

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

Present: **Shri G.C. Behera, Chairman**
Shri S.K. Rout, 2nd Judicial Member
&
Shri B. Bhoi, Accounts Member-I

S.A. No. 14(C) of 2014-15

(Arising out of order of the learned Deputy Commissioner of
Sales Tax (Appeal), Bhubaneswar Range, Bhubaneswar,
in First Appeal Case No. AA-107111311000047,
disposed of on dated 31.03.2014)

M/s. Areva T & D India Ltd.,
(Presently M/s. Alsom T&D India Ltd.)
Plot No.M-6, 2nd Floor, Samanta Vihar,
Near Kalinga Hospital,
Bhubaneswar-751016. ... Appellant

-Versus-

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

For the Appellant : Mr. R.C. Samantray, Advocate
For the Respondent : Mr. N.K. Rout, A.S.C.

Date of hearing: 26.10.2023 *** Date of order: 21.11.2023

ORDER

The present appeal preferred by the dealer-appellant is directed against the impugned order dt.31.3.2014 passed by the Learned Deputy Commissioner of Sales Tax (Appeal), Bhubaneswar Range, Bhubaneswar, (in short, Learned First Appellate Authority/Ld. FAA) vide his Appeal Case No.AA107111311000047, in confirming the order of assessment passed by the Learned Sales Tax Officer,

Bhubaneswar IV Circle, Bhubaneswar(in short, Learned Assessing Authority/Ld. AA) U/r.12(1) of the CST(O) Rules, raising an extra demand of ₹1,87,56,847.00 for the tax period March 2012.

2. The brief fact of the case is that the dealer company which carries on business in trading of transformers and electrical goods has submitted its returns for the material period claiming concession/exemption for ₹13,89,39,608.00. Since it could not submit the requisite declaration forms in support of his claim the LAA has initiated proceeding U/r.12(1) of the C.S.T.(O) Rules which resulted in creation of the impugned demand.

3. The dealer on being aggrieved with the aforesaid order passed by the LAA has preferred appeal before the Ld. FAA but again failed to substantiate its claim by producing declaration forms/certificates before the Ld. FAA for which the order of assessment was confirmed by the Ld. FAA vide his order dated 31.3.2014.

4. On being further aggrieved the dealer has challenged the first appeal order primarily on the ground of non-extension of further time for furnishing declaration forms/certificates which violates the principle of natural justice. Besides, it was also contended that Ld. AA and Ld. FAA have committed an error in levying tax @ 13.5%, whereas the same should have been 2% as against production of "C" declaration forms by the dealer.

5. Cross objection is filed by the State Respondent on the ground that the impugned demand has been correctly made by the forums below since the dealer failed to

substantiate the claim by producing the declaration forms/certificates, despite several opportunities extended to it.

6. Heard the case.

7. During the course of arguments both the rival parties reiterated their stands taken in the grounds of appeal and cross objection respectively.

8. The Learned Counsel of the appellant have averred that since the dealer has got substantial turnover under the CST law having transactions with goods numbers of Out-State Dealers, it is in fact difficult to collect declaration forms/certificates in time. He has also contended that as the dealer has got sufficient reason in not furnishing the declaration forms/certificates, he should have allowed with further time to comply the same. Besides, the dealer has submitted (two numbers of E-I forms (copies of which are retained on returns of respective originals) for an amount of ₹3,06,39,419.00 as an additional evidence before this forum and urged for its acceptance.

9. On verification of such forms, it is found that the same were issued in favour of the dealer after passing of impugned order by the Ld. FAA. This indicates the bonafide intention of the dealer in collecting requisite declaration forms. Since sufficient cause has been assigned by the dealer appellant with regard to the non-submission of declaration forms, the above certificates can be considered as per the proviso to Rule 12(7) of the CST(R & T) Rules for sake of natural justice. Hence from the above facts, this forum thinks it proper to remand the case to the LAA to consider the above certificates subject to production of originals (returned to it).

10. In the result, the appeal preferred by the dealer is allowed in part and the orders of the fora below are set aside and the matter is remanded back to the learned assessing authority on the above limited ground. The learned assessing authority is also directed to complete the reassessment proceeding within three months from date of receipt of this order as per the provisions of law and application of correct rate of tax. Cross objection filed by the respondent is disposed of accordingly.

Dictated & corrected by me

Sd/-
(S.K. Rout)
2nd Judicial Member

Sd/-
(S.K. Rout)
2nd Judicial Member

I agree,

Sd/-
(G.C. Behera)
Chairman

I agree,

Sd/-
(B. Bhoi)
Accounts Member-I