

Delay of 384 days. OHC. 15.12.2015 order.

**COURT MATTER**  
**URGENT**

OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES,  
ODISHA, CUTTACK.

L. No. 3475/CT  
IV(I)236/2014

Dated. 2/3 /2015

To

**The Additional CCT-cum-SR-I /  
Deputy Commissioner of Commercial Taxes(Appeal),  
O/o the CCT Odisha, Cuttack.**

**Sub: W.P.(C) No 20265/2011-M/s. Executive Engineers-Vrs-  
State of Odisha and others.**

Sir,

In inviting reference to the subject cited above, I am to transmit herewith the judgement order Dt.15.12.14 passed in **W.P.(C) No 20265/2011-M/s. Executive Engineers -Vrs-State of Odisha and others** for information and necessary action.

Yours faithfully,

**Joint Commissioner of Commercial Taxes  
(Administration) In-charge of Law**

O. H. C.-98]

W.P.(C) No.20265 of 2011

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
4.	15.12.2014	<p>Heard Sri P.K.Mohanty, learned counsel for the petitioner and Mr.Raman, learned counsel appearing for Commercial Taxes Department.</p> <p>2. Challenge in the present writ petition has been made to the order passed by the Assistant Commissioner, Sales Tax, Ganjam Range, Berhampur, Odisha in First Appeal Case No.AA.47/2004-2005 on 05.06.2004 (Annexure-2) dismissing the Appeal filed by the petitioner on the ground of delay of 384 days as well as the subsequent dismissal of the Second Appeal bearing S.A. No.1617 of 2004-05 on 23.05.2011 (Annexure-3) on the self-same ground.</p> <p>3. After hearing learned counsel for the parties and on perusing the orders impugned herein, we are of the considered view that since the matter has not been gone into in detail by the First Appellate Authority and Second Appellate Authority as well purportedly on the ground of 384 days delay, considering the fact that the petitioner had also represented the State and any loss to the State is a loss to the Exchequer, we quash both the appeal orders under Annexures-2 and 3 and remand the matter back to the First Appellate Authority who shall hear the matter afresh on merit and decide the same within a period of <u>three months</u> from today.</p> <p>4. With the aforesaid observation and direction, the writ petition is disposed of.</p> <p style="padding-left: 40px;">Issue urgent certified copy of the order on proper application.</p> <p style="padding-left: 40px;">A free copy of the order shall be made available to learned counsel for the Revenue.</p>	

*circulate to the other Advocate to a copy R & SO, SR SO. Amend.*  
*3/3/15*

*Sd/- I. Mohanty, J,*  
*Sd/- B.N. Mahapatra, J*

*True Copy*  
*6.1.15*  
*Expt-*