 25, 1992 passed by the Tribunal, the assessing officer completed the reassessment for the years 1977-78 to 1983-84 holding the transaction to be inter-State sales and disallowing, inter alia, the claims of deduction on account of freight charges. The first appeal filed by IDL challenging the said order was disposed of by the first appellate authority vide order dated January 12, 1996 remanding the matter for reassessment on the plea that the quotations and minutes of discussions which culminated in supply of orders had not been verified by the assessing authority. IDL challenged this order of the first appellate court in second appeal Nos. 5(c) to 11(c) of 1996-97 before the Sales Tax Tribunal. Those second appeals were disposed of by the Tribunal on October 25, 1996 by 2 : 1 majority. The majority took the view that the movement of consignments was by way of stock transfers whereas the dissenting Member held that such movement was in course of inter-State sales. By majority it was therefore ordered that for the years 1977-78 to 1983-84 IDL is entitled to claim deduction u/s 6-A of the C.S.T. Act in respect of its transactions with CIL. The State's application for reference u/s 24(1) of the O.S.T. Act having been rejected by the Tribunal, it filed S.J.C. Nos. 133, 139 to 146 of 1998 u/s 24(2)(b) before this Court which were disposed of by order dated September 7, 1999 holding that no question of law arises out of the order dated October 25, 1996 of the Tribunal. Civil Appeal Nos. 4683-4691 of 2000 filed by the State against the said order of this Court was disposed of by the apex court in their order dated September 29, 2005. In that order while setting aside the order of this Court, direction was given to the Sales Tax Tribunal to make a reference on the question of law as indicated in respect of the assessment years 1976-77, 1977-78 to 1983-84 and 1990-91, and this Court was directed to hear the references together and to decide the same on merit. The Tribunal in its order dated October 30, 2005 stated the case and referred the same question of law as referred in S.J.C. No. 229 of 1995 for a decision of this Court. Under the circumstances, the following question of law set out in S.J.C. No. 229 of 1995 and Nos. 138 to 146 of 1998 await consideration of this Court. The questions of law referred are:

(1) That in view of the quotation offered by the assessee-company and supply order issued by M/s. C.I.L. indicating the firm order of rate of payment, quantity to be purchased, period of contract, etc., on acceptance of the offer, whether the Sales Tax Tribunal was correct in law to hold that it was not the contract of sale but the actual purchase and sale was triggered only when a colliery placed indents with M/s. I.D.L. Chemicals ?

(2) That in view of the fact that M/s. I.D.L. Chemicals moved goods in pursuance to the supply order placed by M/s. C.I.L. to outside the State for the purpose of eventual delivery to the constituents of M/s. C.I.L., whether the Sales Tax Tribunal was correct in law to hold that the transactions do not constitute sale falling u/s 3(a) of the C.S.T. Act ?

(3) That in view of the fact that the indents placed by the constituents of M/s. C.I.L. was mere indents to take delivery of the goods, whether the Sales Tax Tribunal was correct to hold that the actual sales were triggered by such indents and taken place inside the respective State and were intra-State sale subject to levy of tax under the law of that State ?

9. Mr. Ashok Mohanty, learned Senior Standing Counsel, Sales Tax Department, argued that the terms of the quotation offered by M/s. IDL the assessee-company, and the supply order placed by M/s. CIL clearly reveal that the transaction was out and out a contract for sale, and the purchase took place when the goods left the Rourkela Unit of M/s. IDL pursuant to the order of M/s. CIL. According to him, when the rate of payment, quality and approximate quantity of the articles and the period of contract were all set in the order of M/s. CIL, and when payments were in favour of the assessee-company, transit insurance, freight charges were paid by M/s. CIL there cannot be any doubt that the movements of goods of the assessee-company from Rourkela to the agents at different places were in course of sale falling u/s 3(a) of the C.S.T. Act. He further argued that the goods were supplied by M/s. IDL pursuant to the order of M/s. CIL and the indents placed by the constituents of M/s. CIL were mere indents to take delivery of the goods as a routine follow up of the contract between M/s. CIL and M/s. IDL. In support of his contention, Mr. Mohanty, cited the cases of Balabhagas Hulaschand Vs. State of Orissa, , South India Viscose Ltd. Vs. State of Tamil Nadu, , Sahney Steel and Press Works Limited and Another Vs. Commercial Tax Officer and Others, , Manganese Ore (India) Ltd. Vs. The Regional Assistant Commissioner of Sales Tax, Jabalpur, and Commissioner of Sales Tax, U.P., Lucknow v. Suresh Chand Jain [1988] 70 STC 45 (SC)

10. Dr. Devi Pal, learned Senior Counsel appearing for the assessee-company, on the other hand, stated that the order placed by M/s. CIL with M/s. IDL was simply a rate contract as the order did not contain the specific quantity of explosive to be supplied leaving it open to the constituent units of M/s. CIL to place indents according to their requirements and take delivery of specific quantity of the goods. According to him, the actual sales were triggered by the indents of the constituent units, as bereft of such indents the contract was

unexecutable. He further argued that when M/s. IDL and its agents were not debarred from selling or diverting goods to other customers, it was a case of movement by way of branch transfer and not by way of inter-State sale. In support of his argument, Dr. Pal relied on the case of *Chatturbhuj Vithaldas Jasani Vs. Moreshwar Parashram and Others*, . Dr. Pal also argued that while answering the reference in S.J.C. No. 138 of 1998, this Court having already held that the movement of goods in question was not by way of inter-State sale, but by way of branch transfer, and the said finding not having been upset by the apex Court, the issue has reached its finality, and this Court is now estopped from reopening the same and recording a fresh finding on the issue.

11. The principle of inter-State sale is now well-settled through numerous judicial pronouncements. In the cases of *Commissioner of Sales Tax, U.P., Lucknow v. Suresh Chand Jain* [1988] 70 STC 45 (SC) and *The Bengal Immunity Company Limited Vs. The State of Bihar and Others*, , it has been held that sale could be said to be in the course of inter-State trade only if two conditions concurred, namely, (1) sale of goods and (2) a transport of these goods from one State to another. In the case of *Manganese Ore (India) Ltd. Vs. The Regional Assistant Commissioner of Sales Tax, Jabalpur*, , following the ratio of the case of *Serajuddin and Others Vs. The State of Orissa*, , the following observation was made to clarify the scope and ambit of inter-State sale.

(iii) that the following conditions must be satisfied before a sale can be said to take place in the course of inter-State trade or commerce : (1) There is an agreement to sell which contains a stipulation express or implied regarding the movement of the goods from one State to another; (2) In pursuance of that agreement the goods in fact moved from one State to another ; (3) Ultimately a concluded sale takes place in the State where the goods are sent which must be different from the State from which the goods move. If these conditions are satisfied then by virtue of Section 9 of the Central Act it is the State from which the goods move which will be competent to levy the tax under the provisions of the Central Act.

(iv) that under the contracts it was manganese ore and manganese ore alone which was sought to be sold by the appellant to the various buyers in India. The mere fact that certain specifications had been given or certain percentages had been mentioned did not change the character or the quality of the goods that were actually supplied by the appellant to its various purchasers ;

(v) that so far as Section 3(a) of the Central Act is concerned there is no distinction between unascertained and future goods and goods which are already in existence, if at the time when the sale takes place these goods have come into actual physical existence....

12. In the case of *Sahney Steel and Press Works Limited and Another Vs. Commercial Tax Officer and Others*, , the principles relating to inter-State sale were exhaustively dealt with and the guiding principles were laid down. In that

case, the petitioner-company engaged in the manufacture and sale of stampings and laminations made out of steel sheets, which were utilised as raw material for making electric motors, transformers, etc., having its registered office and factory in Hyderabad. Its branches at Bombay, Calcutta and Coimbatore were mainly engaged in effecting sales and looking after sales promotion and liaison work. Those branches received orders for customers within and outside their respective States for the supply of goods conforming to definite specifications and drawings and advised the registered office at Hyderabad. The company manufactured the goods according to the designs and specifications supplied by the customers in its factory in Hyderabad and despatched them to the respective branches by way of transfer of stock. Such goods were booked to "self" and sent by lorries. The goods received by the branches were entered in the stock accounts of the branches and kept in stock for ultimate delivery to the customers. On the goods reaching the branches, they were inspected by the customers and accepted by them where the customers were local parties. Where the customers were outside the State, the branch despatched the goods to them. The branches raised the bills and received the sale price. They also furnished form F to the registered office in Hyderabad u/s 6-A of the Central Sales Tax Act, 1956 in the case of stock transfers to the branches. The petitioner-company was assessed to State sales tax in Maharashtra, West Bengal and Tamil Nadu in respect of those goods. The company claimed that there was only a transfer of stock from Hyderabad to the branches outside the State of A.P. and that the sales effected to the customers by the branches were local sales in the respective States. The Commercial Tax Officer, Hyderabad, held the sales to be sales in the course of inter-State trade and made an assessment accordingly for the year 1979-80 and also issued notices for reopening the assessments for the two earlier years 1977-78 and 1978-79 to include such sales. The petitioner-company filed a writ petition in the Supreme Court claiming that the sales were not sales in the course of inter-State trade and prayed that, in the event of the transactions being held to be inter-State sales, the petitioner be permitted to avail of the concessional rate envisaged by Section 8(1) read with Section 8(4) of the Act; or, in the alternative, the assessments to local sales tax be quashed in so far as they included the turnover of the stock transferred by the registered office to the branches. Answering the issue, the apex Court held thus:

Even if the customer placed an order with the branch office and the branch office communicated the terms, and specifications of the order to registered office and the branch office itself was concerned with despatching, billing and receiving of the sale price, the order placed by the customer was an order placed with the company, and for the purpose of fulfilling that order the manufactured goods commenced their journey from the registered office in the State of Andhra Pradesh to the branch outside the State for delivery of the goods to the customer. Both the registered office and the branch office were offices of the same company : they did not possess separate juridical personalities. The movement of the goods from the registered office at Hyderabad was occasioned

by the order placed by the customer and was an incident of the contract, and therefore, from the very beginning from Hyderabad all the way, until delivery to the customer it was an inter-State movement. The sale transactions were inter-State sales u/s 3(a) of the Act;....

13. In the present case, admittedly there was purchase order issued by M/s. CIL and pursuant to that order ultimately goods were supplied to constituent collieries of M/s. CIL. There is no dispute that delivery to the different collieries was made by the agents of M/s. IDL out of the stocks which were despatched from the Rourkela Unit of M/s. IDL. It is therefore to be seen whether the sale of such explosives, detonators, etc., to M/s. CIL took place when the goods were despatched from M/s. IDL, Rourkela unit or when the goods were delivered to the different collieries of M/s. CIL at the magazines of the respective agents stationed in different States. According to Dr. Pal, learned Counsel for the assessee-company, before placing of the indents by the respective collieries and delivery of the goods to such collieries, the sales could not be considered to be complete as M/s. IDL and its agents were not debarred from diverting those goods to other customers. Mr. Mohanty, learned Standing Counsel, Sales Tax, counter argued that specific direction for supply being there in the purchase order and specific quantities of each item and the rates thereof having been specified and goods having been sent from M/s. IDL, Rourkela, to the respective consignment agents to comply with such purchase order, there was a conceivable link between the contract of sale and the movement of goods from one State to another and so the sale was complete at the exit point of M/s. IDL, Rourkela. To support his submission, Mr. Mohanty, specifically relied on the ratio laid down in the case of *South India Viscose Ltd. Vs. State of Tamil Nadu*, wherein the following observation finds place:

If there is a conceivable link between a contract of sale and the movement of goods from one State to another in order to discharge the obligation under the contract of sale, the interposition of an agent of the seller who may temporarily intercept the movement will not alter the inter-State character of the sale.

14. The purchase order was issued by M/s. CIL in response to the quotation offered by M/s. IDL. The text of the said order at the very beginning contains a clear direction for supply of explosives, detonators, etc., to the collieries of M/s. CIL in different States on placement of indents. The total quantity of such goods, the rates thereof and the other terms and conditions were clearly and specifically spelt out in Schedules 1 to 5 annexed to that order. It is also evident from the purchase order that transit insurance for the goods and the railway/road freight charges would be paid by M/s. CIL. The order further contains specifically that M/s. IDL and/or their consignment agents would supply explosives and accessories to the mines on the basis of convenience, location and the mines would follow the existing system of drawing the requirements from M/s. IDL and/or their consignment agents, who will raise the bills accordingly and payment will be made by cheques drawn in favour of M/s. IDL Chemical Limited. A detail reading

of the purchase order would show that nothing was left to the decision of the constituent collieries except that they would take delivery of the explosives, etc., from the nearest magazines of the agents according to their requirement. It is not disputed that huge quantity of explosives, detonators, etc., were sent from Rourkela unit of M/s. IDL to their consignment agents in different States and that almost all of these goods were supplied to different collieries of M/s. CIL. No instance was brought by the assessee-company that such goods were ever diverted to other purchasers. Moreover, if the goods were not meant for M/s. CIL and were meant for any other purchaser, then there was no need for M/s. CIL to pay the railway/road freight charges or the transit insurance for the goods which moved from Rourkela unit of M/s. IDL to the consignment agents. That apart, in each invoice the number and date of the supply order issued by M/s. CIL has been noted and all the payments have been made to M/s. IDL through the consignment agents which are indicative of the fact that the supply of the goods was made in response to the purchase order and that submission of indents and taking delivery of the goods were simply follow up actions of the said purchase order. Rule 7 of the Explosives Rules, 1983 prescribes restrictions on delivery of explosives and the letter of the Chief Controller of Explosives to the M/s. CIL reveals that M/s. CIL was directed not to store explosives at the mines but make indents as required. May be for this reason, the respective collieries were asked to place indent and take delivery of the explosive from the magazines of nearest agents of M/s. IDL from time to time as per their requirement. There is also existence of record to show that on one occasion some of the explosives in containers dispatched by M/s. IDL were damaged during transit due to rain and compensation was claimed by M/s. CIL from the railways. The report of the surveyor is available in this regard. All these materials tend to show that the goods despatched from M/s. IDL, Rourkela unit were meant for M/s. CIL from the very moment of dispatch from M/s. IDL, Rourkela. If that would not have been so, M/s. CIL would not have paid the freight charges, transit insurance and would not have claimed compensation for the goods damaged during transit and would not have issued the cheques against the invoices in favour of M/s. IDL. The next, terms and conditions of the purchase order and the above noted circumstances are good enough to establish that there was a conceivable link between the purchase order issued by M/s. CIL and the movement of goods from Rourkela unit of M/s. IDL in the State of Orissa to other States and the inter-position of consignment agents of M/s. IDL who temporarily intercepted the movement did not alter the character of the sale. The present cases are thus squarely covered by the ratio laid down in *South India Viscose Ltd. Vs. State of Tamil Nadu*, and *Sahney Steel and Press Works Limited and Another Vs. Commercial Tax Officer and Others*, . Once the facts and circumstances of the present case are considered in the light of the ratio of the above noted cases, there cannot be any doubt that the movement of goods from M/s. IDL, Rourkela to its agents in other State were in course of inter-State sale.

15. Dr. Pal cited the case of *Chatturbhuj Vithaldas Jasani Vs. Moreshwar*

Parashram and Others, , to show that the supply by M/s. IDL to the units of M/s. CIL would not amount to inter-State sale and that the actual sales took place at the magazines of the agents. In that case, while considering an election dispute, their lordships made an observation that the letter having merely set out the terms on which the parties were ready to do business with each other if and when orders were placed and executed, it did not amount to a contract of sale and that the contract arose only after the order was placed. The facts and circumstances of that case were totally different from the present cases and the observations were also made in a different context. So, the ratio does not apply to the present case.

16. Dr. Pal argued that this Court in its judgment dated September 7, 1999 in S.J.C. Nos. 133, 139 to 146 of 1998 [State of Orissa v. I.D.L Chemicals (P) Ltd. [2000] 118 STC 475 ORI having taken a view that the movement of goods from M/s. IDL, Rourkela, to its agents in different States were branch transfers and were not inter-State sales is now estopped from taking a different view. First of all the judgment dated September 7, 1999 of the division Bench does not contain any conclusion that the transactions were not inter-State sales. The judgment simply analyses the existing law and the findings of different courts and contains an observation that there was no substantial question of law to be referred and answered. That apart, the said judgment has been set aside by the apex Court Civil Appeal Nos. 4683-4691 of 2000 decided on September 29, 2005 [State of Orissa v. I.D.L. Chemicals (P.) Ltd.] and direction has been issued to answer the reference afresh. Such being the scenario, this Court is not estopped from answering the reference made by the Sales Tax Tribunal.

17. In view of the foregoing discussions the questions referred are answered as follows ;

(i) In view of the quotation of the assessee-company, supply order of M/s. CIL and the surrounding factors noted supra, the Sales Tax Tribunal was not correct to hold that the order issued by M/s. CIL was not a contract of sale and that the actual purchase and sale were triggered only when the collieries placed indent with M/s. IDL Chemicals.

(ii) The movement of goods from M/s. IDL Chemicals, Rourkela, to different States constitutes sales u/s 3(a) of the C.S.T. Act.

(iii) The sales having taken place at the exit points of M/s. IDL, Rourkela, the State of Orissa was entitled to levy sales tax on those goods under the Central Sales Tax Act.

18. The reference applications and the STREV are accordingly answered and disposed of.

B.P. Das, J.

19. I agree.