

passed on exparte basis, has confirmed the impugned order of the Ld. STO on the self same ground.

3. The dealer appellant on being further aggrieved has preferred the present appeal on the following grounds.

i) The orders passed by the forums below are illegal, arbitrary, erroneous and as such is bad in law deserving to be quashed in entirety.

ii) The impugned orders are violative of the principle of natural justice as the appellant was not afforded with sufficient opportunity to participate in the proceedings and substantiate its claim of purchase of first point tax paid goods.

iii) The orders passed by the forums below are illegal, since both the authorities have not accepted the contentions that the appellant dealer dealt with the business goods which are subject to levy of tax at first point.

4. In response, cross objection has been filed by the State Respondent.

5. Heard the case from both sides.

The Appellant Dealer represented through its learned counsel has reiterated the stands taken in the grounds of appeal. The learned counsel of the State has vehemently objected the same on the grounds that since statute provides for maintenance of complete books of accounts by the dealer and production of same at the time of assessment, the Ld. STO and Ld. FAA have rightly completed the proceedings on exparte basis due to non-production of the same before them. Examination of the assessment order passed by the Ld. STO reveals that prior to completion of the same on dt.30.3.1996, the Ld. STO has issued notice to the dealer for production of books of accounts, which is not disputed by the dealer. The Ld. FAA in his order has also mentioned that the dealer failed to respond to his notice, which is also not agitated by the dealer. So the contention that the dealer has not been afforded with sufficient opportunity is considered to be not based on fact. Moreover, the learned counsel also failed to produce the relevant documents at this forum which indicates its inability to substantiate its claim of deduction. Thus from the sequence of

events, we are of the opinion that there is no violation of natural justice in completion of the impugned proceedings. As claimed by the appellant, it might have dealt in goods like cement, rod and AC Sheets but the onus of producing evidences in support of deduction claimed on account of payment of tax at first point clearly vested with the dealer it-self. In this respect since the dealer failed to substantiate, the learned assessing authority as well as learned first appellate authority, have rightly disallowed the claim.

7. In view of the above discussion, we find the contentions of the dealer appellant to be in contrast to the factual position and not sustainable.

8. Accordingly, the appeal preferred by the dealer appellant is dismissed being devoid of merits and the order passed by the Learned First Appellate Authority stands confirmed. Cross Objection filed by the respondent is disposed of accordingly.

Dictated and corrected by me,

(S.R.Mishra)
Accounts Member-II.

(S.R.Mishra)
Accounts Member-II.

I agree,

(S.K.Rout)
2nd Judicial Member.