

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

S.A.No.83(C) of 2016-17.

(Arising out of the order of Ld. JCST, Sundargarh
Range, Rourkela, in First Appeal Case No.AA 30(RL-II-C)
of 2015-16, disposed of on dated 30.06.2016)

P r e s e n t:-Shri G.C.Behera & Shri S.K.Rout & Shri S.R.Mishra,
Chairman 2nd Judicial Member Accounts Member-III

M/s. Cemtec India Pvt. Ltd.,
OCL Colony, Rajangapur,
Sundargarh

. . . Appellant

- V e r s u s -

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

. . . Respondent.

For the Appellant

. . . N o n e.

For the Respondent

. . . Mr.N.K.Rout,ASC(CT).

Date of Hearing : 10-08-2023

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Date of Order:23-08-2023.

O R D E R

The present appeal filed by the dealer appellant is directed against the impugned first appeal order passed by the Learned Joint Commissioner of Sales Tax, Sundergarh Range, Rourkela (in short Ld. JCST) vide order dated 30.6.2016 in first Appeal Case No.AA 30(RL-II-C) 2015-16 for the tax period from 1.4.2013 to 31.3.2014 in enhancing the tax assessed by the Learned Sales Tax Officer, Rourkela II Circle, Panposh U/r.12 (1) of the CST(O) Rules.

2. On being aggrieved with the aforesaid order passed by the Ld. JCST the dealer appellant has preferred the present appeal primarily on the grounds that the order of assessment passed by the Learned Sales Tax Officer, Rourkela II Circle, Panposh, U/r.12(1) of the CST(O) Rules is violative of the principle of natural justice and provisions of law as the same is not a speaking order, rather based in a proforma in form II-B, containing a separate calculation sheet showing additional tax demand; that the Ld. JCST while passing the exparte appeal order has not allowed sufficient opportunity to the appellant to furnish wanting declaration

forms in support of its claim of concessional/ exempted sales ; that the enhancement of the assessment without a separate show cause notice by the Ld. JCST is illegal and deserves to be set-aside ; that the dealer appellant may be allowed to submit the declaration forms/certificates before this forum for the sake of natural justice.

3. On the other hand, the Respondent State has filed the memorandum of cross objection urging non-interference in the order passed by the Ld. JCST as the same is in conformity to the provisions of law and has been passed exparte due to non-cooperation of the dealer appellant.

4. Heard the case. Despite valid service of notice for hearing of the case, none appeared on behalf of the dealer appellant. Accordingly the case is heard from the learned counsel of the respondent State and disposed of on the basis of the materials available on record.

It is revealed that the appellant dealer was subjected to assessment U/r.12(1) of the CST(O) Rules by the Ld. STO resulting in extra tax demand of Rs.3,33,012.00 due to non-submission of certificates/declarations in respect of exemption/deduction claimed in the periodic returns from 1.4.2013 to 31.3.2014.

From the order of assessment so passed in form VI-A, it is revealed that prior to passing of assessment order the dealer appellant was issued with a notice in form II-B pointing out deficiency based on scrutiny of returns and as the dealer failed to submit the requisite certificates as claimed by it in its return the impugned order of assessment was passed on 4.8.2015.

Since Form VI-A is an order of provisional assessment supported with detailed calculation sheet against which demand has been raised, the contention made by the dealer appellant that it is not a speaking order is not sustainable.

With regard to the averment made by the dealer appellant regarding non-extension of reasonable opportunity to furnish the requisite forms, it is observed that despite the time frame prescribed U/r.7(A)(1) of the

CST(O) Rules for submission of such forms, the Ld. STO as well as the Ld. FAA have extended several opportunities to the dealer to submit the same. Moreover, the dealer failed to appear and produce statutory forms even at this stage. Further it is found that in the mean time nearly 10 years are going to be elapsed from the period to which the transactions relate against which the dealer is supposed to submit the declaration forms/certificates. Hence the contention taken by the dealer appellant that it has not been allowed with sufficient opportunities is not tenable.

With regard to the issue raised regarding enhancement of the demanded tax by the Ld. JCST, it is observed that the same has been enhanced on the basis of adoption of appropriate rate of tax which was inadvertently calculated by the Ld. STO. Since there is no enhancement in the turnover declared by the dealer, the contention taken in this score is found to be devoid of merit.

5. Accordingly the appeal preferred by the dealer is dismissed and the order passed by the Ld. FAA stands confirmed. Cross objection of the respondent is disposed of accordingly.

Dictated and corrected by me,

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

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

I agree,

(G.C.Behera)
Chairman.

I agree,

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