

ITEM NO.31

COURT NO.3

SECTION IIIA

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

## RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).1613/2007

(From the judgement and order dated 06/11/2006 in OJC No. 508/1989 of The  
HIGH COURT OF ORISSA AT CUTTACK)

ORIENT PAPER MILLS

Petitioner(s)

VERSUS

STATE OF ORISSA &amp; ORS.

Respondent(s)

(With appln(s) for permission to file additional documents and prayer for  
interim

relief )

Date: 05/02/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Petitioner(s)

Mr. M.L. Verma, Sr. Adv.

Mr. Sanjeev Kumar, Adv.

Mr. Vishal Gupta, Adv. for

M/S.Khaitan &amp; Co.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

The Petitioner, in order to generate its own electric  
ity for  
the manufacture of paper, purchased certain plant and machinery to  
be used in the generation of electricity for captive consumption  
by  
using Form 'C'. The authorities came to the conclusion that the  
Petitioner could not purchase the machinery for generating

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electricity by using Form "C". The Petitioner paid 4% sales tax  
whereas it was liable to pay 10% sales tax. The authorities levied a  
penalty for misuse of Form "C" in a sum of Rs.79,76,305.73.

The Petitioner being aggrieved filed a Writ Petition under  
Articles 226/227 of the Constitution of India seeking a Writ of  
Certiorari for quashing the penalty levied on it. The High Court in  
the impugned order has quashed the penalty. While doing so, the  
High Court has directed the Petitioner to pay the differential  
amount of tax, i.e., at the rate of 6% on the purchase value of th  
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materials in question along with interest at the rate of 6% on the differential tax.

Counsel for the Petitioner contends that in a Writ of Certiorari filed by it, the High Court could not direct the Petitioner to pay either the differential tax or the interest thereon. We do not agree with him on the first point i.e. that the High Court could not hold or observe in its order that the Petitioner would be liable to pay the differential tax.

Issue notice limited to the point as to whether the High Court could have directed the Petitioner to pay interest on the differential tax at the rate of 6%.

(K.K. Chawla)  
Court Master

(Kanwal Singh)  
Court Master