

ORISSA HIGH COURT: CUTTACK

W.P(C) NO. 21008 OF 2022

In the matter of an application under Articles 226 and 227 of the Constitution of India.

AFR

M/s. OMJAY EV LIMITED,
Bhubaneswar Petitioner

-Versus-

Deputy Commissioner of
State Tax, CT & GST Circle,
Bhubaneswar & Ors. Opp. Parties

For Petitioner : M/s. B.P. Mohanty, N. Paikray,
R.P. Kar, A.N. Ray, S.P. Bhuyan
and S.A. Mohanty, Advocates

For Opp. Parties : Mr. Sunil Mishra,
Addl. Standing Counsel,
CT & GST Department

P R E S E N T:

**THE HONOURABLE DR. JUSTICE B.R.SARANGI
AND
THE HONOURABLE MR JUSTICE M.S. RAMAN**

Date of hearing:13.04.2023::Date of Judgment:19.04.2023

DR. B.R. SARANGI,J. The petitioner, by means of this writ petition, seeks to quash the order dated 02.08.2022, by

which the Deputy Commissioner of State Tax, CT & GST Circle, Bhubaneswar-1, Bhubaneswar has rejected the refund application of the petitioner in Form GST-RFD-06 under Annexure-10, as well as the refund rejection order dated 02.08.2022 for the period from December, 2021 to January, 2022 in Annexure-11, and further to issue direction to opposite party no.1 to grant refund as per refund application in Form GST-RFD-01 under Annexure-2 on account of Input Tax Credit accumulated due to Inverted Tax Structure and further to issue direction to opposite party no.1 to pay interest on the refundable amount.

2. The factual matrix of the case, in brief, is that the petitioner, a holder of Goods and Services Tax Registration Number 21AACCO7477Q1ZU under the CGST/OGST Act, is engaged in the business of manufacture of e-vehicles in various processes including chassis punching, colouring, wiring etc., and subsequent supply thereof. The petitioner procures domestically and imports various items with different

HSN, which are integral part and parcel of manufacturing of e- vehicles. The petitioner procures inputs (goods) for manufacturing of e-vehicles at various rates, such as, 5%, 12%, 18% and 28% with separate HSN, whereas the outward supply is of the new product, namely, "e-vehicles" with different HSN on which GST is leviable @ 5%. As a result of such reduced rate of the GST on outward supply of goods, i.e., e-vehicles, the Input Tax Credit (hereinafter referred to as "ITC") gets accumulated in the hands of the petitioner, which is legally and statutorily termed as "Inverted Duty Structure". Further, the petitioner also procures and supplies spare parts chargeable to GST @18% and 28% to its channel partners (dealers), as they are required to provide warranty of their products. As the input and output rate of GST on spare parts are same, no ITC gets accumulated in respect of spare parts. Hence, the supply of spare parts is not treated as inverted sales.

2.1 During the tax period from December 2021 to January 2022, the petitioner had filed return in GSTR-1 in respect of details of outward supplies of goods or services and also filed return in Form GSTR-3B in respect of details outward supplies and inward supplies of goods or services. In accordance with the regular practices followed by the petitioner for the previous tax periods, i.e., filing of periodic refund application, it filed refund application on 02.06.2022 in respect of accumulated unutilised ITC of the input goods in Form GST-RFD-01 to the tune of Rs.1,57,92,298.00 for the period December 2021 to January 2022 and it was issued with receipt of refund application, i.e., Refund ARN Receipts. On 22.06.2022, the petitioner submitted all the relevant documents in support of its refund application claiming refund of Rs.1,57,92,298.00 for the period December 2021 to January 2022 in strict adherence to column no.5 of CBIC Circular No.125/44/2019-GST dated 18.11.2019 and in the manner as provided in Rule-89(5) of the

CGST Rules. Sub-section (3) of Section 54 of the CGST/OGST Act provides that refund of any unutilised ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. The petitioner appeared before opposite party no.1 on 22.06.2022 and submitted all the relevant documents. Although the petitioner submitted all the documents and also made compliance of column no.5 under Annexure-A and B appended to the CBIC circular under Annexure-4, it was called upon to show cause for rejection of application for refund in Form-GST-RFD-08 dated 28.06.2022 in respect of refund application for the period December, 2021 to January, 2022 by calling upon the petitioner to submit the documents, as prescribed in column no.5 of the Circular No.125/44/2019-GST and the books of accounts for the respective tax periods physically by fixing the date to 13.07.2022.

2.2 On 06.07.2022, the petitioner appeared before opposite party no.1 and filed Form-GST-RFD-09 in respect of refund application for the period December, 2021 to January, 2022 along with all the requisite/supporting documents with a show cause reply praying therein for necessary order granting of refund on account of ITC accumulated due to Inverted Tax Structure. Though the petitioner submitted all the documents in physical mode before issuance of show cause notice in RFD-08, which were uploaded along with Form-GST-RFD-09, it was caused appearance along with its books of account before opposite party no.1 on 13.07.2022. The books of account were examined in detail and the petitioner's authorized person explained the books of account in terms of column no.5 of the CBIC Circular bearing No. 125/44/2019-GST in connection with Section- 54 (3) read with Rule-89 (5) appertaining to refund on account of inverted duty structure. On 28.07.2022, the authorised person of the petitioner's company received

a call from opposite party no.2 for submission of soft copies of data, which were uploaded and submitted as per column no.5 of the CBIC circular and accordingly, on the very same day, the petitioner submitted all the soft copies of the data for verification of opposite party no.2.

2.3. Then, opposite party no.2 called upon the petitioner on 29.07.2022 through e-mail, wherein the petitioner was asked to provide the documents within 2 days of the service of the letter in connection with refund application submitted under Section-54(3) of CGST/OGST Act for the period from December, 2021 to January, 2022. In compliance thereof, the petitioner filed its reply on 30.07.2022 to the questionnaire given by producing the books of account before opposite party no.2, who examined the same. By so submitting, the petitioner prayed for allowing the refund application as early as possible in the light of the statutory provision. But the petitioner was issued and served with Form-GST-RFD-06 dated 02.08.2022, whereby its refund

application dated 02.06.2022 for the period from December, 2021 to January, 2022 was rejected by opposite party no.1 on the ground that it had not submitted the entire books of account. Hence, this writ petition.

3. Mr. R.P. Kar, learned counsel appearing for the petitioner vehemently contended that for the period from 01.11.2021 to 30.11.2021, the refund was partially disallowed by opposite party no.1, which was challenged before the appellate authority, i.e, Additional Commissioner of CT & GST (Appeal), Bhubaneswar, who, vide order dated 01.06.2022, by considering the documents as well as books of account, as was done in similarly situated facts and circumstances of a case, held that the petitioner is entitled for maximum amount of refund as per the formula given in Rule-89(5). The said order was submitted before opposite parties no.2 & 3, but the impugned orders under Annexures-10 & 11 have been passed by sitting over the appellate order and the statutory provisions as well. It is further contended

that though the petitioner submitted all the relevant documents along with Statement-1 as per Rule-89(5) of the CGST Rules, Statement-1A under Rule-89(2)(h) of the CGST Rules, copy of the GSTR-2B before opposite parties no.1 & 2 showing the details of the taxable inward supplies received from registered persons, who have filed their statutory returns and deposited tax in accordance with law and, accordingly, the same appeared in the petitioner's portal as GSTR-2B and all the invoices accompanying GSTR=2B for necessary verification by opposite parties no.1 & 2, but the same were not considered in proper perspective. Therefore, the order rejecting the application of the petitioner for refund cannot be sustained in the eye of law and, consequentially, seeks for quashing of the orders impugned under Annexures-10 & 11 and issuance of direction for refund of the dues, as claimed by the petitioner.

4. Mr. Sunil Mishra, learned Additional Standing Counsel appearing for CT & GST Department

vehemently contended that there is availability of alternative remedy under Section-107 of the OGST & CGST Act. Without availing the same, the petitioner has directly approached this Court by filing this writ petition, which is not maintainable before this Court. To substantiate his contention, he has relied upon ***Commissioner of Income Tax v. Chhabil Das Agarwal***, (2013) 357 ITR 357 (SC) : (2014) 1 SCC 603. It is further contended that the petitioner has failed to render necessary assistance to the proper officer in verification of accounts, when the NET ITC amount reflected in RFD-01 did not match with the NET ITC amount shown in the statement submitted by the petitioner on 01.08.2022 for the tax period December, 2021 to January, 2022 and when the NET ITC amount reflected in RFD-01 reflected input services not admissible for computation of refundable amount on account of inverted duty structure. It is further contended that computation of refund on account of “Inverted Duty Structure” is done on the basis of the

formula provided under Rule-89(5) of the OGST Rules. The same having not been adhered to, the petitioner is not entitled to get the benefit, as claimed in the application itself. Therefore, he contended that the writ petition should be dismissed.

5. This Court heard Mr. R.P. Kar, learned counsel appearing for the petitioner and Mr. Sunil Mishra, learned Additional Standing Counsel appearing for CT & GST Department in hybrid mode and perused the records. Pleadings have been exchanged between the parties and with the consent of learned counsel for the parties, the writ petition is being disposed of finally at the stage of admission.

6. For just and proper adjudication of the case, relevant provisions of the Act and Rules are referred below:-

Chapter-XI of the OGST Act, 2017 deals with refund.

“Sec.54. Refund of tax.

xxx

xxx

xxx

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than--

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.”

Section-164 of the OGST Act, 2017 deals with power of the Government to make rules. In exercise of power, the Odisha Goods and Services Rules, 2017 has been framed by the State Government. Chapter-X of the said Rules, deals with refund.

“Rule-89. Application for refund of tax, interest, penalty, fees or any other amount:-

xxx

xxx

xxx

(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

*Maximum Refund Amount =
{(Turnover of inverted rated supply of
goods and services) x Net ITC ÷
Adjusted Total Turnover} - tax payable
on such inverted rated supply of goods
and services.*

Explanation:-For the purposes of this sub-rule, the expressions – (a) –Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and [–Adjusted Total turnover and –relevant period shall have the same meaning as assigned to them in sub-rule (4).”

7. To give effect to the provisions of the Act and Rules, the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs GST Policy Wing issued circular No.125/44/2019-GST on 18.11.2019. Clause-3 thereof reads as follows:

“3. With effect from 26.09.2019, the applications for the following types of refunds shall be filed in FORM GST RFD 01 on the common portal and the same shall be processed electronically:

a. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;

b. Refund of tax paid on export of services with payment of tax;

c. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;

d. Refund of tax paid on supplies made to SEZ Unit/SEZ Developer with payment of tax;

e. Refund of unutilized ITC on account of accumulation due to inverted tax structure;

f. Refund to supplier of tax paid on deemed export supplies;

g. Refund to recipient of tax paid on deemed export supplies;

h. Refund of excess balance in the electronic cash ledger;

i. Refund of excess payment of tax;

J. Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;

k. Refund on account of assessment/provisional assessment/appeal/any other order;

l. Refund on account of “any other” ground or reason.”

Clause-13 deals with provisional refund,

which reads as follows:

“13. Doubts get raised as to whether provisional refund would be given even in those cases where the proper officer prima-facie has sufficient reasons to believe that there are irregularities in the refund application which would result in rejection of whole or part of the refund amount so It is clarified that in such cases, the proper officer shall refund on a provisional basis ninety percent of the refundable amount of the claim (amount of

refund claim less the inadmissible portion of refund so found) in accordance with the provisions of rule 91 of the CGST Rules. Final sanction of refund shall be made in accordance with the provisions of rule 92 of the CGST Rules.”

A clarification was made on calculation of refund amount for claims of refund of accumulated ITC on account of inverted tax structure under clauses-53 & 54, which read as follows:

“53. Sub-section (3) of section 54 of the CGST Act provides that refund of any unutilized ITC may be claimed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies). Further, subsection (59) of section 2 of the CGST Act defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Thus, inputs do not include services or capital goods. Therefore, clearly, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized input tax credit. It is clarified that both the law and the related rules clearly prevent the refund of tax paid on input services and capital goods as part of refund of input tax credit accumulated on account of inverted tax structure.

54. There have been instances where while processing the refund of unutilized ITC on account of inverted tax structure, some of the tax authorities denied the refund of ITC of GST paid on those inputs which are procured at equal or lower rate of GST than the rate of GST on outward supply, by not including the amount of such ITC while calculating the maximum refund amount as specified in rule

89(5) of the CGST Rules. The matter has been examined and the following issues are clarified:

a) Refund of unutilized ITC in case of inverted tax structure, as provided in section 54(3) of the CGST Act, is available where ITC remains unutilized even after setting off of available ITC for the payment of output tax liability. Where there are multiple inputs attracting different rates of tax, in the formula provided in rule 89(5) of the CGST Rules, the term “Net ITC” covers the ITC availed on all inputs in the relevant period, irrespective of their rate of tax.

b) The calculation of refund of accumulated ITC on account of inverted tax structure, in cases where several inputs are used in supplying the final product/output, can be clearly understood with the help of following example:

i. Suppose a manufacturing process involves the use of an input A (attracting 5 per cent GST) and input B (attracting 18 per cent GST) to manufacture output Y (attracting 12 per cent GST).

ii. The refund of accumulated ITC in the situation at (i) above, will be available under section 54(3) of the CGST Act read with rule 89(5) of the CGST Rules, which prescribes the formula for the maximum refund amount permissible in such situations.

iii. Further assume that the applicant supplies the output Y having value of 3,000/- during the relevant period for which the refund is being claimed. Therefore, the turnover of inverted rated supply of goods and services will be Rs. 3,000/-. Since the applicant has no other outward supplies, his adjusted total turnover will also be Rs. 3,000/-.

iv. If we assume that Input A, having value of 500/- and Input B, having value of Rs. 2,000/-, have been purchased in the relevant period for the manufacture of Y, then Net ITC shall be equal to Rs. 385/- (Rs. 25/- and Rs. 360/- on Input A and Input B respectively).

v. Therefore, multiplying Net ITC by the ratio of turnover of inverted rated supply of goods and services to the adjusted total turnover will give the figure of 385/-.

vi. From this, if we deduct the tax payable on such inverted rated supply of goods or services, which is Rs. 360/-, we get the maximum refund amount, as per rule 89(5) of the CGST Rules which is 25/-.”

Similarly, Annexure-A to the said circular, which deals with list of all statements/declarations/undertakings/certificates and other supporting documents to be provided along with the refund application, is reproduced hereunder:-

| Sl. No. | Type of Refund | Declaration /Statement/Undertaking/Certificates to be filed online | Supporting documents to be additionally uploaded |
|---------|-------------------------------------|--|---|
| | units/developer with payment of tax | Declaration under rule 89(2)(f) | Self-certified copies of invoices entered in Annexure-A whose details are not found in GSTR-2A of the relevant period |
| | | Statement 4 under rule 89(2)(f) | Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund. |
| | | Undertaking in relation to sections 16(2)(c) and section 42(2) | |
| | | Self-declaration under rule 89(2) (l) if amount claimed does not exceed two lakh rupees, certification under rule 89(2) (m) otherwise. | |
| 5. | Refund of ITC unutilized on account | Declaration under second and third proviso to section 54(3) | Copy of GSTR-2A of the relevant period |

| | | |
|--|---|---|
| of accumulation due to inverted tax structure | Declaration under section 54(3)(ii) | Statement of invoices (Annexure-B) |
| | Undertaking in relation to sections 16(2)(c) and section 42(2) | Self-certified copies of invoice entered in Annexure-B whose details are not found in GSTR-2A of the relevant period. |
| | Statement 1A under rule 89(5) | |
| | Statement 1A under rule 89(2)(h) | |
| | Self-declaration under rule 89(2)(l) if amount claimed does not exceed two lakh rupees, certified under rule 89(2)(m) otherwise | |

Annexure-B to the aforesaid circular, which deals with statement of invoices to be submitted with application for refund of unutilized ITC, is given below in a tabular form:

| Sr. no | GSTIN of the Supplier | Name of the Supplier | Invoice Details | | | Type | Central Tax | State Tax/Union Territory Tax | Integrated Tax | Cess | Eligible for ITC | Amount of eligible ITC | Whether invoicing included in GSTR-2A Y/N |
|--------|-----------------------|----------------------|-----------------|------|-------|------|-------------|-------------------------------|----------------|------|------------------|------------------------|---|
| | | | Invoice No. | Date | Value | | | | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| | | | | | | | | | | | Yes/no/Partially | | |

8. In Annexure-8, the CT & GST Officer, Bhubaneswar-1 intimated the petitioner to furnish details of manufacturing numbers of vehicles and inputs used thereon during December, 2021, January

2022, February 2022. The documents, which were required to be furnished by the petitioner, are given below:-

“1. How many electric vehicles manufactured in the above mentioned period.

2. How many types of electric vehicle you have manufactured in your organization and production of each category during the above mentioned period.

3. Input Service and Input Goods used for the manufacturing of one unit of electronic vehicle. (provide the details of Inputs both goods and services used in each category)”.

9. The ground of rejection of the refund application of the petitioner, as contained in the order impugned under Annexure-11, reads as follows:-

“Ground of rejection:ने

But on verification, it is found that the output turnover includes GST rate of 5%, 12%, 18%, 28%. It means apart from selling of electric vehicle, the taxpayer is also engaged in the selling of the spare parts procured from different vendor-domestic as well as overseas, as per documents submitted by the tax payer. As such, in show cause notice issued in FORM-GST-RFD-08 on dtd. 28.06.2022, the taxpayer was to submit entire books of account for the concerned period applied for refund. In response to RFD-08, the taxpayer failed to submit the entire books of account and as such, the amount of refund to be sanctioned cannot be determined without proper verification of books of account. In non-compliance to objection raised in RFD-08, the refund application in the present case is hereby rejected.”

In view of the ground of rejection indicated in the order impugned, it is made clear that in the show cause notice issued in FORM-GST-RFD-08 on 28.06.2022, though the petitioner, being the taxpayer, was asked to submit the entire books of account for the concerned period applied for refund, but, in response to RFD-08, the petitioner failed to submit the same and, as such, the amount of refund to be sanctioned could not be determined without proper verification of books of account. Therefore, the refund application of the petitioner was rejected.

10. On perusal of the statutory provisions and the circular governing the field, it is made clear that in order to get refund as per formula given under Rule-89(5), the petitioner has to adhere to the said provisions. The prayer for refund has not been taken into consideration in proper perspective while passing the order impugned on the plea that the petitioner had not produced the relevant documents. What the petitioner had to submit that has already been

mentioned in the provisions of the Act and Rules and CBIC guidelines, as mentioned above. Had the petitioner adhered to the same, no new plea would have been taken at this stage contending that since the petitioner had not produced books of accounts, it is not entitled to get refund of the amount.

11. Much reliance has been placed by the learned Additional Standing Counsel for CT & GST Department on paragraph-9 of the counter affidavit, wherein it has been specifically pleaded that the petitioner had applied for refund of accumulated unutilized ITC in RFD-01 on dated 02.06.2022 for the period from December, 2021 to January, 2022 and the petitioner failed to submit the relevant documents on the date of application, i.e., on 02.06.2022, but it had submitted the documents manually in hardcopy, as mentioned in serial no. a to q of the said paragraph. It is contended that the petitioner was engaged in the manufacturing of e-vehicles wherein spare parts were used and, as such, a detailed accounts of spare parts utilized in manufacturing and in supply

thereof was required. Therefore, the petitioner was issued with a show-cause notice in RFD-08 on 28.06.2022 for production of books of account, i.e., input wise details of spare parts used during the assembling/manufacturing process of e-vehicles in order to ascertain the amount of inputs used during the assembling/manufacturing of e-vehicles only and fixing the date for personal hearing to 13.07.2022. The petitioner replied to the show-cause notice on 06.07.2022 and submitted the documents, as mentioned at serial no. (a) to (i) in the said paragraph, but the petitioner failed to submit the input wise details of spare parts used during the assembling/manufacturing process of e-vehicles. Therefore, no illegality or irregularity has been committed by the authority in rejecting the refund application of the petitioner.

12. After arguments were advanced for some time from both sides, this Court made a query with regard to liability of the petitioner to pay the tax to the authority

for the period it claims for refund. Mr. S. Mishra, learned Additional Standing Counsel for CT & GST Department, referring to the counter affidavit filed on behalf of the opposite parties, stated that there lied a mismatch of Rs.5,18,230/- as against reflected figure in RFD-01 at Rs.2,22,97,228/-. Therefore, there is no dispute before this Court with regard to the notification issued for refund to the petitioner on the basis of pleadings available on record. The only dispute is with regard to Rs.5,18,230/-. The pleadings available in paragraph-10 of the counter affidavit read as follows:

“10. That it is humbly submitted that verification of the statement submitted by the petitioner on dt:01.08.2022 revealed that net ITC for the tax period December, 2021 to January, 2022 has been reflected at Rs.2,28,15,458/- as per the monthly model wise vehicle manufactured and input used thereon. But the net ITC has been calculated as per Rule 89(5) of the OGST Rules and reflected in RFD-01 at Rs.2,22,97,228/-. Thus, there lied a mismatch of Rs.5,18,230/- in the net ITC amount disclosed. On account of such mismatch, the invoices of suppliers of the petitioner are required to be verified. But the petitioner failed to comply on this score. In absence of such compliance and in the interest of Govt. revenue the refund application of the petitioner has been rejected by the proper officer and the refund rejection order has been issued in RFD-06 on dated 02.08.2022.”

13. It is admitted on the part of the opposite parties that the dispute is with regard to refund of Rs.5,18,230/-, which requires proper adjudication by the authority on production of documents, as claimed by the opposite parties. Therefore, excluding Rs.5,18,230/-, out of Rs.2,22,97,228/-, the balance amount has to be refunded to the petitioner. If any further amount is found to be refundable, the same can be paid after final adjudication.

14. In **Canadian Eagle Oil Co. Ltd. v. R.**, (1945) 2 All ER 499, quoting with approval a passage from ROWLATT, J. the principle was expressed in the following words: “In a taxing Act one has to look merely at what is clearly said. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used.”

The same view has been followed by the apex Court in **Gursahai v. CIT**, AIR 1963 SC 1062.

15. In **St. Aubyn v. A.G.**, (1951) 2 All ER 473, Lord Simonds held that “A taxing statute is to be strictly

construed, which has been well-established rule in the familiar words of LORD WENSLEYDALE, reaffirmed by LORD HALSBURY AND LORD SIMONDS, means: “The subject is not to be taxed without clear words for that purpose; and also that every Act of Parliament must be read according to the natural construction of its words”.

The said principle has been followed by the apex Court in **Member Secretary, Andhra Pradesh State Board for Prevention and Control of Water Pollution v. Andhra Pradesh Rayons Ltd.**, AIR 1989 SC 611.

16. In **Potts’ Executors v. IRC**, (1951) 1 All ER 76, it has been held that “if there be admissible in any statute, what is called an equitable construction, certainly, such a construction is not admissible in a taxing statute where you can simply adhere to the words of the statute”.

Similar view has also been taken by the apex Court in **Hansraj & Sons v. State of Jammu &**

Kashmir, AIR 2002 SC 2692 and in **Government of Andhra Pradesh v. Laxmi Devi**, (2008) 4 SCC 720.

17. In view of facts and law, as discussed above, this Court directs the opposite parties to refund the balance amount, excluding Rs.5,18,230/- from out of total amount of Rs.2,22,97,228/-, to the petitioner pending final adjudication of the disputed amount in accordance with law.

18. With the above observation and direction the writ petition stands disposed of. However, there shall be no order as to costs.

(DR. B.R. SARANGI)
JUDGE

M.S. RAMAN, J. I agree.

(M.S. RAMAN)
JUDGE

Orissa High Court, Cuttack
The 19th April, 2023, Alok