(1979) 12 OHC CK 0012

In the Orissa High Court

Case No : Special Jurisdiction Case No. 13 of 1976

State of Orissa APPELLANT

Vs

Kalapana Jewellers RESPONDENT

Date of Decision : 12-12-1979

Acts Referred:
Orissa Sales Tax Act, 1947 — Section 24(1), 5(1)

Citation : (1980) 45 STC 273

Hon'ble Judges : R.N. Misra, J;N.K. Das, J

Bench : Division Bench

Advocate : None, for the Respondent

Judgement

R.N. Misra, J.—This is a reference u/s 24(1) of the Orissa Sales Tax Act of 1947 at the instance of the revenue and the following question has been referred by the Additional Sales Tax Tribunal for opinion of the court:

Whether, on the facts and in the circumstances of the case, the Additional Sales Tax Tribunal is justified in holding that gold and silver ornaments will be taxed at the rate of 5 per cent as per Sub-section (1) of Section 5 of the Orissa Sales Tax Act instead of 7 per cent as per entry in serial No. 27 of the taxable goods?

2. The relevant period is the financial year of 1971-72. The facts of this case are the same as in the case of Bavchand and Co. v. State of Orissa [1976] 38 S.T.C. 42 (ORI) and, for the reasons recorded in the said judgment, our answer to the question referred is:

3. On the facts and in the circumstance of the case, the Additional Sales Tax Tribunal was wrong in holding that gold and silver ornaments were exigible to tax at the general rate of 5 per cent as per Section 5(1) of the Orissa Sales Tax Act, but the same were exigible to tax at the rate of 7 per cent under serial No. 27 of the list of taxable goods with effect from 15th May, 1970.

4. As there is no appearance for the assessee in spite of notice, there would be

no order for costs.

N.K. Das, J.

I agree.

