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CESTAT Delhi clarified the distinction between stock transfers and inter-State sales



This Article has been written by Shri Ravi Shekhar Jha, Advocate based in New Delhi. The views expressed are based on his interpretation of the law. He can be reached at his email id intelconsul@gmail.com or on his Mobile +91-9999005379.

The Central Sales Tax Appellate Tribunal recently delivered a significant judgment in favor of the Steel Authority of India Ltd. (SAIL) regarding the classification of transactions as stock transfers versus inter-State sales. This decision, pronounced on September 26, 2025, has far-reaching implications for businesses operating across multiple states in India, particularly those in manufacturing and distribution.

Background of the Case

The dispute revolved around the movement of goods from SAIL's Rourkela Steel Plant in Odisha to its branches in other states during the assessment years 1989-1990, 1991-1992, 1992-1993, and 1993-1994. The Odisha Sales Tax Tribunal had earlier classified these transactions as inter-State sales under Section 3(a) of the Central Sales Tax (CST) Act, thereby subjecting them to central sales tax. SAIL contended that these were mere stock transfers to its branches, not sales, and therefore not liable for CST.

Key Issues

The primary question before the Tribunal was whether the movement of goods from the Rourkela Steel Plant to SAIL's branches in other states constituted inter-State sales or stock transfers. The distinction is crucial because inter-State sales attract CST, while stock transfers do not.

Arguments Presented

SAIL's Position

1. **Stock Transfers:** SAIL argued that the movement of goods was purely for replenishing branch stock and was not occasioned by any pre-existing contract of sale.
2. **Standard Goods:** The goods were standard products manufactured in bulk and dispatched to branches without reference to specific buyers.
3. **Branch Autonomy:** Branches had full discretion to sell goods locally or transfer them to other branches, independent of any prior agreement with buyers.
4. **TBS Scheme:** SAIL contended that the Time Bound Supply (TBS) Scheme was merely a framework for demand registration and not an agreement to sell.

Odisha Sales Tax Tribunal's Position

The Tribunal held that the TBS Scheme and related documents established an inextricable link between the movement of goods and pre-existing contracts of sale, thereby qualifying the transactions as inter-State sales.

The Tribunal's Findings

The Central Sales Tax Appellate Tribunal overturned the Odisha Sales Tax Tribunal's decision, citing several key points:

1. **No Pre-Existing Contract:** The Tribunal found that the movement of goods from the Rourkela Steel Plant to branches was not occasioned by any contract of sale. The goods were dispatched in bulk to branches, and sales occurred only after the goods were received at the branches.
2. **TBS Scheme Not a Sale Agreement:** The Tribunal categorically rejected the notion that the TBS Scheme constituted an offer or agreement to sell. It was deemed a broad framework for regulated transactions, not a binding contract.
3. **Consistency Across Plants:** SAIL follows identical systems of production, movement, and marketing across all its steel plants. Transactions from other plants were consistently treated as stock transfers, reinforcing SAIL's position.
4. **Binding Precedents:** The Tribunal relied on earlier judgments by the Orissa High Court and the Central Sales Tax Appellate Authority, which had ruled in favor of SAIL for similar disputes in previous years.

Implications of the Judgment

This landmark decision has several implications:

1. **Clarity on Stock Transfers:** The judgment provides clarity on the distinction between stock transfers and inter-State sales, emphasizing the need for a direct nexus between the movement of goods and a contract of sale for transactions to qualify as inter-State sales.
2. **Relief for Manufacturers:** Businesses with multiple branches across states can now rely on this precedent to defend stock transfers against claims of inter-State sales.
3. **Uniformity in Tax Treatment:** The decision underscores the importance of consistent tax treatment across states, especially for companies with centralized production and decentralized distribution.

Conclusion

The Tribunal's decision in favor of SAIL is a significant victory for businesses operating in India. It reinforces the principle that stock transfers, when not occasioned by a contract of sale, cannot be treated as inter-State sales. This judgment not only resolves a long-standing dispute but also sets a precedent for similar cases in the future.

As businesses navigate the complexities of inter-State trade and taxation, this decision serves as a guiding light, ensuring fairness and consistency in tax treatment. For SAIL, this victory is a testament to its robust systems and unwavering commitment to defending its position.

Source: CESTAT Delhi

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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. I

CENTRAL SALES TAX APPEAL NO. 12 OF 2018

(Arising order out of S.A. No. 171 (C) of 1994-95 decided on 29.06.2018 passed by the Odisha Sales Tax Tribunal, Cuttack)

M/s. Steel Authority of India Ltd.

....Appellant

Rourkela Steel Plant & Rourkela
Fertilizer Plant, Rourkela,
Sundargarh, ORISSA

VERSUS

- 1. State of Orissa,**
Represented by Sales Tax, Orissa,
Vanijaykar Bhawan, Cantonment Road,
Cuttack (Orissa)
- 2. Sales Tax Tribunal, Orissa**
(Through Secretary/Registrar),
Bani Jayakar Bhawan, Old Secretariat Campus,
Cantonment Road, Post Box No. 34,
Cuttack (Orissa).
- 3. State of Andhra Pradesh,**
Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Hyderabad (A.P.)
- 4. State of Tamil Nadu,**
Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Chennai (Tamil Nadu).
- 5. State of Kerala,**
Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Thiruvendrum (Kerala)
- 6. State of Karnataka,**
Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Bangalore (Karnataka)
- 7. State of Maharashtra,**
Represented by its
Secretary to Government
Department of Finance
Secretariat Building,

Mumbai (Maharashtra)

8. State of Rajasthan

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Jaipur, (Rajasthan)

9. State of Punjab

Represented by its
Financial Commissioner (Taxation)
Secretariat Building
Chandigarh

10. State of Jammu and Kashmir,

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Srinagar (J & K)

11. State of Madhya Pradesh

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Bhopal

12. State of Chhattisgarh,

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Raipur, (Chhattisgarh)

13. State of Uttar Pradesh,

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Lucknow, (U.P.)

14. State of Uttranchal

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Dehradun, (Uttaranchal)

15. State of West Bengal,

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Kolkata (West Bengal).

16. State of Haryana,

Represented by its
Secretary to Government
Department of Finance

Secretariat Building Chandigarh

17. State of Gujarat

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Gandhi Nagar, (Gujarat)

18. State of Bihar

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Patna, (Bihar)

19. State of Jharkhand

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Ranchi, (Jharkhand)

20. State of Arunachal Pradesh

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Itanagar, (Arunachal Pradesh)

21. Pondichery

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Pondichery

22. State of Delhi,

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Indraprasth Estate, Delhi

23. State of Assam,

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Dispur, Guwahati (Assam)

24. State of Manipur,

Represented by its
Secretary to Government
Department of Finance
Secretariat Building,
Imphal, (Manipur)

....Respondents

WITH

CENTRAL SALES TAX APPEAL NO. 13 OF 2018

(Arising order out of S.A. No. 63 (C) of 1996-97 decided on 29.06.2018 passed by the Odisha Sales Tax Tribunal, Cuttack)

M/s. Steel Authority of India Ltd.

Rourkela Steel Plant & Rourkela
Fertilizer Plant, Rourkela,
Sundargarh, ORISSA

....Appellant**VERSUS****State of Orissa & 23 Others**

Represented by Sales Tax, Orissa,
Vanijaykar Bhawan, Cantonment Road,
Cuttack (Orissa)

....Respondents**WITH****CENTRAL SALES TAX APPEAL NO. 14 OF 2018**

(Arising order out of S.A. No. 73 (C) of 1997-98 decided on 29.06.2018 passed by the Odisha Sales Tax Tribunal, Cuttack)

M/s. Steel Authority of India Ltd.

Rourkela Steel Plant & Rourkela
Fertilizer Plant, Rourkela,
Sundargarh, ORISSA

....Appellant**VERSUS****State of Orissa & 23 Others**

Represented by Sales Tax, Orissa,
Vanijaykar Bhawan, Cantonment Road,
Cuttack (Orissa)

....Respondents**AND****CENTRAL SALES TAX APPEAL NO. 15 OF 2018**

(Arising order out of S.A. No. 47 (C) of 1996-97 decided on 29.06.2018 passed by the Odisha Sales Tax Tribunal, Cuttack)

M/s. Steel Authority of India Ltd.

Rourkela Steel Plant & Rourkela
Fertilizer Plant, Rourkela,
Sundargarh, ORISSA

....Appellant**VERSUS****1. State of Orissa & 23 Others**

Represented by Sales Tax, Orissa,
Vanijaykar Bhawan, Cantonment Road,
Cuttack (Orissa)

....Respondents**APPEARANCE:**

Shri S.K. Bagaria, Shri Rupesh Kumar, Sr. Advocates and Shri Sunil Kumar Jain, Shri Shaantanu Jain and Ms. Rashika Swarup, Shri Alekshendra Sharma, Shri Sanjeev Kumar Advocates for the appellant

Shri S. Dwarakanath, ASGI, Mr. Soumyajit Pani, Mr. Aishwary Bajpai, Mr. Vijay Adithya, Advocates for the State of Orissa

Ms. Rama Ahluwalia, Advocate for the State of Maharashtra, Respondent No. 7

Mr. Ankit Roy and Ms. Divyangi Gupta, Advocates for the State of Assam

Ms. Devina Sehgal, learned counsel assisted by Shri Dhananjay Yadav, Advocates for the State of Telangana

Ms. Madhumita Bhattacharjee and Ms. Yoowanka Rymbai, Shri Anant, Advocates for the State of West Bengal

Shri Siddharth Sangal, Ms. Shreya Garg and Ms. Richa Mishra, Ms. Mushkan Mangla, Advocates for the State of Uttarakhand

Shri C. Kranthi Kumar and Ms. Misha Rohtagi, Advocates for the State of Tamil Nadu

Riya Sagar and Ms. Fliza Bar, Advocates for the State of Arunachal Pradesh

Shri Prem Sagar Pal, Shri Chandra Mani Dev, Advocates for the State of Punjab

CORAM:

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

Date of Hearing: 21.07.2025

Date of Decision: 26.09.2025

FINAL ORDER NO's. 51363-51366/2025

JUSTICE DILIP GUPTA:

All the aforesaid four Central Sales Tax Appeals have been filed by the Rourkela Steel Plant of Steel Authority of India Ltd. to assail the common order dated 29.06.2018 passed by the Odisha Sales Tax Tribunal, Cuttack¹ confirming the orders passed by the Assistant Commissioner of Sales Tax.

2. The details of the four Central Sales Tax Appeals are as follows:

1. Sales Tax Tribunal

Particulars	Appeal No. 12/2018 - Assessment Year 1989-90	Appeal No. 13/2018 - Assessment Year 1991-92	Appeal No. 14/2018 - Assessment Year 1992-93-	Appeal No. 15/2018 - Assessment Year 1993-94-
Date of Assessment Order	23.12.1991	13.07.1993	30.11.1994	20.12.1995
Date of Order of Assistant Commissioner of Sales Tax	06.01.1995	25.06.1996	29.09.1997	28.05.1996
Date of Sales Tax Tribunal Order	14.03.2008	12.03.2008	12.03.2008	14.03.2008
Common CSTAA Order of Remand	15.03.2010	15.03.2010	15.03.2010	15.03.2010
Common Order of Odisha Sales Tax Tribunal (Impugned)	29.06.2018	29.06.2018	29.06.2018	29.06.2018

3. It transpires from the records that earlier the orders passed by the Assistant Commissioner of Sales Tax were assailed before the Sales Tax Tribunal against which the appellant filed four appeals before the Central Sales Tax Appellate Authority and by a common order dated 15.03.2010, the four appeals were allowed and the matters were remanded to the Sales Tax Tribunal for fresh disposal in the light of the observations made in the order. It is pursuant to the aforesaid order of remand that the Sales Tax Tribunal passed the order dated 29.06.2018 that has been assailed before this Tribunal in the four appeals that have been filed by the appellant.

4. The Steel Authority of India Ltd.² has six integrated Steel Plants. They are:

- (a) Rourkela Steel Plant, Odisha;
- (b) Bokaro Steel Plant, Jharkhand;
- (c) Bhilai Steel Plant, Chhattisgarh;
- (d) Durgapur Steel Plant, West Bengal;
- (e) Alloy Steel Plant, West Bengal; and

2. the appellant

(f) Salem Steel Plant, Tamil Nadu

5. The appellant has 37 branches/stockyards all over the country. The appellant claims that it follows identical system of production, movement and marketing at all its Steel Plants and branches.

6. The four appeals relate to the Rourkela Steel Plant at Odisha.

7. The following facts have been stated by the appellant in connection with the business, manufacturing activities, and branch transfers:

- (i)** The appellant is a public sector undertaking and is one of the largest manufacturers of iron and steel goods in the country. During the aforesaid four years, the total turnover of Rourkela Steel Plant itself of iron and steel goods was more than Rs. 4200 crores, consisting of 4.545 million tons of iron and steel;
- (ii)** The goods manufactured at the plants are either sold at the plant itself to very large buyers who normally buy full rake/wagon loads and, in such cases, the applicable sales tax (local sales tax or central sales tax, as the case may be) is paid by the plant itself;
- (iii)** The branches of the appellant (also called stockyards) are spread throughout the country from where the goods are sold to local buyers on payment of applicable local sales tax. For this purpose, goods manufactured at all the plants are continuously and regularly transferred to different branches;
- (iv)** Rourkela Steel Plant is an integrated steel plant. Manufacture of goods at this plant is a continuous and regular process in the blast furnaces. All branch transfers

are of standard goods and not of any tailor-made goods. Such branch transfers from the plant are always in full rake load/wagon load, each rake comprising of 35-45 wagons and each wagon containing approximately 45-60 MTs;

- (v)** All plant documents are in the name of the own branch of the appellant to whom the dispatches are made. All such branch transfers are under cover of Dispatch Advice/Stockyard Advice wherein the consignee is the appellant itself and described as "consignee: SAIL". Since it is merely a branch transfer, payment terms are described as "book adjustment";
- (vi)** The plant documents never mention and do not relate to any buyer at the branch or any order or acceptance or registration at the branch. Not even in one single case, the plant manufactures or despatches goods for any pre-identified buyer at the branch or pursuant to any order or offer or acceptance or registration at the branch. The plant is not at all concerned with as to how and to whom the goods will be ultimately sold at the branches and in what quantities or as to whether the goods will be diverted by the branch to another branch. All such branch transfers are independent of and totally unrelated to any sales that could ultimately be made at the branches. The branch transfers are never occasioned by any pre-existing contract with any buyer but are general and bulk stock transfers of standard goods from the plants to the branches in a regular routine manner;

(vii) All the documents relating to production at the plants and movement from the plants to the branches are relatable to general planning of the appellant manufacturing activities at the plants and movement of manufactured goods to different branches throughout the country. None of these activities and none of these documents in any way relate to any buyer at the branch. Freight for transportation to branches as well as applicable octroi is paid by the appellant. Branch transfers are supported by declarations in Form F;

8. The following facts have been stated by the appellant relating to the sales at branches and branch documents:

- (i)** The branches are maintained by the appellant as a part of its normal business activity and for better and efficient distribution of goods throughout the country. All branches are manned by personnel of the appellant;
- (ii)** The goods carried in rakes are unloaded at the stockyards and are taken into stock and accounts of the branches. Out of the goods received from the plant, the branches make local sales to various buyers at the branch and the branches pay local sales tax on such sales. Total local sales tax paid by the branches of the appellant during the four years aggregated to Rs. 452.11 crores;
- (iii)** The branch is absolutely free and has full discretion to sell any goods to any buyer or to divert the goods to any other branch. The quantities to be sold to different buyers from out of the goods lying at or received by the branches is decided by the branch concerned and is solely at its discretion and the buyers have no say in the matter;

- (iv)** The appellant, at the time of dispatch from the factory and during transportation from the factory to the branches and thereafter when the goods are lying in the branches (till they are sold at the branch to the buyers), remains the owner of the goods. All throughout the aforesaid different stages, if the goods are lost or destroyed, the appellant alone is liable for bearing such loss;
- (v)** After the rakes are received by the branches or are in transit, the branches analyse their availability position with regard to different goods and issue final offers for small quantities to different buyers. Such final offers mention specific quantity, sizes, quality and price of goods offered. In the final offers made by the branches, the buyers are required to make 100% payment for the goods offered. The buyer is also at liberty to inspect the goods before making the payment. After such payments are made by the buyers, delivery orders are issued by the branches and based on such delivery orders, deliveries are made to the buyers and invoices are raised on them by the branches and sales are completed. In all sale documents, there is cross reference to the final offer mentioned above and this final offer is acted upon by both the sides and goods are sold and supplied pursuant to this final offer;
- (vi)** Branches sell the goods to the buyers at the prices prevailing at the time of delivery. Since the sales made by the branches are local sales in the State, the branches pay local sales tax on the goods sold by them; and

- (vii)** The dispute in the present appeals relates to branch transfers made from Rourkela Steel Plant to the branches of the appellant during the above four years. The Sales Tax Tribunal has treated the entire branch transfers from the Rourkela Steel Plant to the own branches of the appellant as inter-State sales by referring to and relying on Time Bound Supply³ Scheme.

9. In connection with the aforesaid TBS, the appellant has stated the following facts:

- (i)** Full facts relating to TBS have been stated in paragraphs 2 and 3 of the order 15.03.2010 of the Central Sales Tax Appellate Authority. In the said order it was held inter alia that TBS Scheme is only a methodology and it is not an offer or contract of sale. This view was also upheld by the High Court in the judgment dated 18.01.2023;
- (ii)** The branches of the appellant throughout the country have been selling iron and steel products inter alia under TBS Scheme. Save and except the Odisha Sales Tax authorities for the disputed years, no dispute with reference to TBS sales was raised by Sales Tax authorities having jurisdiction over other plants or branches of the appellant and the branch transfers were always accepted as branch transfers. The Odisha Sales Tax authorities however, on identical facts and documents, took different views for the aforesaid four years and treated the quantum of entire sales by the branches under TBS Scheme as inter-State sales by the Rourkela Steel Plant;

10. The relevant facts relating to documents have been mentioned by the appellant in the following manner:

(a) Application for Registration of demands: The buyers at the branches make application for registration of their demands for subsequent quarters. In the registration application, at the very threshold, it is made clear by the applicant that the supplies will be made from the stockyards and that the goods supplied may be from materials produced in any of its steel plants without reference to the applicant. It is not contemplated or stipulated that the goods to be supplied to the buyer have to move from any particular plant. On the other hand, it is open to the branch to supply the goods from out of the stock lying at the branch and from the materials produced in any of its steel plants. It is within the absolute discretion of the appellant to supply the goods from the stock available at the stockyard or from out of the materials in transit or received from any plant. Thus, it is permissible for Calcutta/Howrah Branch to supply the goods received from the Durgapur Steel Plant also which is located in the State of West Bengal;

(b) Pre-Offer: The goods covered by preliminary offer are normally in much smaller quantities and of different sizes, qualities or thickness as compared to those mentioned in the registration application. The pre-offer requires the party to communicate its acceptance within a particular period and it is clearly stated that if the acceptance is not made before the stipulated date,

pre-offer will stand withdrawn without any further reference. Pre-offer is merely in the nature of a tentative information about a much lesser quantity and that too of different sizes and qualities and it is never acted upon. There is no reference of this pre-offer in the final offer or in the supply documents like invoice or delivery order;

(c) EMD: Earnest Money Deposit of about 5% is taken from the buyers after the preliminary offer so as to ensure genuineness and financial viability of the buyer. However, as a matter of fact earnest money is not adjusted towards the price. When the sales are made finally at the branches, the customers are required to pay full price of the goods without any adjustment of earnest money;

(d) Final Offer: Final offer to the buyers at the branches is made after the goods have been received at the branch from the plant and/or are in transit. Transfers from the plants to the branches are in full rake/wagon loads. In the final offers, full details are given about the quantity offered finally and its quality, sizes and thickness. These are at variance with those in the pre-offer. The buyer concerned is required to remit 100% of the price at the time of delivery within the stipulated period, which is normally 7 to 10 days. In the final offer, the buyer is also informed that it may inspect the materials covered by the said offer prior to making the payment. The branch is at liberty to supply the goods already lying in stock at the branch or to make the supplies

from out of the incoming goods in transit and the offer is also subject to prior sales, if any. In the final offer, wagon number in which the goods are received at the branch is also mentioned. This is necessary to maintain proper accounting and co-relation of the goods in the wagon. All these details are also recorded in the wagon cards. The buyers from the branches normally take CENVAT credit and the invoices raised upon them also contain certification about the duty paid and nature of the goods. For this purpose also, proper accounting and co-relation has to be maintained at the branches.

(e) Delivery Order: If the buyer is willing to buy the goods mentioned in the final offer, after exercising its right of inspection, the buyer makes full payment for the goods and thereafter delivery orders are issued by the branches. In the delivery order, there is cross reference to final offer. It is only pursuant to final offer that the transaction takes place, payments are made by the buyer and delivery order is issued. In the delivery order, final offer number as well as details of the payments made by the buyer is mentioned. In the delivery order, the period within which the buyer is required to lift the goods is also mentioned and wagon numbers are also mentioned to maintain proper accounting and co-relation;

(f) Invoice:

(a) After final offer and after receipt of full payment from the buyer and issuance of delivery order, the branches prepare invoice

for the transaction. In the invoice, there is cross-reference to delivery order which in turn has cross-reference to final offer;

(b) In the invoice there is also a reference to wagon number; and

(c) On all the said sales by the branches, local sales tax under the local Sales Tax Statute is duly paid and the amount of such Sales Tax is also mentioned in the invoice.

11. According to the appellant, the movement of the goods from the Rourkela Steel Plant in the State of Odisha to its own branches in other States are mere 'stock transfer'. The appellant has also stated that at all its steel plants, branches and stockyards it follows identical system of marketing, movement and documentation and the same very schemes including TBS and Demand Registration Schemes are in operation at all these places throughout the country. Identical documentation, logistics, system of selling directly from the plants on payment of central sales tax and also making branch transfers under F forms and then selling goods by the branches and paying applicable local sales tax is followed at all the plants and branches of the appellant throughout the country. Save and except in respect of Rourkela Steel Plant for some years, either at Rourkela Steel Plant or at any other plant of the appellant, proceedings were not initiated by the department alleging that the transfers were inter-State sales liable to central sales tax.

12. The dispute in the present four appeals relates to assessment years 1989-1990; 1991-1992; 1992-1993 and 1993-1994.

13. The factual position at the Rourkela Steel Plant with respect to the same dispute for other years is as follows:

(1) Assessment Years 1986-87 and 1987-88:

Date	Particulars
26.07.1993	<p>Odisha Sales Tax Tribunal made a reference to the High Court under section 24 Odisha Sales Tax Act on the following questions of law:</p> <p>“1. Whether in the facts and in the circumstances of the case, the reopening of the assessment u/r 17(8) of the C.S.T. (O) Sales, 1967 for the years 1986-87 and 1987-88 is contrary to the law and without jurisdiction?</p> <p>2. Whether in the facts and in the circumstances of the case, the Tribunal was not justified to hold that the transactions of dispatch of goods from Rourkela Steel Plant to different Branches outside the State of Odissa according to demand registration scheme and time bound supply scheme as inter-State sales is within the purview of Section 3(1) of the C.S.T. Act?”</p> <p style="text-align: right;">(Emphasis supplied)</p>

(2) Assessment Year 1988-89

29.10.1994	<p>Similar Reference Order was made by the Odisha Sales Tax Tribunal to the High Court on the following questions of law:</p> <p>“(1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the goods manufactured by SAIL in Rourkela Steel Plant and dispatched from the Plant to different branches outside the State of Odisha under “Time Bound Supply Scheme” and “Demand Registration Scheme” be treated as transactions of inter-State sales coming within the</p>
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	<p>purview of Section 3(a) of the CST Act, 1956?</p> <p>(2) Whether on the facts and in the circumstances of the case, the Tribunal has ignored the fact of absence of any conceivable link with the customers and the dispatch of goods to the branch?"</p> <p>(Emphasis supplied)</p>
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18.01.2023	<p>The High Court decided the reference for Assessment Year 1988-89 by holding:</p> <p>"11. From the Assessee's point of view, sufficient documents have been placed on record in support of its contention that all the transactions forming subject matter of the assessment proceedings for 1988-89 were in fact branch transfers and nothing more. On the other hand, the Department has not been able to point out even a single document which would raise a legitimate doubt that the transaction being a concluded contract pursuant to which there was a movement of goods from the Rourkela Steel Plant, Odisha to its branch outside Odisha. In other words, while the Assessee has discharged its initial burden of showing that the transaction was only a branch transfer, the Department has been unable to discharge its burden of showing that in fact the transaction was not merely a branch transfer but was a movement of goods by way of interstate sale occasioned by a concluded contract. Consequently, the Court is not persuaded that the matter pertaining to 1988-89 should again be sent to the Tribunal for verification of each transaction to determine whether it is an interstate sale as contended by the Department. The Court notes that nearly 35 years have already elapsed since the year</p>
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	<p>1988-89 and these proceedings cannot interminably carry on.</p> <p>12. For the aforementioned reasons, the questions framed are answered in favour of the Assessee and against the Department. The impugned order of the Tribunal and the corresponding orders of the First Appellate Authority and the AO are hereby set aside. In other words, it is held that for the year 1988-89 the transactions in question were branch transfers not amounting to interstate sales. It is clarified that this finding of the Court for the year 1988-89 will not preclude the Department from demonstrating for any of the subsequent years that the transactions forming subject matter of the assessment proceedings in any of those years do not amount to branch transfers but were in fact inter-state sales.”</p> <p style="text-align: right;">(Emphasis supplied)</p>
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18.01.2023	<p>For the years 1986-87 and 1987-88 also, relief was granted by the Orissa High Court by holding that in the original assessment orders, the assessing officer had accepted the case of the assessee that the branch transfers were not inter-State sales and that during the relevant time, the assessing officer had no power of reassessment.</p>
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(3) Assessment Years 1990-91, 1994-95, 1995-96, 1996-97 and 1997-98

04.04.2024	<p>Odisha Sales Tax Tribunal passed an order allowing identical appeals filed by the appellant for the above five assessment years holding that the issue had been settled by the judgment dated 18.01.2023 of the Orissa High Court in favour of the assessee. Some of the relevant paragraphs from the said order are reproduced below:</p> <p style="text-align: center;">2. “.....The appellant-Company was</p>
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	<p>assessed under Rule 12(5) of the CST (O) Rules for the year, 1990-91, 1994-95, 1995-96, 1996-97 and 1997-98 raising additional demands. The demands so raised apart from levy of tax on other deficiencies detected in assessments include tax on turnover of goods dispatched by SAIL, RSP to different branches outside the state of Odisha under Time Bound Supply Scheme (TBSS) and the Demand Registration Scheme (DRS) contending that there is an inextricable link between the customers and the dealer-company through its Branch Sale Offices which act as conduit and as such, the transactions are not branch transfers but interstate sales coming within the purview of Section 3(a) of the CST Act....”</p> <p>6. The dispute in the present case revolves on exigibility of CST on transactions disclosed as branch transfer holding the same as transactions falling under the purview of Section 3(a) of the CST Act. The self-same dispute relating to the assessment year 1988-89 has been set at rest by the Hon’ble High Court of Odisha in TREV No.147 of 2001 (supra) observing to the effect that the Department has been unable to discharge its burden of showing the impugned transaction as not branch transfer but interstate sale occasioned by a concluded contract. In the present case, the State has been advanced adequate opportunities to adduce Lower Case Records (LCR) as is evident from the Order Sheet dated 11.01.2024. It turned out to be of no avail. The State failed utterly to discharge its burden of showing that in fact the transactions were not merely branch transfer but were movement of goods by way of interstate sale occasioned by a concluded contract. At this stage, as the State did not produce any documents showing any</p>
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	<p>contracts/agreements inked between SAIL, RSP and the customers and the LCRs being not produced despite persistent insistence, this forum does take recourse to dispose of the appeals relying on the materials available on records and the verdicts delivered by the Hon'ble Court (supra) and the Hon'ble CSTAA, Delhi relating to the assessment year 1988-89.</p> <p>7. Under the above premises, it is stated that the Hon'ble CSTAA in [2010] 30 VST 334(CSTAA) in relation to the assessment year 1988-89 have observed that a general statement of the objective does not control the operative causes of the scheme and the actual modalities of the transactions. This apart, the Hon'ble Court in TREV No.147 of 2001(supra) were of the view that nearly 35 years have elapsed since the year 1988-89 and these proceedings cannot interminably carry on. Similar is the fate with these cases under appeal. They are as old as more that 30 years having identical issue parimeteria to the year 1988-89. We are, therefore, not inclined to remit the impugned cases back to the Assessing Authority for further verification, as there shall no fruitful purpose served on remand of the cases. Accordingly, these appeals are decided in favour of the dealer-company."</p> <p style="text-align: right;">(Emphasis supplied)</p>
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(4) Assessment Year 1998-99 to 2006-07 (1st quarter)

11.12.2024	Proceedings were initiated and Odisha Sales Tax Tribunal has passed an order dated 11.12.2024 against which appeals have been filed by the appellant.
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(5) Assessment Year 2006-07 (2nd quarter) till 30.06.2017

	During this entire period, no proceedings were initiated by the department raising the aforesaid dispute, even though the same schemes, system
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	of marketing, sales and documentation continued during such subsequent periods.
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14. Earlier, in respect of the four assessment years involved in these appeals, the Central Sales Tax Appellate Authority had passed a common order dated 15.03.2010 remanding the matter to the Sales Tax Tribunal for fresh disposal in the light of the observations made in the order. The Central Sales Tax Appellate Authority, after analyzing the transactions relating to Mechanical Wire Industries, held that there was nothing to show that the offer letter initially issued was accepted and as the goods were not tailor-made but were of standard make, the production programme was based on assessment of the market demand in general rather than for catering to the requirements of particular customers. It was also held that the documents produced in relation to transaction with Mechanical Wire Industries clearly negate the findings of the Sales Tax Authority that there was an inextricable link between the contract of sale and the movement of goods pursuant thereto. The Central Sales Tax Appellate Authority also noted that documents had been filed to show the modus operandi of the transactions with similarly situated customers, but it did not consider it appropriate to examine these transactions as the matter was being remanded. The appellate authority also held that it was difficult to construe the TBS Scheme as constituting an offer of sale since it was a broad framework within which the regulated transactions had taken place.

15. After remand, the Sales Tax Tribunal examined documents pertaining to eight transactions and held that the offer letter under the TBS Scheme was an agreement of sale of goods at a future date

and that it was in pursuance of the said agreement of sale that the movement of goods was occasioned.

16. It is this order of the Central Sales Tax Appellate Authority that has been assailed in these four appeals.

17. Shri S.K. Bagaria, learned senior counsel appearing for the appellant assisted by the Shri Sunil Kumar Jain made the following submissions:

- (i)** The movement of goods from the Rourkela Steel Plant to the branches of the appellant in other States was merely 'stock transfer' from the plant of the appellant to its own branches and not inter-State sale;
- (ii)** Identical branch transfers were made by other plants of the appellant by following identical system and under identical documents. At all other plants, it has always been the accepted position by the department for the last more than five decades that the transfers were mere branch transfers and not inter-State sales. Even in respect of the Rourkela steel plant, this position was accepted for more than two decades prior to the relevant period;
- (iii)** The issue involved in these appeals is covered in favour of the appellant by the judgment dated 18.01.2023 of the Orissa High Court in respect of the assessment years 1986-87, 1987-1988 and 1988-1989;
- (iv)** The issues involved in these appeals is also covered in favour of the appellant by the definite findings recorded in the order dated 15.03.2010 passed by the Central Sales Tax Appellate Authority in respect of TBS Scheme and identical documents. The case of Mechanical Wire

Industries was extensively examined in the said order and it was held that it was a case of branch transfer and not inter-State sale. This order of the Central Sales Tax Appellate Authority has been accepted by the department. The other seven cases examined by the Sales Tax Tribunal in the impugned order are identical on facts and, therefore, the Sales Tax Tribunal committed an illegality in holding that the transactions were inter-State sales;

- (v)** In each of the said eight typical cases, bulk goods in full rake/wagon loads were received by the branch from the plant. After receipt of goods at the branch or when the wagons were in transit, after analysing the availability and stock position, the branch gave final orders to the buyers for a very small quantity and in the final offer it was clearly mentioned that the materials are offered "ex-stock/incoming subject to prior sale". The goods offered in the final offer were of different sizes, qualities and quantities as compared to the pre-offer. In the final offer, "ex-stockyard price inclusive of excise duty" was quoted and the buyer was required to remit the full price within the stipulated time so as to enable the branch to issue "delivery order". In the final offer, address of the stockyard at Howrah from where the delivery was to be made, was also mentioned. This final offer was acted upon by both the sides and the buyer made full payment of the price, whereupon the branch issued delivery order and delivery challan cum invoice. The buyer thereafter received the goods from the

named stockyard by signing at the bottom of delivery challan cum invoice; and

- (vi)** None of the said eight typical cases contemplated or provided for any movement of goods from one State to another nor in fact there was any such movement from the plant pursuant to or as an incident of the transactions involved in the said eight typical cases;
- (vii)** Iron and steel goods were continuously and regularly sent by Rourkela Steel Plant to the branches in bulk in full rake/wagon loads and the dispatches from the plant were never pursuant to any registration or offer or acceptance at the branch. Even in respect of the eight typical cases, not even in one single plant document, there is any reference to any of the said buyers or their registrations or pre-offers. The plant never despatched the goods for any pre-identified buyer or order at the branch;
- (viii)** Sales to the said eight parties in the said eight typical cases were of total quantity of 73.43 MT of different iron and steel goods like GP Sheets, plates, MS rounds, GC sheets, GR sheets and chequered plates. During the relevant period, quantity of the said goods which moved from Rourkela Steel Plant to branches was running into a few thousand MT. All these movements from the plant were in bulk in full rake/wagon loads. All the documents of the plant were in the names of the branches. In none of the documents of the plant, there was any reference to any of the said eight parties or any registration or pre-offer/offer of the said parties;

- (ix)** The findings by the Sales Tax Tribunal are contrary to the binding judgments of the Central Sales Tax Appellate Authority and the High Court above;
- (x)** Other documents mentioned in the impugned order such as wagon card register and work order were internal documents of the branch and had nothing to do with the plants or any inter-State sales or any movement from the plant pursuant to any sale at the branch;
- (xi)** In support of this submissions reliance has been placed on the following judgments:
- (a) M/s. Kelvinator of India Ltd. vs. The State of Haryana⁴;**
 - (b) Tata Engineering and Locomotive Co. Ltd vs. Assistant Commissioner of Commercial Taxes and Another⁵;**
 - (c) The State of Bihar and Another vs. Tata Engineering and Locomotive Co. Ltd.⁶;**
 - (d) State of A.P. vs. National Thermal Power Corporation Ltd. and Anothers⁷;**
 - (e) Hyderabad Engineering Industries vs. State of Andhra Pradesh⁸;**
 - (f) Sahney Steel and Press Works Limited and Another vs. Commercial Tax Officer and Others⁹;**
 - (g) Balabhagas Hulaschand vs. State of Orissa¹⁰;**
 - (h) English Electric Company of India Ltd. vs. The Deputy Commercial Tax Officer¹¹;**

4. (1973) 2 SCC 551
 5. (1970) 1 SCC 622
 6. (1970) 3 SCC 697
 7. (2002) 5 SCC 203
 8. (2011) 4 SCC 705
 9. (1985) 4 SCC 173
 10. (1976) 2 SCC 44
 11. (1976) 4 SCC 460

- (i) Commissioner of Commercial Taxes, Hyderabad vs. Desai Beedi Company, Andhra Pradesh¹²; and**
- (j) State of Tamil Nadu vs. Cement Distributors¹³.**

(xii) Reliance has also been placed on the following decisions of this Tribunal;

- (a) State of Maharashtra vs. Castrol India¹⁴**
- (b) Carlsberg India Pvt. Ltd. vs. State of Rajasthan and Ors.¹⁵**
- (c) State of Maharashtra vs. M/s CMS Computers Ltd.¹⁶;**

18. Shri S. Dwarakanath, learned counsel for the State of Odisha assisted by Shri Soumyajit Pani, Shri Aishwary Bajpai and Shri Vijay Adithya, made the following submissions:

- (i)** The distribution guidelines for iron and steel laid down clear procedures for demand registration under three scheme: (i) Time Bound Supply Scheme, (ii) Demand Registration Scheme, and (iii) Normal Sale Scheme;
- (ii)** The F-forms produced by the appellant company lacked particulars regarding the date of delivery of the transfer of goods. It did not contain true particulars;
- (iii)** In none of the assessments, F-forms were accepted by the Assessing Authority in steel and iron consignments. Hence, the presumption under section 6A(2) of the CST Act is not available to the appellant.
- (iv)** On the analysis and examination of some of the typical transactions filed by the appellant, it can be established

12. (2015) 17 SCC 13

13. (1975) 4 SCC 30

14. Central Sales Tax Appeal No. 13 of 2017 decided 11.07.2025

15. Central Sales Tax Appeal No. 21 of 2014 decided 21.10.2024

16. Central Sales Tax Appeal No. 01 of 2017 decided on 03.01.2025

that the appellant did not file the documents with respect to:

- (a) Issuance of work order;
 - (b) Despatch programme, movement plan, despatch advice, railway receipt reference and consignment advice;
 - (c) Complete set of wagon card register of branch sales office, howrah reflecting the receipt of goods as per packet no. mentioned in the stock yard advice & issue of goods to specified customers on the strength of challans; and
 - (d) TBSS register showing chain of events from registration of demand to delivery of goods;
- (v)** It is a settled principle of law that an adverse inference can be drawn where a document exists, which is in the control of the opposing party and is not produced by that party, without a reasonable explanation. There is a higher standard of proof applied when the entire evidence of the transactions are within the exclusive knowledge of the dealer;
- (vi)** In a genuine stock transfer, goods are moved to replenish branch stock without prior knowledge of the ultimate customer. However, the appellant documentation – including wagon numbers, dispatch plans, packet numbers and consignment advices – establishes that the goods were earmarked for specific customers even before dispatch, confirming the existence of an inextricable link towards inter-State sale. The binding nature of the work order is further underscored by the existence of legal remedies,

including penalties and rights to sue, as provided under the TBS Scheme;

- (vii)** The appellant has relied on the second offer letter to argue that the sale only occurred after the goods arrived at the branch, which reliance is misplaced. The second offer letter is merely an administrative communication, issued "subject to prior sale," which facilitates the payment and physical delivery of the goods. The sale had already been concluded when the customer accepted the first offer and paid the EMD;
- (viii)** The appellant has attempted to rely on past assessments where certain transactions may have been classified as stock transfers. It is well settled that in taxation, each assessment year is a separate unit and findings in one year are not automatically binding on subsequent years;
- (ix)** Section 6A of the CST Act provides that the burden of proof shall be on the dealer to show whether the movement of goods from one State to another was occasioned by reason of sale or not. The Supreme Court and Tribunal in a catena of judgments have held that the dealer has to prove and establish its claim to non-liability to tax and that the inter-State movement of goods effected by him is by way of transfer and is not a sale;
- (x)** It is well settled that whether a transaction constitutes an inter-State sale or a branch transfer is a mixed question of law and fact. In the present case, the Sales Tax Tribunal has meticulously analyzed voluminous

records and specific transaction patterns, and has conclusively held that there exists an inextricable link between the contract of sale and the movement of goods across States;

- (xi)** The observation of the Sales Tax Appellate in the concluding paragraph that TBS Scheme cannot be construed as an offer of sale or having attributes of sale agreement, do not come in the way of the department seeking to establish inter-State sale for the documents exchanged between the parties. The offer and ultimate delivery of goods owe their origin to the TBS Scheme. All the documents and production and marketing procedure adopted by the appellant was looked into as per the remand directions of the Sales Tax Tribunal;
- (xii)** The Supreme Court has held that in order to find out whether a completed contract of sale has taken place, each individual transaction has to be examined. The appellant, even while being at liberty to file only some typical transactions, chose not to file some crucial documents in each of the transactions brought on record. Therefore, an adverse inference can be drawn against the appellant; and
- (xiii)** It is evident that the transactions in question are inter-State sales and not branch transfers.

19. Ms. Rama Ahluwalia appeared for the State of Maharashtra; Shri Ankit Roy assisted by Ms. Divyangi Gupta appeared for the State of Assam; Ms. Devina Sehgal assisted by Shri Dhananjay Yadav appeared for the State of Telangana; Ms. Madhumita Bhattacharjee

assisted by Ms. Yoowanka Rymbai and Shri Anant appeared for the State of West Bengal; Shri Siddharth Sangal assisted by Ms. Shreya Garg, Ms. Richa Mishra and Ms. Mushkan Mangla appeared for the State of Uttarakhand; Shri C. Kranthi Kumar assisted by Ms. Misha Rohtagi appeared for the State of Tamil Nadu; Ms. Riya Sagar and Ms. Fliza Bar appeared for the State of Arunachal Pradesh; and Shri Prem Sagar Pal assisted by Shri Chandra Mani Dev appeared for the State of Punjab.

20. Learned counsel representing these States have supported the submissions advanced by learned senior counsel for the appellant and have submitted that as branch transfers had taken place, the sales took place in the respective States and the transactions cannot be said to inter-State sales.

21. The submissions advanced by the learned senior counsel for the appellant, the learned counsel appearing for the State of Odisha and the learned counsel appearing for the other States have been considered.

22. The issue that arises for consideration is whether the appellant is correct in its submission that the movements of goods from the Rourkela Steel Plant of the appellant in the State of Odisha to its own branches in other States are mere 'stock transfers' and not inter-State sales contemplated under section 3(a) of the CST Act.

23. To appreciate this contention, it would be necessary to refer to the relevant provisions of the CST Act and the relevant facts.

24. Section 3 of the CST Act deals with principles for determining when a sale or purchase of goods takes place in the course of inter-

State trade or commerce. The relevant portion of this section is reproduced below:

“3. When is a sale or purchase of goods said to take place in the course of inter-State trade or commerce.- A sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase –

(a) occasions the movement of goods from one State to another; or

(b) is effected by a transfer of documents of title to the goods during their movement from one State to another.

Explanation xxxxxxxxxxxx”

25. Section 6 deals with liability to tax on inter-State sales and the relevant portion is reproduced below:

“6. Liability to tax on inter-State sales.- (1) Subject to the other provisions contained in this Act, every dealer shall, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, not being earlier than thirty days from the date of such notification, be liable to pay tax under this Act on all sales of goods other than electrical energy effected by him in the course of inter-State trade or commerce during any year on and from the date so notified.

Provided that a dealer shall not be liable to pay tax under this Act on any sale of goods which, in accordance with the provisions of sub-section (3) of section 5, is a sale in the course of export of those goods out of the territory of India.

Provided that xxxxxxxxxxxx”

26. Section 6A deals with burden of proof in case of transfer of goods claimed otherwise than by way of sale. The relevant portion of this section, as stood prior to 11.05.2002, is reproduced below:

“6A. Burden of proof, etc., in case of transfer of goods claimed otherwise than by way of sale.- **(1) Where any**

dealer claims that he is not liable to pay tax under this Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the assessing authority, within the prescribed time or within such further time as that authority may, for sufficient cause, permit, a declaration, duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, along with the evidence of dispatch of such goods.

(2) If the assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) are true he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall, subject to the provisions of sub-section (3), be deemed for the purpose of this Act to have been occasioned otherwise than as a result of sale."

(emphasis supplied)

27. Section 6A (1) of the CST Act was amended w.e.f. 11.05.2002. The following words were inserted by Act No. 20 of 2002 w.e.f. 11.05.2002 at the end of sub-section (1):

"and if the dealer fails to furnish such declaration, then, the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale."

28. Subsequently, sub-section (2) of section 6A was also substituted by Finance Act, 2010 w.e.f. 08.05.2010. Sub-section (2) after substitution reads as follows:

“(2) If the assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) **are true and that no inter-State sale has been effected, he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall, subject to the provisions of sub-section (3),** be deemed for the purpose of this Act to have been occasioned otherwise than as a result of sale.”

(Substituted portion emphasized)

29. Section 3 of the CST Act provides that a sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase occasions the movement of goods from one State to another. Section 6 of the CST Act provides that every dealer shall be liable to pay tax under the CST Act on all sales of goods effected by him in the course of inter-State trade or commerce. Section 6A of the CST Act deals with burden of proof in case of transfer of goods claimed otherwise than by way of sale. Sub-section (1) of section 6A of the CST Act, as it stood prior to 11.05.2002, provided that where any dealer claims that he is not liable to tax under the CST Act on the ground that the movement of goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, the burden of proving that the movement was so occasioned shall be on the dealer and for this purpose he may

furnish to the Assessing Authority a declaration in Form F containing the prescribed particulars along with evidence of despatch of such goods. Thus, such burden could be discharged either by production of a declaration in Form F and evidence of dispatch of goods or by adducing evidence without the production of declaration in Form F. Sub-section (2) of section 6A of the CST Act, as it existed prior to 08.05.2010, provided that if the Assessing Authority was satisfied after making such enquiry as he deemed necessary to ascertain the veracity to the particulars furnished in Form F make an order to that effect and thereupon, the movement of goods shall be deemed to have been occasioned otherwise than as a result of sale.

30. Rourkela Steel Plant of the appellant is an integrated steel plant and manufacture of goods at this plant is a continuous and regular process. All transfers are of standard goods and not of any tailor-made goods. The appellant claims that such transfers are branch transfer from the plant and always in full rake load/wagon load, each rake comprising of 35-45 wagons and each wagon containing approximately 45-60 MTs; the plant documents do not mention that they relate to any particular buyer at the branch; the branches are maintained by the appellant and manned by the appellant personnel as a part of its normal business activity and for better and efficient distribution of goods throughout the country; the goods carried in rakes are unloaded at the stockyards and are taken into stock and accounts of the branches; out of the goods received from the plant, the branches make local sales to various buyers at the branch and the branches pay local sales tax on such sales which during the four years aggregated to Rs. 452.11 crores; the branches are free and

have full discretion to sell any goods to any buyer or to divert the goods to any other branch; after the rakes are received by the branches or are in transit, the branches analyse their availability position with regard to different goods and issue final offers for small quantities to different buyers; such final offers mention specific quantity, sizes, quality and price of goods offered; in the final offers made by the branches, the buyers are required to make 100% payment for the goods offered; the buyer is also at liberty to inspect the goods before making the payment; after such payments are made by the buyers, delivery orders are issued by the branches and based on such delivery orders, deliveries are made to the buyers and invoices are raised on them by the branches and sales are completed; and in all sale documents there is cross reference to the final offer and this final offer is acted upon by both the sides and goods are sold and supplied pursuant to this final offer.

31. The appellant also claims that the branches of the appellant throughout the country have been selling iron and steel products inter alia under TBS Scheme; the buyers at the branches make application for registration of their demands for subsequent quarters and in the registration application it is made clear by the applicant that the supplies will be made from the stockyards and that the goods supplied may be from materials produced in any of the steel plants of the appellant without reference to the applicant; the goods covered by preliminary offers are normally in much smaller quantities and of different sizes, qualities or thickness as compared to those mentioned in the registration application; the pre-offer requires the party to communicate its acceptance within a particular period and it

is clearly stated that if the acceptance is not made before the stipulated date, pre-offer will stand withdrawn without any further reference; and that pre-offer is merely in the nature of a tentative information about a much lesser quantity and that too of different sizes and qualities and it is never acted upon.

32. It is also seen from the factual position narrated above, that the dispute in the present appeals relates to assessment years 1989-1990, 1991-1992, 1992-1993 and 1993-1994. For the assessment years 1986-1987 and 1987-1988, the Odisha Sales Tax Tribunal made a reference to the High Court on the question of law namely whether the transfer was inter-State sales in the light of the Demand Registration Scheme and the Time Bound Supply Scheme. Similar reference was made by the Tribunal to the High Court for the assessment year 1988-1989. By a judgment dated 18.01.2023 the Orissa High Court decided the reference for the assessment year 1988-1989 holding that the transactions in question were branch transfers and not inter-State sales. For the assessment years 1986-1987 and 1987-1988, the High Court also decided the reference by judgment dated 18.01.2023 holding that the transactions were branch transfers and not inter-State sale. Following the aforesaid judgment of the High Court, the Odisha Sales Tax Tribunal by order dated 04.04.2024 decided the appeals filed for the assessment years 1990-1991, 1994-1995, 1995-1996, 1996-1997 and 1997-1998 holding that the transactions were branch transfers and not inter-State sales. Thus, for the assessment years from 1986-1987 upto the assessment year prior to 1989-1990, the transactions of the appellant have been treated as branch transfers and not inter-State

sales. For the assessment year 1990-1991 and thereafter for the assessment years 1994-1995, 1995-1996, 1996-1997 and 1997-1998 the transactions have also been treated as branch transfers.

33. What is also important to notice is that out of the six integrated steel plants of the appellant, the dispute pertains only to the Rourkela Steel Plant at Odisha and not to the other steel plants of the appellant situated in other States, though the appellant follows identical system of production, movement and marketing at all its Steel Plants and branches. It is only in the case of the Rourkela Steel Plant at Odisha that the Sales Tax Tribunal has treated the transfers from the Rourkela Steel Plant to the branches of the appellant in other States as inter-State sales and not as branch transfers.

34. In respect of the four assessment years involved in the four appeals that have been filed, the Central Sales Tax Appellate Authority had earlier passed a common order dated 15.03.2010 remanding the matter to the Sales Tax Tribunal for fresh disposal in the light of the observation made in the order. The appellant had filed appeals before the Central Sales Tax Appellate Authority to assail the earlier orders dated 14.03.2008, 12.03.2008 and 14.03.2008 passed by the Sales Tax Tribunal holding that it was a case of inter-State sale and not branch transfers. The submissions made by the learned counsel for the appellant before the Central Sales Tax Appellate Authority have been recorded in paragraph 6.2 of the order dated 15.03.2010 passed by the Central Sales Tax Appellate Authority, which paragraph is reproduced below:

“6.2 The appellant has assailed the findings of the Tribunal on the ground that there is no factual basis for the conclusions reached by the Tribunal. It is

submitted that the appellant has discharged the burden of proof cast on it under section 6A by filing the F-forms and the material referred to by the assessing officer or Tribunal does not in any way disprove the factum of stock transfers. There is no contract of sale which preceded inter-state movement of goods from Rourkela to the branches in other States. The contract has come into existence only after the goods of standard nature were put on rail by the plant or after the goods reached the destination. Neither the registration of demands under the TBS Scheme and the intimation of availability of lesser quantity of goods than registered can be construed as offers which were accepted by the appellant. There is no basis for the finding of the Tribunal that the agreement to sell was formed with the issuance of offer letter, it is pointed out that the initial offer letter is not really in the nature of offer but only an intimation of the allotment of lesser than registered quantity. The offer letters were issued only subsequent to the despatch of the goods from the plants and mostly after the wagon reached the destination in the other state. It is pointed out that the inextricable link between the contract of sale and the inter-state movement of goods is missing and has not been established by the assessing authority in order to shift the burden to the assessee. **It was not possible to say at the point of commencement of inter-state movement that the particular consignments were earmarked for sale to an identified party or parties. There were no firm offers, much less contracts of sale at that time. There was no co-relation between despatches, orders on hand and sales at that stage. It is further submitted that not only all the documents relating to the transaction with Mechanical Wire Industries were filed but certain other documents relating to sales to other parties like Flakt India Limited,. Brightex Engineering Corporation, etc. were also filed before the Tribunal. But, the Tribunal has not examined them."**

(emphasis supplied)

35. The aforesaid submissions were considered by the Central Sales Tax Appellate Authority in paragraph 6.3 of the order. It is reproduced below:

"6.3 We are of the view that the contentions of the appellant have considerable force and deserve further consideration. The learned Tribunal has not gone into details and failed to analyse the transactions atleast to the extent of related documents being available on record. No doubt the appellant is-not free from blame as it should have come forward with all details relating to certain typical transactions and presented an analysis so as to guide the Tribunal to reach the findings. The fact that some of the documents filed were illegible shows the callous manner in which the appellant's representatives acted. But, these omissions or defaults on the part of the M appellant should not absolve the Tribunal of the duty to look into the relevant documents on record which were illustrative of typical transactions and give definite findings analytically instead of recording the bald findings extracted above. If the documents or records were insufficient or the photocopies were illegible, the Tribunal was not powerless to direct specific documents or details to be filed in so far as they were required for the purpose of proper appreciation of the issues. This process should have been gone through by the assessing and appellate authority especially for the reason that the filing of F-forms under section 6A, prime facie, amounts to discharge of the burden of proving that the inter-state movement was otherwise than by way of sale."

(emphasis supplied)

36. The Central Sales Tax Appellate Authority also examined the findings recorded by the Sales Tax Tribunal and held in paragraph 7 of the order that it saw no reason to accept them. The said paragraph is reproduced below:

"7. Coming to the bald findings of the Tribunal (extracted supra), we find no reasons in reaching those findings. The Tribunal evidently presumed that the so-called offer letter issued soon after the

registration of the demand led to the acceptance of the said offer and to the formation of contract of sale. There is no basis for this assumption, going by what little material the Tribunal had before it. As we shall point out while analyzing the transaction relating to Mechanical Wire Industries there is nothing to show that the said offer letter initially issued was accepted and acted upon by the customer by taking further steps pursuant thereto. Further, the observation that the appellant manufactured the goods in its plant and sent the same to the BSO pursuant to the agreements to sell is again based on assumption rather than any concrete material/evidence It must be noted that the goods are not tailor-made but they are of standard make and it is an undeniable fact that the production programme goes on based on assessment of market demand in general rather than to cater to the requirements of particular customers. In the case of standard goods which are manufactured and despatched in bulk, it cannot be readily assumed, unless there is definite indication to that effect that the goods are earmarked for sale for a particular customer at the time of despatch itself. There may be instances where the same type of material is required by or allotted to more than one customer and ultimately it might be difficult to predicate at the stage of despatch itself that these goods are meant to be sold in specified quantities to a particular customer whose indent may be pending. No doubt, the lack of knowledge on the part of the manufacturing-unit which despatches the goods is – not material and it would be sufficient if the Central Marketing Office or the Regional Office has the knowledge that the particular goods to be dispatched by the plant are to be earmarked for a particular customer, and they cannot otherwise be diverted. **But, in the absence of definite material, it is not possible to import such knowledge in the case of standard goods which are manufactured and dispatched in bulk from time to time.”**

(emphasis supplied)

37. The Central Sales Tax Appellate Authority also analyzed in detail the transaction in respect of Mechanical Wire Industries in paragraphs 8 and 8.1 of the order and they are reproduced below:

"8. Now let us analyze the transaction with Mechanical Wire Industries, which was treated as a typical transaction by the assessing and appellate authorities. In this regard, the documents filed before us by the applicant (which also from part of the record of the Tribunal) will be referred to.

8.1 The application for registration of demand under TBS scheme for the quarter January-March 1992 was forwarded by Mechanical Wire Industries (MWI), Calcutta to the Branch Manager, SAIL, Howrah on 21.11.1991. Then the BSO of SAIL sent a communication styled as 'offer letter' on 21.11.1991 offering only 38th of GC sheets of .4 and .63 MM size out of 918 M/Ts of GP, GC and CR Sheets indented for by MWI. In the said offer letter the party (MWI) was required to make earnest money deposit and other financial arrangements as stated in the letter. However, the appellant stated in its affidavit dated 31.11.2009 and also in the course of hearing that the EMD was exempted and as the material was to be lifted against full payment, the furnishing of bank guarantee/letter of credit was not being insisted upon. In fact there is an endorsement in the offer letter "EMD exempted". **There is nothing to show that the customer (MWI) communicated its acceptance of the offer specifically. Be that as it may, the other documents filed by the appellant would show that the offer letter for 7.2 M/Ts of .63 size GC sheets was made to the party (MWI) on 12.2.1992. He was asked to pay 100% price i.e. Rs. 1,40,000/- in order to enable the branch to issue a delivery order. Pursuant to this offer, the delivery order was issued on 29.2.1992, after the payment was made.** The offer dated 12.2.1992 has been referred to therein. The money receipt number 7280 is also mentioned therein. In the delivery order, the endorsement "Valid upto 6.3.1992" is found. **Deliver challan-cum-invoice was then issued**

on 29.2.1992 showing the actual quantities of material sold/ delivered and adjusting the amount already paid by the party The wagon no. CR/61942 was mentioned therein. It is seen from the Wagon' card that the wagon No. CR/61942 arrived on 4.12.1991 and it is out of the stock received in that wagon, 6.59 M/T was delivered to MWI on 2.3.1992. The wagon contained much more material of the same size and quality. The challan no. 14283 is mentioned in the wagon card and the delivery date is shown therein as 2.3.1992. Thus the delivery was effected and transaction was completed pursuant to the offer letter dated 12.02.1992 but not the earlier offer dated 28.11.1991/2.12.1992 for a larger quantity. The appellant has described the earlier offer letter as really in the nature of pre-offer, for the purpose of intimating the stock which the appellant would be able to supply against the demand registered by the appellant. The documents referred to above do establish that the offer* letter which was acted upon was of the date 12.2.1992. The assessing authority observed that the offer dated 12.2.1992 contained in various documents did not tally with the original offer dated 28.11.1991/ 02.12.1991. But the fact remains that the subsequent offer letter prevails as it was acted upon. The comment of the assessing officer that there was no co-relation cannot therefore be sustained. **The documents filed indicate that the effective offer letter was given after the wagon arrived at the place of the branch and the delivery order and invoice were issued some days later. Moreover, if the initial offer letter dated 28.11.1991/ 02.12.1991 is taken as the real and effective offer, the contract of sale would not have come into effect before the movement of the goods started.** The stockyard advice sent by Rourkela Steel Plant was of the date 28.11 1991 The wagon no. CR/61942 is also mentioned therein. It is the case of the appellant that the material despatched by that wagon was based on the despatch programme sent by CMO to the plant on 20.9.1991: i.e. during the previous year (a copy of which has been filed). **The wagon arrived on 4.12.1991, as seen from the wagon card and it is the stock received in that wagon that was delivered to**

the customer (MWUV Thus by the date of issuance of the initial offer letter on 2.12.1991 the goods were already dispatched from Rourkela and therefore it is impossible to link the movement to the initial offer letter and then infer that the contract of safe preceded the movement-of goods from Rourkela: Thus, the documents throwing light on the transaction with Mechanical Wire Industries clearly negates the case of the assessing authority that there was an inextricable link between the contract of sale and the movement of goods pursuant thereto. These facts were explained in a Note filed before the 1st Appellate authority, a copy of which has also been filed before the Tribunal (as seen from the original record of Tribunal) Evidently these were not considered by the Tribunal."

(emphasis supplied)

38. The Central Sales Tax Appellate Authority also noted that there were documents on record to show the modus operandi of the transactions with similarly situated customers but as the matter was being remanded, it would not be necessary to go into details. This is recorded in paragraph 8.2 of the order, which is reproduced below:

"**8.2** There are also documents on record filed before the Tribunal and before this Authority to show the modus operandi of the transactions with similarly situated customers which we need not refer to in detail as the matter is being remanded. Unfortunately, the Tribunal failed to refer to any of them."

39. The Central Sales Tax Appellate Authority also noted that the appellant had paid local taxes on identical transactions in other States treating them as branch transfers and from the analysis of the transaction relating to Mechanical Wire Industries, it was clear that there was no link between the inter-State movement of goods and the the offer and sale. The Appellate Authority also considered it necessary to comment on the TBS Scheme, on which heavy reliance

had been placed by the Sales Tax Tribunal. The said paragraph 9 of the order of the Central Sales Tax Appellate Authority is reproduced below:

"9. In the circumstances, we have no option but to set-aside the impugned order of the Tribunal and remand the matter to the Orissa Sales Tax Tribunal for fresh disposal in the light of the observations made herein and after examining the relevant material in more detail Unless this Authority has the benefit of findings by the Tribunal reached on a comprehensive consideration of the relevant material and issues, we are handicapped from deciding these appeals finally. The mere fact that there was certain amount of remissness or default on the part of the appellant to bring on record the relevant materials and to present an analysis of the transactions would not justify the rejection of appeals straightaway. **The fact remains that high stakes are involved and the appellant has paid tax on identical transaction in other States treating them as branch sales, it transpires that the analysis of single typical transaction relating to Mechanical Wire Industries referred to by the assessing authority and the Tribunal does not lead to the inference of inextricable link between the inter-State movement of goods and the contract of sale, as discussed, earlier. It has come to light in that case that the offer and sale had taken, place only after the movement started and the goods reached the branch.** But, a single transaction is not conclusive of the issue to be decided in the appeals. Some other typical transactions for each year should also be analyzed and appropriate findings have to be reached. The other details, relating to despatches, sales and the pending allotments for a few months can also be looked into by the Tribunal to cross-check whether the movement of goods can be attributed to antecedent contracts of sale.

Before closing the case, we may mention that in the written submissions filed on behalf of the State of Orissa, a stand has been taken that the TBS scheme itself is in the nature of offer for sale and it

has all the nuances of an agreement to sell. It is difficult to construe the scheme itself as constituting an offer of sale or having the attributes of a sale agreement. The TBS scheme, it must be noted, is a broad framework within which the regulated transactions have taken place. Though the, offer and ultimate agreement owe their origin to the scheme, it is wrong to characterize the scheme itself as spelling out an agreement of sale. The mere fact that the objective of the scheme is stated to be to give commitment to the customers regarding supply of materials against firm orders does not lead to the necessary inference that the offer and acceptance resulting in agreement of sale would have come into effect before the goods were despatched from the steel plant. A general, statement of the objective does not control the operative clauses of the scheme and the actual modalities of the transactions."

(emphasis supplied)

40. This order dated 15.03.2010 of the Central Sales Tax Appellate Authority was not challenged by any party.

41. After the order of remand by the Central Sales Tax Appellate Authority, the Sales Tax Authority examined the following eight transactions, in view of the statements made by the learned counsel for the assessee and the department:

- (i) M/s. Gold Mohar Industries - Assessment Year 1989-1990
- (ii) M/s. Sarda & Sons - Assessment Year 1990-1991
- (iii) M/s. Mechanical Wire Industries Ltd. - Assessment Year 1991-1992
- (iv) M/s. Mechanical Engineering Industries - Assessment Year 1992-1993
- (v) M/s. Durez Engineers (P) Ltd. - Assessment Year 1993-1994
- (vi) M/s. Dekon India - Assessment Year - 1993-1994
- (vii) M/s. Flakt India Ltd. - Assessment Year - 1993-1994

(viii) M/s. Citadel Engineers (P) Ltd. - Assessment Year
1993-1994

42. The Sales Tax Tribunal examined documents relating to dispatches, documents relating to sales and documents relating to pending allotments to determine whether there was any contract/agreement of sale between the parties and if so then was there a link between the said contract/agreement and movement of goods. It held that the offer letter issued after registration of demand under the TBS Scheme is an agreement of sale of goods at a future date between the Rourkela Steel Plant and the buyer, although through the branch office. The Sales Tax Tribunal also examined whether the goods in question had actually moved from the Rourkela Steel Plant in pursuance of or an incident of the said agreement of sale and held that the movement of goods was occasioned by the initial contract of sale and would relate back. The relevant findings of the Sales Tax Tribunal are reproduced below:

"37. Learned Sr. Counsel for the dealer has further argued that the pre-offer does not bear any reference to any specific Steel Plant for manufacturing which implies that the products offered can be supplied from any Steel Plant and not just RSP under SAIL. Therefore, even if the goods are produced from and supplied by RSP, it cannot be said that there was any binding contract between the RSP and the customer.

We are unable to accept the above argument, because firstly, there can be no segregation between SAIL as an organization and its constituent Units, i.e. 7 (seven) Steel Plants (including RSP) and nearly 40 (forty) branches. In such premises, even though the branch offers goods to the party which can be produced from any one or more of the Steel Plants, resultantly, the Steel Plant from which the goods in

question are actually produced and supplied becomes the seller for the purpose of assessment of tax. **Therefore, in our considered view, the offer letter issued after registration of demand by the party under TBS Scheme is nothing but an agreement of sale of goods at a future date between RSP and the buyer albeit, through the branch office.**

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38. Having held that there is an agreement of sale prior to production and that the presence of a branch in between RSP (dealer) and the ultimate seller is immaterial, it is now required to be seen whether the goods in question had actually moved from RSP in pursuance of or as an incident of the said agreement of sale or not.

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We are unable to persuade ourselves to agree to the above contentions of Shri Pattnaik because firstly, as we have observed in the transactions examined by us supra, there is clear reference in the movement plan and stockyard advice to the despatch plan originally issued to the SRM by CPPD, which in turn, is nothing but a consolidation of specific orders registered by a particular branch. **That apart, the subsequent offer given to the party after arrival of goods at the stockyard contains a clear reference to the earlier work order. Therefore, the movement of goods can be said to have been occasioned by the initial agreement of sale and automatically relates back to the work order/pre-offer.** XXXXXXXXXXXXXXX.

39. It is next argued by Sri Pattnaik that even if it is presumed that there was a pre-existing contract then also the registration of demand by the parties and booking made by BSO are tentative and indicative in general only and nothing beyond that and that the subsequent offer of a definite quantity, i.e. the real or firm offer. It is further argued that goods in different size/dimension/quantity was offered but actual sale was made for a different quantity which cannot relate back. Therefore, it cannot be said that the movement of goods was in pursuance of any

contract. Refuting the argument as above, Sri Behura has contended that the same is immaterial as long as there is a link between the movement and the contract.

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Since we have already held that the movement of goods can be said to have occasioned by the initial agreement of sale the variation in quantity of goods offered and actually sold is of no consequence. Even otherwise, it is pertinent to note that the materials ultimately supplied have not been in excess of what was offered but invariably less than that and within the quantity offered and booked initially.

40. In addition to the contentions raised and discussed in preceding paragraphs, the dealer has referred to certain further points to buttress its claim, which are discussed herein below:

- (i) It is claimed that the goods being standard goods are manufactured and dispatched in bulk in a continuous process without specification of any customer. Further, the BSO has the discretion to give quantity of goods to a customer over which RSP has no control.

The above contention is not acceptable because the very objective of TBS Scheme is "xxx to establish a long term commercial relationship of confidence between SAIL and its customers with a commitment of supply of materials within a predetermined time schedule. It is based on a commitment on the part of SAIL to meet the demands of customers and supply the materials against confirmed orders within a time schedule."

(Emphasis supplied)

That apart, it is seen that the quarterly production plans of the Steel Plants are decided centrally by the CPPD on the basis of work orders issued by different branches. The said plans (dispatch plans) are sent to the concerned regional offices for production by the plants. **Again, the goods so produced are dispatched to the branch offices bearing reference to the dispatch plans and**

work orders. In any case, the dealer has not adduced cogent evidence to support its contention that the goods are produced in bulk and in continuous process.

The further contention that the BSO has discretion to give quantity of goods to a customer over which RSP has no control does not in any manner dilute the position that the goods in question had moved from RSP to BSO. In so far as the question of offering a particular quantity to a customer is concerned, the same is governed by the provisions of the TBS Scheme in the following manner:

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43. It is stated at the cost of repetition that from the materials on record it can be clearly discerned that SAIL has evolved a centralized marketing programme for all its constituent Units including RSP. The production aspect is also centralized by consolidating demands received by BSO and apportioning them to the individual Steel Plants. So, whatever is apportioned to a Unit including RSP for production and dispatch, is to be treated as a sale by the said Unit. It is immaterial that such sale takes place through the BSO, which acts as an agent for RSP only in respect of a particular transaction. **As has been discussed in detail herein before, the aforementioned process commences upon receipt of registration of demands by the BSO followed by issuance of offer letter. Such offers being accepted become agreements of sale of future goods, production is carried on accordingly and the goods are moved from RSP to the BSO for onward sale to the registered customer. There is thus, a complete circle commencing from the issuance of offer letter by the BSO and culminating in sale of goods moved from RSP to the Stockyard in Howrah. In other words, there is an inextricable link between the initial contract of sale and movement of goods from one State to another. Since the branch office acts only as a conduit being interposed between RSP and the buyer, the transaction does not partake the nature of branch transfer but is an**

out and out inter-State sale within the meaning of Sec. 3(a) of the CST Act.

44. In the final analysis thus, this Tribunal after examining the detailed particulars of as many as eight different transactions, certified as typical by both parties, as also connected documents/records as directed by the Hon'ble CST Appellate Tribunal in its order dt. 15.03.2010, is of the considered view that the movement of goods from Rourkela (Odisha) to BSO, Howrah (Stockyard) (West Bengal) was occasioned by an antecedent contract of sale and hence, is of the nature of an inter-State sale, but not branch transfer as claimed by the dealer."

(emphasis supplied)

43. The issue that arises for consideration is whether the Sales Tax Tribunal, after remand of the matter by the Central Sales Tax Appellate Authority, has recorded findings contrary to the findings recorded by the Central Sales Tax Appellate Authority in the remand order dated 15.03.2010.

44. As noted above, the order dated 15.03.2010 passed by the Central Sales Tax Appellate Authority had attained finality and so the findings recorded by the Central Sales Tax Appellate Authority would be binding on the Sales Tax Tribunal. The findings recorded by the Central Sales Tax Appellate Authority have been extensively referred to above and what transpires is that a categorical finding with regard to the TBS Scheme was recorded. The Central Sales Tax Appellate Authority observed that it was difficult to construe the TBS Scheme as constituting an offer of sale or having the attributes of a sale agreement. In fact, the Appellate Authority noted the TBS Scheme was a broad framework within which the regulated transactions had taken place. The Appellate Authority also noted that though the offer

and ultimate agreement owe their origin to the Scheme, it would be wrong to characterize the TBS Scheme itself as spelling out an agreement of sale and merely because the objective of the TBS Scheme was stated to be to give a commitment to the customers regarding supply of materials against firm orders, it would not mean that it had resulted in offer, and acceptance had come into effect before the goods were dispatched.

45. The Sales Tax Tribunal, after remand again examined the offer letter issued after the registration of demand by the appellant under the TBS Scheme and held that it is “nothing but an agreement of sale” of goods at a future date with the buyer although, through the branch office. The TBS Scheme examined by the Central Sales Tax Appellate Authority and the Central Sales Tax Tribunal is the same Scheme. The Central Sales Tax Appellate Authority, after a careful consideration of the TBS Scheme, rejected the contention of the State of Odisha that the TBS Scheme is in the nature of an offer for sale and it has all the nuances of an agreement to sell. The Appellate Authority held that it is difficult to construe the Scheme as constituting an offer. The Sales Tax Tribunal, therefore, could not have recorded a finding contrary to the finding recorded by the Central Sales Tax Appellate Authority on the TBS Scheme.

46. It needs to be noted that in case of all the said eight parties, the application for registration under the TBS Scheme was not an offer nor did it have any of the attributes of an agreement to sell. Pre-offer was merely in the nature of tentative information about a much lesser quantity which the appellant would be able to supply against the registration of demand, subject to availability and subject

to the conditions mentioned therein. It was clearly stated in all the pre-offers that it was subject to the terms and conditions mentioned therein and that if it is not accepted and if the commercial formalities were not completed within the specified date, it shall be withdrawn without any reference to the buyer. The pre-offers also required the buyers to pay earnest money deposit and in addition also make financial arrangement as indicated therein. Pre-offer was never acted upon by the parties nor any of the buyers ever claimed that it complied with all the terms and conditions of pre-offer or that any right accrued in favour of the buyer on the basis of registration or pre-offer. None of the said eight parties ever lodged any claim on the basis of registration or pre-offer nor any of them filed any suit or other legal proceeding against the appellant on that basis.

47. It is this finding of the Sales Tax Tribunal that the pre-offer made by the appellant under the TBS Scheme is an agreement to sale that formed the basis for the decision taken by the Sales Tax Tribunal because basis this finding, the Sales Tax Tribunal proceeded to examine whether the movement of the goods was occasioned by the said agreement for if there was no prior agreement to sell, then this vital requirement would not be satisfied.

48. The Central Sales Tax Appellate Authority, while examining the transaction pertaining to Mechanical Wire Industries, also held that as the goods were standard goods and not tailor-made for any buyer, the production programme was based on assessment of market demand in general rather than for catering to the requirements of particular customers. Thus, it rejected the earlier finding recorded by the Sales Tax Tribunal that the offer letter initially issued after the

registration of the demand led to the formation of a contract of sale. The Appellate Authority found the finding of the Sales Tax Tribunal to be based on assumptions rather than on any concrete material or evidence. The Central Sales Tax Appellate Authority also noted that the application for registration of demand under the TBS Scheme was forwarded by Mechanical Wire Industries and thereafter a letter styled as 'offer letter' was sent offering a particular amount of goods and the party was required to deposit the earnest money and comply with the financial arrangements. The Appellate Authority also noted that the delivery was effected and transaction was completed pursuant to the subsequent letter and not the earlier letter. The Appellate Authority also noted that the documents filed indicated that the effective offer letter was given after the wagon arrived at the branch and the delivery orders and invoices were issued after some days. In such circumstances, the Appellate Authority found that earlier initial offer cannot be taken as the real and effective offer. It is for this reason that the Appellate Authority recorded a categorical finding of fact in respect of Mechanical Wire Industries that there was no inextricable link between the contract of sale and the movement of goods.

49. The Sales Tax Tribunal, after remand, examined eight transactions, including that of Mechanical Wire Industries and held that the movement of goods was occasioned by the initial agreement of sale. The Sales Tax Tribunal also held that any variation in the quantity of goods offered and actually sold would, therefore, be of no consequence. The Sales Tax Tribunal also noted that the goods were despatched to the branch offices and merely because the branch

office had a discretion to give quantity of goods to customers, over which the Rourkela Steel Plant had no control, would not dilute the position. In fact, emphasis was placed by the Sales Tax Tribunal on the fact that the process commenced with registration of demand followed by issuance of the offer letter and this became the agreement of sale and production was carried on and goods were then moved from the Rourkela Steel Plant to the branch office as a result of which the branch office acted as a conduit.

50. It needs to be noted that all these facts had been meticulously examined by the Central Sales Tax Appellate Authority, while dealing with the transaction pertaining to Mechanical Wire Industries, and a categorical finding was recorded that the limited offer after registration cannot be considered as an agreement to sell and that there was no link between the contract of sale and the movement of goods.

51. Learned senior counsel for the appellant submitted that there is no difference between the transactions in respect of Mechanical Wire Industries and the other seven transactions, and indeed the learned counsel appearing for the State of Odisha has not been able to controvert this statement. The findings recorded by the Central Sales Tax Appellate Authority in respect of Mechanical Wire Industries would, therefore, cover the seven remaining other transactions.

52. The findings recorded by the Central Sales Tax Appellate Authority on this issue are contained in paragraphs 8 and 8.1 of the order and the same have been reproduced in paragraph 37 of this decision. After a detailed analysis of the documents on record, the Central Sales Tax Appellate Authority recorded a categorical finding of

fact that the offer letter was actually given to the buyer after the wagon arrived at the branch and rejected the contention of the State of Odisha that the initial offer after the registration was an agreement to sell. It is for this reason that the Central Sales Tax Appellate Authority recorded a finding that "the documents throwing light on the transaction with Mechanical Wire Industries clearly negates the case of the assessing authority that there was an inextricable link between the contract of sale and the movement of goods pursuant thereto".

53. In as much as there is no difference in the procedural aspect followed in all the eight transactions referred to by the Sales Tax Tribunal, the finding recorded by the Central Sales Tax Appellate Authority in respect of Mechanical Wire Industries would be equally binding on the remaining seven transactions.

54. This apart, as noticed above the Orissa High Court in the two references that were made recorded a categorical finding of fact, after examination of the documents, that inter-State sale had not taken place. The two judgments of the Orissa High Court were followed by the Sales Tax Tribunal for the assessment years 1990-1991, 1994-1995, 1995-1996, 1996-1997 and 1997-1998.

55. The findings recorded by the Sales Tax Tribunal, after remand of the matter by the Central Sales Tax Appellate Authority in respect of these eight transactions are, therefore, clearly contrary to the findings recorded by the Central Sales Tax Appellate Authority. The Sales Tax Tribunal, therefore, erred in treating the branch transfers of the goods from the Rourkela Steel Plant as inter-State sales.

56. What also needs to be noted is that out of the six integrated Steel Plants of the appellant, the dispute pertains only to the Rourkela Steel Plant at Odisha and even though the appellant follows the same system of production, movement and marketing, the other States have treated the transaction as branch transfers. Even in the matter of the appellant for some of the earlier years, the Orissa High Court had recorded a categorical finding that it was a case of branch transfer and following this finding of the High Court, the Sales Tax Tribunal had also for some assessment years recorded a categorical finding that the transactions were branch transfers.

57. What also transpires is that after the goods in bulk in full rake/wagon loads are received at the branches, the branches issue final offers to the customers for much smaller quantities of different sizes and qualities as per the availability and these are different from those mentioned in the pre-offers or registrations. This position is quite clear from the charts in respect of each of the said eight parties provided by the appellant. It is on the basis of such final offers that goods were sold. In the final offers there is no reference to the pre-offer, as incorrectly assumed by Sales Tax Tribunal. All the documents of the plant are in the names of the branches. In none of the documents of the plant, there is any reference to any of the said eight parties or any registration or pre-offer/offer of the said parties. The finding recorded by the Sales Tax Tribunal that whatever was apportioned by the planning departments to a particular plant has to be treated as sale by that plant is perverse. The planning activities were regularly undertaken by different wings, like Central Planning and Production Department and Central Marketing Organisation on

all India basis for all the steel plants of the appellant and the same were not related to any contract or any buyer at the branch. Other documents mentioned in the impugned order such as wagon card register and work order are internal documents of the branch and have nothing to do with the plants or any inter-State sales or movement from the plant pursuant to any sale at the branch. In the final offers, wagon numbers are mentioned inasmuch as final offers are made after the goods have been received in the branch in these wagons or are in transit and for proper accounting and correlation. Inter-Office Memo dated 29.08.1992 relates to dispatch program of 1476 MT in general and has nothing to do with any buyer at the branch. It does not even relate to Rourkela Steel Plant. Another Inter-Office Memo dated 18.09.1992 was exchanged between the Madras Branch and Bokaro Steel Plant and has nothing to do with Rourkela Steel Plant. The said Inter-Office Memo relates to TPI Madras who was a direct buyer from Bokaro. Steel Plant and on such direct sales by the plants, applicable Central Sales Tax is paid. The stockyard advices relate to branch transfers made by the plants to the branches and no stockyard advice ever mentions about a buyer at the branch or any order at the branch.

58. Learned senior counsel for the appellant and the learned counsel for the State of Odisha have extensively referred to the essential attributes of inter-State sales under section 3(a) of the CST Act. From the judgments of the Supreme Court that have been referred by the parties, the following principles can be culled out:

- (i) A sale in the course of inter-State trade has three essential ingredients:

- (a) there must be a contract of sale, incorporating a stipulation, express or implied, regarding inter-State movement of goods;
 - (b) the goods must actually move from one State to another, pursuant to such contract of sale, the sale being the proximate cause of movement; and
 - (c) such movement of goods must be from one State to another State where the sale concludes.
- (ii)** A movement of goods which takes place independently of a contract of sale would not fall within the meaning of inter-State sale. The movement must be under the contract of sale or as a result of a covenant or incident of the contract of sale or in pursuance of the conditions of the contract of sale;
- (iii)** A sale "in the course of" predicates a connection between the sale and the movement, the two activities being so integrated that the connection between the two cannot be voluntarily interrupted and there should be no possibility of the goods being diverted by the assessee for any other purpose;
- (iv)** Sale and movement of goods must be integral parts of the same transaction. The word "occasions" is used as a verb and means "to cause or to be the immediate cause". There must be direct nexus between the sale and the movement and the movement should be incident of and necessitated by the contract of sale and thus be interlinked with the sale;

- (v)** Even if the agreement in question constitutes a contract of sale, it would still have to be shown that the sale in question occasioned the movement from one State to another;
- (vi)** If manufacture of goods, and their movement is an incident of the contract of sale entered into with the buyer and it is intended that the same goods should be delivered by the branch to the buyer and there is no break in the movement, presence of branch as an intermediary or as a conduit makes no difference. It will, however, be a different situation if particular goods are despatched to the branch without reference to any order placed by the buyer and for sale in the open market; and
- (vii)** A mere transfer of goods to branches, which are broadly brought under the phrase "branch transfers" cannot be regarded as sales in the course of inter-State trade.

59. From an analysis of the documents on record and the aforesaid principles, it is more than apparent that the movement of goods from the Rourkela Steel Plant to the branches were branch transfers and not inter-State sale. Movement of goods from the Rourkela Steel Plant to branches was always in bulk in full rake/wagon loads, independent of any contract of sale. The movement of goods from the Rourkela Steel Plant to the branches was never under any contract of sale at the branch or as a result of any covenant or as an incident of such contract. All the plant documents were always in the names of the branches and in none of the plant documents, there was any mention of any buyer at the branch or any registration or offer or

order of any buyer at the branch. All the goods were standard goods continuously manufactured at the plant and despatched to all the branches independent of any contract at the branches. The branches were free and had full discretion to sell the goods to any buyer at the branch or to transfer the goods to any other branch. Such movement from the Rourkela Steel Plant to the branches had no nexus or link with any buyer at the branch. The Rourkela Steel Plant never dispatched goods to the branches for any buyer under the TBS Scheme or pursuant to or as an incident of any registration or pre-offer of any buyer at the branch.

60. The inevitable conclusion, therefore, that follows from the aforesaid discussion is that the movement of goods from the Rourkela Steel Plant of the appellant to the branches is not by way of inter-State sales as contemplated under section 3(a) of the CST Act but is by way of stock transfer from the Plant to the branches.

61. The order dated 29.06.2018 passed by the Sales Tax Tribunal, therefore, cannot be sustained and is set aside. Consequently, Central Sales Tax Appeal No. 12 of 2018, Central Sales Tax Appeal No. 13 of 2018, Central Sales Tax Appeal No. 14 of 2018 and Central Sales Tax Appeal No. 15 of 2018 are allowed.

(Order pronounced on **26.09.2025**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)