

**BEFORE THE FULL BENCH: ODISHA SALES TAX TRIBUNAL:  
CUTTACK.**

**S.A. No. 80(C) of 2016-17**

(Arising out of the order of the learned JCST, Cuttack I Range,  
Cuttack, in First Appeal case No. 107121512000130  
disposed of on 30.07.2016)

**P r e s e n t: Shri G.C.Behera, Sri. S.K.Rout & Shri M.Harichandan,  
Chairman. Judicial Member-II Accounts Member-I.**

M/s.National Small Industries Corporation Ltd.,  
Link Road, Cuttack. ... Appellant.

**- V e r s u s -**

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

For the Appellant ... Mr. T.K. Agarwal, A/R.  
For the Respondent ... Mr. D. Behura, SC

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Date of hearing: **01.02.2023** \* \* \* Date of Order: **09.02.2023**  
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**ORDER**

Dealer prefers this appeal challenging the order dated 30.07.2016 passed by the learned Joint Commissioner of Sales Tax, Cuttack I Range, Cuttack ( in short, JCST/FAA) in first appeal case No.107121512000130, thereby allowing the appeal in part and reducing the demand to Rs.13,96,981.00 against the order of assessment passed by the learned Sales Tax Officer, Cuttack I City Circle, Cuttack ( in short, STO/AO) under Rule 12 of the CST (O) Rules for the tax period from 01.04.2012 to 31.03.2014 raising a demand of Rs.3,68,49,492.00 including penalty of Rs.2,45,66,328.26 due to non submission of declaration forms.

2. The case at hand is that the dealer in the instant case M/s.National Small Industries Corporation Ltd. having TIN No.21441203187. Pursuant to receipt of audit visit report (AVR) against the dealer firm establishing the prima facie of incorrect tax compliance made by the dealer firm, audit assessment proceeding under Rule 12(3) of the CST (O) Rules, 1957 was initiated and noticed in Form VAT-306 was issued to the dealer to produce the books of accounts. During assessment, the dealer firm could not be able to furnish supporting evidence like Form E-1, Form E-15, Form-C as per the requirement of the incorporated allegations in the AVR. So the dealer firm sought for adjournment and the same was allowed. Despite such opportunity when the dealer did not turn up for verification of books of accounts for audit assessment hearing proceeding, the assessment was completed ex parte to the best of judgment and tax demand was raised to Rs.3,68,49,492.00.

3. Against such tax demand, the dealer preferred first appeal before the learned JCST, Cuttack I Range, Cuttack (FAA) who reduced the demand to Rs.13,96,981.00 from Rs.3,68,49,492.00.

4. Further being dissatisfied with the order of learned first appellate authority, the dealer has preferred the present second appeal as per the grounds stated in the grounds of appeal.

5. Cross objection is filed in this case by the State respondent.

6. During course of argument, learned Counsel for the dealer contended that such demand is raised against the

appellant under CST Act including penalty on the basis of rejection of declaration forms. Further contention on behalf of the dealer is that against such demand when the dealer produced books of accounts as well as declaration forms for which the first appellate authority reduced the demand. Learned counsel for the dealer also submitted that before this Tribunal it (dealer) has produced original E-1 and 'C' form which should be taken into consideration. It is also further more submitted on behalf of the dealer that sufficient time needs to collect the declaration forms whereas the first appellate authority was reluctant to give time for the same.

7. Per contra, learned Standing Counsel for the revenue argued that the forums below have rightly passed the order due to non-submission of declaration E-1 and C forms.

8. Heard the contentions and submissions of both the parties in this regard. On perusal of the case record, it becomes evident that such demand is raised by the forum below as the dealer could not be able to furnish the declaration E-1 and 'C' forms. But right now, the dealer has produced some original E-1 and 'C' forms before this Tribunal for consideration. If that is so, the declaration forms submitted by the dealer should be taken into consideration otherwise there will be violation of the principle of natural justice.

9. We are of the unanimous view to remand the case to the learned assessing officer for reassessment giving due consideration to the declaration E-1 and 'C' forms filed by the dealer appellant before this Tribunal.

10. In the result, the appeal preferred by the dealer is partly allowed and the orders of the fora below are hereby set aside and the case is remanded to the learned assessing officer for reassessment within three months of receipt of this order giving due consideration to the declaration E-1 and the 'C' forms filed by the dealer before this forum giving the dealer an opportunity of being heard. The original declaration E-1 and 'C' forms be returned to the dealer which are to be produced before the assessing officer during assessment. Accordingly, the cross objection is disposed of.

Dictated and Corrected by me,

Sd/-

**(Shri S.K.Rout)**  
**Judicial Member-II**

**I agree,**

Sd/-

**(Shri S.K.Rout)**  
**Judicial Member-II**

Sd/-

**(Shri G.C.Behera)**  
**Chairman**

**I agree,**

Sd/-

**(Shri M.Harichandan)**  
**Accounts Member-I**