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C.A.No. 1290-1291 OF 1999  
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ITEM NO.102 COURT NO. 2 SECTION IIIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal Nos.1290-91/1999 @@  
AA

State of Orissa & Ors. Appellant (s)

VERSUS

M/s. Binayak Roller Flour Mills & Anr. Respondent (s)  
(With office report)

Date : 29/03/2001 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA  
HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Appellant (s) Mr. Jana Kalyan Das, Adv.

For Respondent (s) Mr. B.A. Mahanty, Sr.Adv.  
Ms. Mamata Tripathi, Adv.  
Mrs. Aruna Mathur, Adv.  
for M/s. Arputham, Aruna & Co., Adv.

UPON hearing counsel the Court made the following  
O R D E R

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The civil appeals are allowed.  
The respondents shall pay to the appellants the costs of the  
appeals, fixed at Rupees five thousand.

.SP1 (N. Annapurna) (Shelly Sengupta)  
Court Master Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA@@  
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CIVIL APPELLATE JURISDICTION@@  
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State of Orissa & Ors.

....Appellant(s)

versus

M/s. Binayak Roller Flour Mills & Anr.

...Respondent(s)

O R D E R@@  
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These appeals are filed by the State of Orissa against the judgment and order of a Division Bench of the Orissa High Court allowing the writ petitions filed by the present respondents.

It was the case of the respondents, briefly put, that they were entitled to exemption from payment of sales tax in respect of purchases made by them of wheat from the Food Corporation of India during the Assessment Years 1990-91 and 1991-92 under the applicable Industrial Policy Resolutions. It was pointed out to the High Court that this very question was pending consideration in respect of the very respondents in second appeals which had been filed before the Sales Tax Tribunal by the Food Corporation of India. Even so, the writ petitions were heard on merits. The judgment the High Court then passed cannot be said to be a speaking order in the sense that it does not discuss in any detail why it came to the conclusion that the writ petitions should be allowed. It makes no reference to the relevant Industrial Policy Resolutions. It mentions earlier judgments of the High Court but

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it does not discuss them or indicate why, given the facts of the cases thereof and of the present case and the applicable law, they were required to be followed.

Learned counsel appearing for the respondents before us has failed to satisfy us that the judgment of the High Court is a satisfactory judgment or that there are earlier judgments which are squarely applicable to the present case.

We think, in the circumstances, that it is appropriate that the judgment and order under appeal should be set aside and the Writ Petitions (O.J.C.Nos.6660/1995 and 6679/1995) restored to the file of the High Court for being heard and considered afresh. The State of Orissa shall be entitled to urge, and the High Court shall consider whether it is not appropriate that the writ petitions should be dismissed and the point of law decided, in the first instance, by the Sales Tax Tribunal before which the issue is even now pending. All available pleas will be open to both sides in the event that the High Court proceeds to hear the writ petitions.

The civil appeals are allowed accordingly. The respondents shall pay to the appellants the costs of the appeals, fixed at Rupees five thousand.

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.....J.  
(S.P. Bharucha)

.....J.  
(N. Santosh Hegde)

.....J.  
(Y.K. Sabharwal)

New Delhi,  
March 29, 2001.