

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

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

**S.A. No. 96(C) of 2019**

(Arising out of the order of the learned Addl. Commissioner of  
Sales Tax (Appeal), Balasore,  
in Appeal Case No. AA-24/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.

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Date of hearing: 11.08.2023         \*\*\*         Date of order: 22.08.2023  
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**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, ACST/first appellate authority) in Appeal Case No. AA-24/BAC-2019-20(CST), thereby allowing the appeal in part by reducing the demand to ₹2,28,724.00 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 ₹2,92,372.00 for the period from 01.07.2015 to 30.09.2015.

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 ₹7,55,65,021.00 against declaration form 'C' and submitted declaration form 'C' to the tune of ₹6,92,36,588.00 during the stage of assessment, but failed to submit the balance amount of 'C' form of ₹63,28,433.00. This apart, the dealer-company also failed to produce form 'H' amounting to ₹3,79,688.00 during the time of assessment and as such the demand as mentioned above was raised by the learned DCST.

3. Against such tax demand, the dealer preferred first appeal before the learned first appellate authority who reduced the demand to ₹2,28,724.00.

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 orders of the forums below, grounds of appeal and the cross objection filed by the State-Revenue. On perusal of the order of the learned first appellate authority, it reveals that, during the time of hearing of the first appeal, the dealer-company produced one number of form 'H' bearing Sl. No.L737464 amounting to ₹3,79,688.00 relating to the transaction for the tax period under challenge. This apart, three numbers of 'C' forms electronically generated were also submitted by the dealer-company bearing No.241012483491626 of ₹2,05,313.00, No.19051612119725 of ₹4,16,250.00, No.19051611925219 of ₹4,31,866.00 against the required amount of ₹63,28,433.00 but failed to produce the balance amount of form 'C' of ₹52,75,004.00 and as such the same was taxed at the appropriate rate of 5% with interest.

In view of such, re-calculation was made by the learned first appellate authority giving due consideration to the declaration forms submitted during the time of hearing of the first appeal and accordingly the demand was raised which includes tax and interest. So, such re-calculation done by the learned first appellate authority is quite genuine and as such the same needs no interference.

8. 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)  
2<sup>nd</sup> Judicial Member

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