

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

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

**S.A. No. 32 (C) of 2015-16**

(Arising out of order of the learned Addl. Commissioner of  
Sales Tax (Appeal), South Zone, Berhampur,  
in Appeal Case No. AA(CST).51/2009-10,  
disposed of on dated 26.03.2015)

M/s. Orissa Mining Corporation Ltd.,  
At:- OMC House, Unit-II,  
Bhubaneswar, Dist.- Khurda. ... 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.

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Date of hearing: 24.07.2023 \*\*\* Date of order: 23.08.2023  
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**ORDER**

The dealer prefers this appeal challenging the order dtd.26.03.2015 passed by the learned Addl. Commissioner of Sales Tax (Appeal), South Zone, Berhampur (hereinafter referred to as, ACST/first appellate authority) in Appeal Case No. AA(CST).51/2009-10, thereby confirming the order of assessment passed by the learned Deputy Commissioner of Sales Tax, Bhubaneswar II Circle, Bhubaneswar (hereinafter

referred to as, DCST/assessing authority) u/r.12(4) of the Central Sales Tax (Orissa) Rules, 1957 (hereinafter referred to as, CST(O) Rules) for the period Q.E. 30.06.2006 ordering refund of ₹6,32,452.00 due to excess payment.

2. The case at hand is that, the appellant in the instant case M/s. Orissa Mining Corporation Ltd. bearing TIN-21761104653 being a State Government undertaking is exclusively engaged in extraction and sale of minerals. Pursuant to notice issued by the learned assessing authority, the Senior Manager, Finance of the appellant-company appeared and produced books of account which were examined. On verification of the accounts, learned assessing authority found that the dealer had effected CST sale amounting to ₹24,02,74,605.13 and had collected CST @ 4% against declaration form 'C'. On filing of supporting declarations in form 'C', learned assessing authority considered the claims of the dealer-company. But the amount of ₹1,26,09,400.94 was disallowed from the claims of concessional tax group and was taxed @ 10% as the validity of R.C. was not mentioned in the 'C' form and reference of the dealer was not available in TYNSEX. Likewise, the dealer had claimed direct export of iron and chrome concentrate to the foreign buyers amounting to ₹33,73,73,458.00 which was considered at the time of assessment on furnishing supporting evidence to that effect. Further, the dealer had claimed sale of chrome and chrome concentrate valued ₹44,63,29,379.00 which were considered by the learned assessing authority on obtaining supporting evidence to that effect. Accordingly, assessment was completed resulting a tax demand of

₹1,03,67,548.25. Against the tax demand, the dealer had claimed an amount of ₹1,10,00,000/- which was paid against tax payable for the period April, May and June, 2006 as advance during March, 2006. So, on verification of the same learned assessing authority considered excess amount of ₹6,32,452.00 was refundable to the dealer.

3. Against such order of the learned assessing authority, the dealer preferred first appeal before the learned first appellate authority who confirmed the order of the learned assessing authority.

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. Cross objection in this case is filed by the State-respondent.

6. During course of argument, learned Counsel for the dealer-company contended that the orders of the forums below are illegal, arbitrary and unjust and the same are liable to be quashed. Further contention on behalf of the dealer is that it had furnished all the declaration forms 'C' during the time of assessment proceeding but on some of the declaration forms already submitted, dates were not mentioned for which the learned assessing authority did not give opportunity to rectify those defects. Per contra, learned Addl. Standing Counsel for the Revenue argued stating that there is no reasonable merit in the second appeal filed by the dealer and as such the same is not sustainable in the eyes of law. This apart, learned Addl. Standing Counsel also contended stating that the dealer had

failed to provide statutory forms within the stipulated period envisaged in Rule 12(7) of the CST (R & T) Rules, 1957 for which no more further opportunity should be allowed to the dealer.

7. Heard the contentions and submissions of both the parties in this regard. Perused the orders of the forums below vis-a-vis other materials available with the case record. After have a glance to the order of the learned first appellate authority it reveals that, assessment for the period 01.04.2006 to 30.06.2006 was completed after disallowing the transactions of ₹1,26,09,400.94 from concessional tax group availed by the appellant-company due to non-mentioning of validity of R.C. in 'C' form. This apart, the dealer's name was also not available in TINSYX database of Jharkhand State for which tax was levied @ 10% resulting excess payment of ₹6,32,452.00 which became refundable. This apart, during the time of hearing of the first appeal, the dealer-company also could not be able to furnish any evidence with regard to disallowance of claim of interstate sales on concessional rate of tax amounting to ₹1,26,09,400.94, rather the dealer contested on accrual of interest on excess payment of ₹6,32,452.00. But the said excess payment was accrued due to payment of ₹1,10,00,000.00 in advance made by the appellant-company during March, 2006 against the tax payable for April, May and June, 2006. So, when the advance payment exceeded the tax payable for the period Q.E. 30.06.2006, order was passed for refund of excess amount of ₹6,32,452.00. With regard to the claim of interest on advance payment of ₹1,10,00,000.00, the dealer-company could not be able to substantiate any evidence

to sustain its claim. So, in view of such, we are of the considered view that the learned first appellate authority has rightly confirmed the order of the learned assessing authority which needs no interference.

8. In the result, the appeal preferred by the dealer is dismissed and the orders of the fora below are hereby confirmed. Cross objection is disposed of accordingly.

Dictated & corrected by me

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

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

I agree,

Sd/-  
(G.C. Behera)  
Chairman

I agree,

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