IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 706 of 2018

Jagannath Hanuman ….. ***Petitioner***

Mr. Hemanta Kumar Mund, Advocate along with Ms. Anima Kumari Dei, Advocate

-versus-

State of Odisha (Vigilance Department) ….. ***Opposite Party***

Mr. N. Moharana, ASC (Vig.)

CORAM:

HON'BLE MISS JUSTICE SAVITRI RATHO

ORDER

20.02.2026

(Through hybrid mode)

Order No.

36.

1. Heard Mr. Hemanta Kumar Mund, learned counsel for the Petitioner.

2. Mr. Mund, learned counsel for the Petitioner has challenged the order of cognizance on primarily four grounds, namely:-

(i) when the goods arrived on 29.09.2000 and 18.11.2000, the Petitioner was not in charge of the R.R. Unit of Jharsuguda Railway Station. He had remained in charge only from 02.11.2000 to 15.11.2000 in place of the regular incumbent Sujan Raut which has been stated in paragraph 10 of the CRLMC which is supported by an affidavit. He also submits that he filed the supporting documents along with his affidavit dated 31.08.2025 which has been filed on 03.09.2025. Letter

No. 5723/CT dated 08.12.2017 has been filed along with joining report of Sujan Raut dated 14.11.2000.

(ii) As per Section 17 of the Orissa Sales Tax Act, 1947, the Petitioner being the Inspector of Commercial Tax was not competent nor was he authorised to intercept any vehicle in the R.R. Unit as his rank is below the rank of Assistant Commercial Tax Officer.

(iii) To proceed against the Petitioner, for the offence under Section 120-B of the IPC, prior sanction under Section 197 of the Cr.P.C. should have been obtained. He relies on the decision of the Supreme Court in the case of ***N.K. Ganguly vrs. C.B.I., New Delhi*** reported in ***(2016) 2 SCC 143*** in support of such submission.

(iv) As per the decision of this Court in the case of ***Kamal Prasad Bondia vrs. State of Orissa*** reported in ***2013 (II) ILR-CUT-862: 2014 (I) OLR 115: (2014) 57 OCR 254: (2014) 117 CLT 210***, sales tax is chargeable at the point of sale and not before that and in the present case, sale was to take place after the delivery of the goods hence sales tax was not payable before that.

3. Mr. N. Moharana, learned Additional Standing Counsel for the Vigilance Department submits that he shall obtain instructions on the affidavit dated 31.08.2025 filed by the Petitioner along with supporting documents, and counter the submissions raised by learned counsel for the Petitioner.

4. List this matter on 16.03.2026 as prayed for by Mr. N. Moharana, learned Additional Standing Counsel for the Vigilance Department.

5. As the prayer for adjournment is made on behalf of Mr. N. Moharana, learned Additional Standing Counsel for the Vigilance Department, interim order dated 05.12.2018 passed in Misc. Case No. 485 of 2018 is extended till the next date.

(Savitri Ratho)
Judge

puspa