

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

S.A. No. 86 (C) of 2019

(Arising out of order of the learned JCST (Appeal), CT & GST
Territorial Range, Bhubaneswar in First Appeal
No. AA-030/CST/BH-IV/2018-19, disposed of on 30.05.2019)

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

M/s. ATC India Tower Corporation Pvt. Ltd.,
4th Floor, Fortune Tower, Chandrasekharapur,
Bhubaneswar ... Appellant

-Versus-

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

For the Appellant : Sri T. Sethi, Advocate
For the Respondent : Sri M.L. Agarwal, S.C. (CT)

Date of hearing : 28.09.2022 *** Date of order : 30.09.2022

ORDER

The Dealer assails the order dated 30.05.2019 of the Joint Commissioner of Sales Tax (Appeal), CT & GST Territorial Range, Bhubaneswar (hereinafter called as 'First Appellate Authority') in F A No. AA-030/CST/BH-IV/2018-19 modifying the demand raised in assessment order of the Sales Tax Officer, Bhubaneswar IV Circle, Bhubaneswar (in short, 'Assessing Authority').

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

Dealer- M/s. ATC India Tower Corporation Pvt. Ltd. is a Private Limited Company and files CST return before the Assessing Authority. The assessment period relates to 01.04.2014 to 31.03.2015. The Assessing

Authority raised tax demand of ₹2,60,991.00 u/r. 12(1) of the Central Sales Tax (Odisha) Rules, 1957 (in short, 'CST (O) Rules').

Dealer preferred appeal against the order of the Assessing Authority before the First Appellate Authority. The First Appellate Authority dismissed the appeal, but modified the demand to the extent of ₹52,200.00 towards CST paid on 10.05.2018. Being aggrieved with the order of the First Appellate Authority, the Dealer prefers this appeal. Hence, this appeal.

The State files cross-objection.

4. Learned Counsel for the Dealer submits that despite sincere effort it could not produce the wanting Form-F before the forums below for which the tax demand was raised on the Dealer. So, he files two nos. of Form-F bearing Nos. 27091542996828 and 19021740853349 for total amount of ₹15,57,951.00 along with a petition praying therein for acceptance of the same by this Tribunal in the ends of justice.

5. On the other hand, learned Standing Counsel (CT) for the State supports the findings of the First Appellate Authority and submits that the First Appellate Authority has rightly determined the tax liability on the ground of non-submission of statutory declaration forms as per Rule 7A read with Rule 12 of the CST (R&T) Rules.

6. During hearing of appeal, the Dealer produced two nos. of Form-F and submits that the Dealer should be given an opportunity to present his case before the Assessing Authority for availing the exemption thereof. The declarations in Form-F were issued on 16.09.2015 and 21.02.2017 prior to the First Appellate order, i.e. 30.05.2019. The Dealer took a ground that inspite of sincere effort, he could not produce the same before the forums below, but he has not mentioned the same specifically. It is settled principle of law that when the declarations in Form-F are produced before this Tribunal and the Dealer is entitled to some benefit as per statute, the same

should not be turned down in the ends of justice. So, this Tribunal feels it proper to give an opportunity to the Dealer to present its case before the Assessing Authority along with the relevant materials. The Dealers is at liberty to produce all the relevant materials before the Assessing Authority, who in turn, shall examine the matter as per law and recompute the tax liability accordingly. Hence, it is ordered.

7. In the result, the appeal is allowed. The impugned order of the First Appellate Authority is hereby set aside. The matter is remanded to the Assessing Authority for disposal afresh as per law within a period of three months from the date of receipt of this order. Cross-objection is disposed of accordingly.

Dictated & Corrected by me

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

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Chairman**