

**BEFORE THE JUDICIAL MEMBER-II:
ODISHA SALES TAX TRIBUNAL: CUTTACK.**

**P r e s e n t: Shri S.K. Rout,
2nd Judicial Member**

S.A. No. 95(C) of 2019

(Arising out of the order of the learned Addl. Commissioner of
Sales Tax (Appeal), Balasore,
in Appeal Case No. AA-23/BAC-2019-20(CST),
disposed of on dtd.27.09.2019)

M/s. B & A Packaging India Limited,
Balgopalpur Industrial Estate,
At:- Balgopalpur, P.O.- Rasulpur,
Via.- Mitrapur, Dist.-Balasore. ... Appellant

- V e r s u s -

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

For the Appellant ... Mr. B.K. Senapati, Advocate
For the Respondent ... Mr. N.K. Rout, A.S.C.

Date of hearing: 11.08.2023 *** Date of order: 22.08.2023

ORDER

The dealer prefers this appeal challenging the order
dtd.27.09.2019 passed by the learned Addl. Commissioner of
Sales Tax (Appeal), Balasore (hereinafter referred to as,
JCST/first appellate authority) in Appeal Case No. AA-
23/BAC-2019-20(CST), thereby allowing the appeal in part
against the order of provisional assessment passed by the
learned Deputy Commissioner of Sales Tax, CT & GST Circle,
Balasore (hereinafter referred to as, learned DCST/assessing

authority) u/r.12(1)(b) of the Central Sale Tax (Orissa) Rules, 1957 (hereinafter referred to as, the CST(O) Rules) raising demand of ₹3,94,298.00 including interest of ₹1,18,565.00 relating to the period from 01.04.2015 to 30.06.2015.

2. The case at hand is that, the dealer in the instant case M/s. B & A Packaging India Limited bearing TIN-21131500032 having its manufacturing unit at Balgopalpur, Balasore exclusively manufactures packing materials for export, branch transfer and interstate sale. During the period under challenge, the dealer-company has effected sale of goods in course of interstate trade and commerce i.e. paper sack to the tune of ₹10,63,83,916.00 against declaration form 'C' and submitted declaration form 'C' to the tune of ₹9,83,51,596.00 during the stage of assessment, but failed to submit the balance amount of 'c' form of ₹80,32,320.00. This apart, the dealer-company also failed to produce form 'F' amounting to ₹6,95,250.00 during the stage of assessment for which the learned DCST raised the demand as mentioned above.

3. Against such tax demand, the dealer preferred first appeal before the learned first appellate authority who reduced the demand as mentioned above.

4. Further, being dissatisfied with the order of the 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 in this case is filed by the State-respondent.

6. During the course of argument, learned counsel for the dealer-appellant vehemently contended stating that the order passed by the learned first appellate authority is violative of the principle of natural justice for which the same should be quashed. Per contra, learned Addl. Standing Counsel for the Revenue argued stating that the first appellate authority has reduced the demand as the basis of provision of declaration forms and is justified in deciding the appeal and as such the appeal filed by the dealer is not sustainable as the dealer could not furnish declaration forms. So, the order of the learned first appellate authority is crystal clear with respect to demands raised and it is self-explanatory and requires no further interference.

7. Heard the contentions and submissions of both the parties in this regard. Perused the materials available on record vis-à-vis the grounds of appeal and the cross objection of the learned Addl. Standing Counsel for the Revenue. After have a glance to the order of the learned first appellate authority, it becomes quite clear that during hearing of the first appeal two numbers of declaration forms 'C' electronically generated bearing No.241083043831526 of ₹17,58,882.00 and No.18106150542030 of ₹10,73,249.00 and against the required amount of ₹80,32,320.00 but failed to produce the balance amount of 'C' form of ₹52,00,189.00 and as such the same was taxed at the appropriate rate of 5% and after due calculation the demand was reduced as raised. With regard to the contentions of the dealer-company that in spite of repeated efforts it could not be able to collect some 'C', 'F', 'H' and 'I' declaration forms for which request was made to the

learned Addl. CST (Appeal) to allow some more time in order to submit the same declaration forms but the same was ignored and assessment was completed whimsically by disallowing such sale against 'C' form of ₹52,00,189.00, branch transfer against 'F' of ₹6,95,250.00 and required extra tax which is against the provisions of law.

8. Now, fact remains the record clearly entails that various opportunities have already been afforded to the dealer-company but in spite of such it failed to procure all those forms. The dealer-company also failed to produce all those declaration forms during the time of hearing of the first appeal so also before this Tribunal during the time of this second appeal. If those declaration forms could have been submitted even before this Tribunal, matter would have been otherwise. So, in absence of those declaration forms, the learned first appellate authority has rightly calculated the tax and as such the order needs no interference.

9. In the result, the appeal preferred by the dealer-company is dismissed and the order of the learned first appellate authority is hereby confirmed. Cross objection is disposed of accordingly.

Dictated & corrected by me,

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

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