

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

Present: **Shri G.C. Behera, Chairman**
Shri S.K. Rout, 2nd Judicial Member
&
Shri B. Bhoi, Accounts Member-II

S.A. No. 75(C) of 2014-15

(Arising out of order of the learned Joint Commissioner of
Sales Tax, Jajpur Range, Jajpur Road,
in First Appeal Case No. AA-98 CUIII (C) 10-11,
disposed of on dated 19.08.2014)

M/s. Neelachal Ispat Nigam Ltd.,
Kalinga Nagar Industrial Complex,
P.O.- Duburi, Jajpur. ... Appellant

-Versus-

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

For the Appellant : Mr. J. Mohanty, Advocate
For the Respondent : Mr. S.K. Pradhan, A.S.C.

Date of hearing: 24.07.2023 *** Date of order: 03.08.2023

ORDER

The dealer prefers this appeal challenging the order dtd.19.08.2014 passed by the learned Joint Commissioner of Sales Tax, Jajpur Range, Jajpur Road (hereinafter referred to as, JCST/first appellate authority) in First Appeal Case No. AA-98 CUIII (C) 10-11, thereby enhancing the demand to ₹3,02,19,016.00 against the

order of assessment dtd.27.03.2010 passed by the learned Asst. Commissioner of Sales Tax, Jajpur Circle, Jajpur Road (hereinafter referred to as, ACST/assessing authority) u/r.10 of the Central Sales Tax (Orissa) Rules, 1957, in short CST(O) Rules raising demand of ₹1,84,75,776.00 for the assessment period 2002-03.

2. The brief fact of the case is that, the dealer-company in the instant case is an industry which is engaged in manufacturing of pig iron from iron ore and effects its sale thereof along with other by-products of slag and scrap in course of interstate trade. The dealer was allowed exemption from payment of tax of sale of its finished products i.e. pig iron under IPR' 1992 by the Director of Industries fixing the limit of exemption to the extent of fixed capital investment of 662.13 crores. The original assessment u/r.12(5) of the CST(O) Rules was completed by STO, Jajpur Circle, Jajpur Road on 14.02.2006. At the time of original assessment, the learned assessing authority assessed tax @ 2% on sale of finished product i.e. pig iron against valid declaration form 'C' and @ 4% on sale of pig iron for which valid declaration form 'C' could not be submitted. Apart from this, the learned assessing authority assessed the turnover of sale of slag and scrap respectively @ 10% and 8% for which no valid declaration form 'C' could be submitted. However, tax @ 4% was charged on sale turnover of slag and scrap for which valid declaration form

'C' was submitted. The dealer-company had collected and paid Central Sales Tax @ 2% on sale of his finished products despite the fact that the goods were exempted under IPR' 1992 u/s.8(5) of the CST Act, 1956 r/w. Sec.6 of the OST Act subject to production of declaration form 'C'. Unauthorised collection of tax on exempted products are payable. But the dealer failed to submit declaration form 'C' for turnover of sale of pig iron covering ₹46,19,19,395.00, for turnover of sale of scrap covering ₹8,74,36,730.00 and for turnover of sale of slag covering ₹3,18,51,652.00. The differential tax payable on sale of scrap and slag was to be demanded in addition to the differential tax on sale of pig iron without 'C' form and unauthorised collection of tax on exempted sale of pig iron started by declaration form 'C'. But the learned assessing authority assessed the tax at the aforesaid rates to arrive at total tax payable at ₹3,93,05,200.08. After allowing deduction of tax collected and paid of ₹2,75,62,960.00, balance tax payable and adjusted against exempted limit of IPR' 1992 was determined at ₹1,17,42,240.08. The A.G. Audit team on scrutiny of the report observed that the learned assessing authority incorrectly applied the tax rate of 4% on sale turnover of pig iron of ₹46,19,19,395.00 not covered by valid declaration form 'C'. So computation of tax @ 4% on the aforesaid turnover instead of 8% resulted in under-assessment of tax of ₹1,84,76,775.00. In the assessment order under dispute, the learned

ACST/assessing authority of Jajpur Circle, Jajpur Road in his order dtd.27.03.2010 assessed the turnover of sale of pig iron not covered by declaration form 'C' @ 8% to raise demand of ₹1,84,76,776.00.

3. Against such tax demand, the dealer preferred first appeal before the learned Joint Commissioner of Sales Tax, Jajpur Range, Jajpur Road/first appellate authority who enhanced the demand to ₹3,02,19,016.00.

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. No cross objection in this case is filed by the State-respondent.

6. During course of argument, learned Counsel for the dealer-company stated that the first appeal order dtd.19.08.2014 passed by the learned Joint Commissioner of Sales Tax, Jajpur Range, Jajpur Road in First Appeal Case No. AA-98 CUIII (C) 10-11 relating to the period of assessment 2002-03 confirming the tax demand amounting to ₹3,02,19,016.00 is under challenge in the present second appeal. During pendency of the appeal before this forum, the appellant-company was taken over by M/s. Tata Steel Long Product Ltd. After taking over of the appellant-company by the new Management, the dispute pending before various forum was reviewed and it was finally decided to pay the outstanding tax demand as

indicated in the assessment order relating to the tax period 2002-03 amounting to ₹3,02,19,016.00. After enactment of the CGST/OGST Act, 2017 r/w. the rules framed thereunder, a summary of order creating demand under the existing laws was issued in form GST DRC-7A by the CT & GST Officer, Jajpur Circle u/r.142A(1) of the OGST Rules. The details of demand created under Part-B under the heading of CST Act was determined as ₹3,02,19,016.00. As against the total demand of tax, the amount of demand paid under existing laws was determined as ₹52,11,040.00 and the balance amount of demand proposed to be recovered under the GST laws was determined and indicated as ₹2,50,07,976.00 under the CST Act for the period April, 2002 to March, 2003 passed in pursuance of order dtd.19.08.2014 by the Joint Commissioner of Sales Tax. True copy of form GST DRC-7A dtd.07.02.2022 is produced before this forum as Annexure-A. So, in view of the above determination of the tax liability and the decision of the new Management to pay off the entire tax liability relating to the tax period 01.04.2002 to 31.03.2003, the appellant company has discharged the total tax liability amounting to ₹2,50,07,976.00. The true copy of the electronic liability register indicating the payment made by the appellant against the demand indicated in form GST DRC-7A dtd.07.02.2022 is also produced before this forum vide Annexure-B. The last submission on behalf of the dealer-

company is that in view of the above payments made, the liability as against the dealer-company ceases to exist and as such the present proceeding deserves to be disposed of in terms of the above settlement.

7. Learned Addl. Standing Counsel for the Revenue conceded to such claim of the dealer-company.

8. We heard the submissions of the dealer-company and perused Annexure-A and Annexure-B to ascertain its genuineness. On perusal of both Annexure-A and Annexure-B, it becomes quite clear that the dealer company has already paid its liability. If that is so, we are of the unanimous view that the liability as against the dealer-company ceases to exist. Hence, order.

9. In the result, the appeal preferred by the dealer-company is dismissed being infructuous.

Dictated & corrected by me

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

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

I agree,

Sd/-
(G.C. Behera)
Chairman

I agree,

Sd/-
(B. Bhoi)
Accounts Member-II