

**BEFORE THE CHAIRMAN, ODISHA SALES TAX TRIBUNAL:
CUTTACK**

S.A. No. 22 (C) of 2021

(Arising out of order of the learned JCST (Appeal), Bhubaneswar Range,
Bhubaneswar in Appeal No. AA- 107221822000086,
disposed of on 29.01.2021)

Present: **Shri G.C. Behera, Chairman**

M/s. BEST IT WORLD (INDIA) PVT. LTD.,
89-90 Mistry Industrial Complex, MIDC Cross
Road 'A', MIDC, Andheri East, Mumbai-400093 ... Appellant

-Versus-

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

For the Appellant : Sri S.K. Das, Advocate
For the Respondent : Sri D. Behura, S.C. (CT) &
Sri S.K. Pradhan, Addl. SC (CT)

Date of hearing : 19.07.2023 *** Date of order : 17.08.2023

ORDER

Dealer is in appeal against the order dated 29.01.2021 of the Joint Commissioner of Sales Tax (Appeal), Bhubaneswar Range, Bhubaneswar (hereinafter called as 'First Appellate Authority') in F.A. No. AA-107221822000086 confirming the demand raised in the assessment order of the Sales Tax Officer, Bhubaneswar-II Circle, Bhubaneswar (in short, 'Assessing Authority').

2. The facts of the case, in brief, are that –

M/s. BEST IT WORLD (INDIA) PVT. LTD. is engaged in trading of IT product, mobile handset etc. The assessment period relates to 01.04.2013 to 31.03.2014. The Assessing Authority raised tax and interest

of ₹1,05,799.00 u/r. 12(1)(b) of the Central Sales Tax (Odisha) Rules, 1957 (in short, 'CST (O) Rules') basing on scrutiny of the return filed in Form-I.

The dealer preferred first appeal against the order of the Assessing Authority before the First Appellate Authority. The First Appellate Authority confirmed the assessment and dismissed the appeal. Being aggrieved with the order of the First Appellate Authority, the Dealer prefers this appeal. Hence, this appeal.

The State files cross-objection supporting the orders of the First Appellate Authority and Assessing Authority to be just and proper.

3. Learned Counsel for the Dealer submits that the Assessing Authority and the First Appellate Authority did not consider the cancelled invoices and assessed tax liability of the Dealer arbitrarily. He further submits that the orders of the First Appellate Authority and Assessing Authority are otherwise bad in law and the same require interference in appeal.

4. Per contra, the learned Standing Counsel (CT) for the State submits that the First Appellate Authority and Assessing Authority rightly discarded the submission of the Dealer as the Dealer fails to produce the cancelled invoices in support of its claim. He further submits that the Dealer was not precluded to file the same even before this forum at the time of hearing. So, the appeal does not merit for adjudication.

5. Heard the submissions of both parties, gone through the orders of the First Appellate Authority and the Assessing Authority vis-a-vis the materials on record. It reveals that the Assessing Authority assessed the tax liability of the Dealer to the tune of ₹1,05,799.00 in the provisional assessment for the impugned period for want of statutory forms. The First Appellate Authority confirmed the assessment.

The assessment order reveals that that the GTO and NTO were for ₹1,45,77,213.00 and ₹14,57,611.00 respectively. The Dealer had filed 'F' forms for ₹1,31,26,582.00. So, the Assessing Authority levied the tax on

₹14,57,611.00. In course of hearing, the Dealer claims that the Assessing Authority and the First Appellate Authority did not consider the cancelled invoice for ₹9,27,700.00 and levied tax thereon. In course of hearing, the Dealer fails to produce the relevant cancelled invoices in support of his claim. The Dealer produced e-Receipts for ₹25,700.00 paid on dated 13.04.2023 and ₹7,300.00 on dated 26.03.2018 and ₹3,300.00 on dated 17.12.2018. Besides this, the Dealer claims that it is not possible on its part to furnish 'F' form for ₹5,29,886.00.

In view of such premises, we feel it proper to remit the matter to the Assessing Authority for examination of the payment already made by the Dealer. The Dealer is at liberty to file the cancelled invoices, if any, before the Assessing Authority for claim of deduction and the Assessing Authority shall consider the same as per law and recompute the tax liability accordingly. Hence, it is ordered.

6. Resultantly, the appeal stands allowed in part and the impugned order of the First Appellate Authority is hereby set aside. The matter is remanded to the Assessing Authority for re-examination keeping in view the observations made supra within a period of three months from the date of receipt of this order.

The Dealer is at liberty to produce the relevant cancelled invoices before the Assessing Authority for re-examination and the Assessing Authority shall consider the claim in accordance with law, if such cancelled invoice is found to be proper.

Cross-objection is disposed of accordingly.

Dictated & Corrected by me

**Sd/-
(G.C. Behera)
Chairman**

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(G.C. Behera)
Chairman**