

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

S.A. No. 10 (C) of 2019

(Arising out of order of the learned Addl. CST (Appeal), Central Zone,
Odisha, Cuttack, in Appeal No. AA- 107101610000155/2016-17,
disposed of on 29.11.2018)

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

M/s. Sundar Das D' Hunsraj,
College Square, Cuttack ... Appellant

-Versus-

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

For the Appellant : Sri D. K. Hazra, Advocate
For the Respondent : Sri D. Behura, S.C. (CT) &
Sri S.K. Pradhan, Addl. SC (CT)

Date of hearing : 03.05.2023 *** Date of order : 02.06.2023

ORDER

Dealer is in appeal against the order dated 29.11.2018 of the Addl. Commissioner of Sales Tax (Appeal), Central Zone, Odisha, Cuttack, (hereinafter called as 'First Appellate Authority') in F.A. No. AA-107101610000155/2016-17 confirming the demand raised in the assessment order of the Joint Commissioner of Sales Tax, Cuttack-I Range, Cuttack (in short, 'Assessing Authority').

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

M/s. Sundar Das D' Hunsraj deals in hardware goods, electrical items, rubber belt, tube well parts and accessories, spare parts and

accessories of pump sets including hand pumps, drilling machine, welding machine accessories, PVC pipes etc. The assessment period relates to 01.04.2013 to 31.03.2015. The Assessing Authority raised tax and penalty of ₹7,89,436.00 u/r. 12(3) of the Central Sales Tax (Odisha) Rules, 1957 (in short, 'CST (O) Rules') on the basis of Audit Visit Report (AVR).

The dealer preferred first appeal against the order of the Assessing Authority before the First Appellate Authority. The First Appellate Authority confirmed the assessment and dismissed the appeal *ex parte*. 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 orders of the First Appellate Authority and Assessing Authority to be just and proper.

3. Learned Counsel for the Dealer submits that he could not produce the required statutory forms before the Assessing Authority and First Appellate Authority as he has not received the same from the buyers. So, he submits that the Dealer should be given an opportunity to place the material documents before this forum in support of its concessional and exemption claim. He further submits that the Dealer has no laches or negligence in filing the required statutory forms.

4. On the contrary, the learned Standing Counsel (CT) for the State submits that the Dealer is dragging the matter to different forums intentionally to delay the proceeding. He further submits the Dealer has not filed all the statutory forms and may seek for filing the rest after sometime. So, the Dealer should not be given any further time to produce the rest of the forms. He further submits that the Dealer has filed the statutory forms at a belated stage, which should not be accepted. So, he submits that the impugned order requires no interference in appeal.

5. Heard the submissions of both parties and gone through the orders of the First Appellate Authority and the Assessing Authority vis-a-vis the materials on record. The Dealer claims that he fails to produce some 'C' & 'E-I' forms before the Assessing Authority as he has not received the same from the buyers. He has filed some 'C' & 'E-I' forms before this forum for consideration. So, I feel it proper to give an opportunity to the Dealer to place the material documents before the Assessing Authority for reconsideration.

6. So, for the foregoing discussions, this forum feels it proper in the interest of justice to allow an opportunity to the Dealer to place the material documents, i.e. statutory forms, before the Assessing Authority for consideration of concessional and exemption sales of the Dealer. Hence, it is ordered.

7. Resultantly, the appeal stands allowed and the impugned order of the First Appellate Authority is hereby set aside. The matter is remanded to the Assessing Authority for reconsideration. The Dealer is at liberty to file all the required statutory forms in original before the Assessing Authority, who shall consider the claim in accordance with law. If the Dealer fails to appear and file the required documents, he shall be debarred from further opportunity to file the same. The Assessing Authority is required to complete the reassessment within a period of three months from the date of receipt of this order. Cross-objection is disposed of accordingly.

Dictated & Corrected by me

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

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(G.C. Behera)
Chairman**