

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

S.A. No. 125 (VAT) of 2020

(Arising out of order of the learned JCST (Appeal), CT&GST Territorial Range, Bhubaneswar in Appeal No. AA – 106221822000016, disposed of on 27.05.2019)

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

M/s. 4S Interiors,
Plot No. 414/4427, Damana Square,
Bhubaneswar ... Appellant

-Versus-

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

For the Appellant : N o n e
For the Respondent : Sri S.K. Pradhan, Addl. S.C. (CT)

Date of hearing : 06.03.2024 *** Date of order : 22.03.2024

O R D E R

Dealer is in appeal against the order dated 27.05.2019 of the Joint. Commissioner of Sales Tax (Appeal), CT & GST Territorial Range, Bhubaneswar (hereinafter called as ‘First Appellate Authority’) in F A No. AA – 106221822000016 confirming the assessment order of the Sales Tax Officer, Bhubaneswar-III Circle, Bhubaneswar (in short, ‘Assessing Authority’).

2. Briefly stated, the facts of the case are that –

M/s. 4S Interiors is engaged in trading of interior decorative articles, iron and steel furniture, wooden furniture, plastic and moulded

furniture and home appliances etc. besides an authorized distributor of M/s. Godrej & Boyce Mfg. Co. Ltd. for effecting sale of Godrej make furniture in Odisha. The assessment relates to the period 01.04.2014 to 30.09.2015. The Assessing Authority raised tax demand of ₹3,70,008.00 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 confirmed the assessment and dismissed the appeal in *ex parte*. Being further aggrieved with the order of the First Appellate Authority, the Dealer prefers this appeal. Hence, this appeal.

The State files cross-objection.

3. In course of hearing of appeal, the Dealer remains absent despite notice. Learned Addl. SC (CT) for the State is present. Hence, the matter is heard and disposed of *ex parte* on merits.

4. It is urged in the grounds of appeal that the First Appellate Authority went wrong in disallowing the ITC on imaginary ground. It is further pleaded that the order of disallowance of ITC and imposition of penalty by the First Appellate Authority are otherwise bad in law and needs interference in appeal.

5. On the contrary, the learned Addl. Standing Counsel (CT) for the State submits that the RC of the selling dealer was cancelled prior to transaction against which the Dealer has claimed the ITC. He further submits that the Dealer fails to produce any material evidence before the First Appellate Authority and even before this Tribunal to substantiate its claim. So, he submits that the impugned order of the First Appellate Authority is a reasoned order and requires no interference in appeal.

6. Heard the learned Addl. Standing Counsel (CT) for the State, gone through the grounds of appeal vis-a-vis the orders of the Assessing Authority and First Appellate Authority.

The Dealer assails the order of disallowance of ITC and imposition of penalty by the First Appellate Authority. Assessment order reveals that the assessment was completed on the strength of Audit Visit Report (AVR). The Audit Team suggested for disallowance of claim of ITC of the Dealer. The Dealer had produced the books of account and written submission before the Assessing Authority. The Assessing Authority allowed the ITC of ₹28,625.00 towards sale against the selling dealer, i.e. M/s. Godrej & Boyce Mfg. Co. Ltd., ₹16,036.00 against the selling dealer, M/s. Shoukeen Industries, but disallowed the claim of ITC of ₹94,191.00 against the selling dealer- M/s. New Design as the RC of the Dealer was cancelled w.e.f. 09.09.2011.

The impugned order transpires that the Dealer fails to substantiate its claim before the First Appellate Authority by not producing the material evidence to that effect despite allowing several opportunities. In course of hearing of the present appeal, the Dealer also did not appear before this forum nor tendered any material documents in support of his claim. So, I do not find any impropriety or illegality in the impugned order to call for any interference in appeal. Hence, it is ordered.

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

Dictated & Corrected by me

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

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Chairman**