

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

S.A. No. 17(C) of 2011-12

(Arising out of the order of the learned JCCT, Sundargarh Range,
Rourkela, in First Appeal case No. AA-4(RL-I-C)/2009-10
disposed of on 31.01.2011)

**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.Gulf Oil Corporation Ltd.,
Sonaparbat, Rourkela-16. ... Appellant.

- V e r s u s -

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

For the Appellant ... Mr.P.R.Pattnaik, Advocate.
For the Respondent ... Mr. D.Behura, S.C.

Date of hearing: **12.10.2022** * * * Date of Order: **17.10.2022**

O R D E R

Challenge in this appeal is the order dated 31.01.2011 passed by the learned Joint Commissioner of Sales Tax, Sundargarh Range, Rourkela (in short, JCST/FAA) in first appeal case No.AA.4(RL-I-C) of 2009-10 thereby confirming the order of assessment passed by the learned Sales Tax Officer, Rourkela I Circle, Udit Nagar (in short, STO/AA) under Rule 12(4) of the CST (O) Rules, 1957 for the year 2005-06 raising an extra demand of Rs.1,38,69,281.00.

2. The case at hand is that the dealer appellant is a limited company who carries on business in manufacture and sale of explosives and clad metals. The appellant also carries on business in trading of explosive accessories. In course of assessment proceeding, the learned STO found that out of total claim of stock transfer of Rs.18,72,76,437.00, a sum of Rs.11,13,16,657.00 relating to transfer

of stocks to the outside State branches/consignment agents and from there supplied to subsidiaries of Coal India Limited (CIL) basing on a purchase order placed by the Apex body of Coal India Limited on the appellant company. As the transfer of said amount of stock of goods for Rs.11,13,16,657.00 by the appellant company meant for supply to the subsidiaries of Coal India Limited by the consignment agents/depot of the appellant are interstate sale falling under section 3(a) of the CST Act for which the learned STO disallowed a sum of Rs.11,13,16,657.00 from the claim of stock transfer and put the same to tax @13.2% as provided under Section 8(2)(b) of the CST Act.

3. Being aggrieved with the order of assessment, the appellant preferred first appeal before the learned JCST, Sundargarh Range, Rourkela who confirmed the order of assessment.

4. Further, being dis-satisfied with the order of the first appellate authority, the present second appeal has been preferred by the dealer appellant as per the grounds stated in the memorandum of appeal.

5. No cross objection is filed in the instant case on behalf of the State respondent.

6. Heard the contentions and submissions of both the parties. Perused the grounds of appeal vis-à-vis the impugned orders of the forums below and the materials on record. It is evident that the sole ground on which the impugned orders are challenged is that the dealer company was not given adequate opportunity to produce the declarations in Form 'C' in order to avail concessional rate of tax in respect of interstate sales. The present second appeal is of the year 2009-10 and pending before this forum since last twelve years. In course of hearing the appeal, the dealer appellant could not submit any statutory forms before us to show that such documents are available with it. At this juncture, fact remains that if the contention of the dealer appellant is accepted to the fact that it is not given adequate

opportunity to submit the statutory declarations forms in order to claim deduction at concessional rate of tax, it (dealer appellant) could have produced those documents before this Tribunal. So when the dealer appellant could not collect the relevant documents since long i.e. from the date of initiation of the assessment proceeding against him, remanding the matter back to the assessing authority to enable the dealer appellant to produce such declaration forms, would be wastage of valuable time and abuse of the process of this Tribunal. The dealer having failed to produce the relevant documents since long, no further opportunity can be given to him. On perusal of the impugned order of the first appellate authority, to our considered view, it has rightly confirmed the order of assessment which is in consonance with the provisions of law and as such the same needs no interference.

7. In the result, we have no hesitation to dismiss the appeal preferred by the dealer appellant. As a corollary, the order passed by the learned First Appellate Authority on dated 31.01.2011 in first appeal case No.AA.4(RL-I-C) of 2009-10 is hereby confirmed.

Dictated and Corrected by me,

Sd/-
(Shri S.K.Rout)
Judicial Member-II

Sd/-
(Shri S.K.Rout)
Judicial Member-II

I agree,

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

I agree,

Sd/-
(Shri M.Harichandan)
Accounts Member-I