

**BEFORE THE CHAIRMAN, ODISHA SALES TAX TRIBUNAL:
CUTTACK**

S.A. No. 35 (VAT) of 2020

(Arising out of order of the learned JCST, Puri Range,
Puri in Appeal No. 106111911000015,
disposed of on 12.12.2019)

Present: **Shri G.C. Behera, Chairman**

M/s. Narayani Agency,
Shivasakti Colony,
Jayashree Chhak, Nimapara, Puri ... Appellant

-Versus-

State of Odisha, represented by the
Commissioner of Sales Tax, Odisha,
Cuttack ... Respondent

For the Appellant : None
For the Respondent : Sri D. Behura, S.C. (CT)

Date of hearing : 25.04.2023 *** Date of order : 17.05.2023

ORDER

Dealer assails the order dated 12.12.2019 of the Joint Commissioner of Sales Tax, Puri Range, Puri (hereinafter called as 'First Appellate Authority') in F A No. 106111911000015 reducing the demand raised in assessment order of the Sales Tax Officer, CT & GST Circle, Puri (in short, 'Assessing Authority').

2. The facts of the case, in brief, are that –

M/s. Narayani Agency deals in grocery items, tinned food, snacks, chocolate and chocolate products, mouth freshner, etc. The assessment period relates to 01.10.2015 to 30.06.2017. The Assessing Authority raised

tax and penalty of ₹1,77,482.00 u/s. 42 of the Odisha Value Added Tax Act, 2004 (in short, 'OVAT Act') on the basis of Audit Visit Report (AVR).

Dealer preferred first appeal against the order of the Assessing Authority before the First Appellate Authority. The First Appellate Authority reduced the tax demand to ₹89,463.00 and allowed the appeal in part. Being aggrieved with the order of the First Appellate Authority, the Dealer prefers this appeal. Hence, this appeal.

The State files cross-objection supporting the order of the First Appellate Authority to be just and proper.

3. There is no appearance from the side of the Dealer despite notice. Learned Standing Counsel (CT) for the State is present. Hence, the matter is heard and disposed of *ex parte* on merits.

4. In absence of the Dealer, the appeal was considered as per the grounds taken in the grounds of appeal. The Dealer has challenged the impugned order regarding discrepancy in the stock value and further claimed that the profit margin of different commodities should be taken into account to arrive at the closing stock.

5. On the other hand, the learned Standing Counsel (CT) for the State submits that the order of the First Appellate Authority suffers from no infirmity as the Dealer did not appear and furnish any material documents to support its stand. So, he submits that the appeal filed by the Dealer merits no consideration.

6. Having regard to the submissions and on careful scrutiny of the record, it transpires from the record that the Dealer has challenged the impugned order regarding discrepancy in the stock value and further claimed that the profit margin of different commodities should be taken into account to arrive at the closing stock.

As regards alleged discrepancy in the stock value for the period under assessment, no material evidence is available before this forum to

record any finding that the observation of the First Appellate Authority suffers from any infirmity. So, I have no alternative than to affirm the order of the First Appellate Authority on this score.

As regards determination of closing stock by adopting profit margin, the Assessing Authority took 4% of profit margin basing on the PL account of the Dealer as Dealer has not provided any facts and figures in balance sheet for the year 2016-17. The First Appellate Authority upheld the same and I do not find any contrary material to take a view otherwise in this regard.

7. So, on the foregoing discussions, I am not inclined to interfere with the impugned order of the First Appellate Authority as no material evidence is forthcoming to accept the grounds raised by the Dealer. Hence, it is ordered.

8. Resultantly, the appeal is dismissed and the impugned order of the First Appellate Authority is hereby confirmed. Cross-objection is disposed of accordingly.

Dictated & Corrected by me

**Sd/-
(G.C. Behera)
Chairman**

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(G.C. Behera)
Chairman**