

Since the dealer, despite repeated opportunity extended had failed to produce the relevant books of account/documents before the Ld. STO, the assessment was completed *exparte* basing on the materials available on record which ultimately resulted with creation of extra demand of Rs.33,35,702.00 including surcharge. While completing the assessment the Ld. STO has relied upon the certificates of exemption issued by the General Manager, District Industries Centre, Balasore, and also the previous year's assessment order.

3. The dealer on being aggrieved, has preferred first appeal before the Ld. AA, who reduced the impugned order of assessment from Rs.33,35,702.00 to Rs.19,14,051.00.

4. On being further aggrieved the dealer appellant has preferred the present appeal before this forum on the ground of less allowance of exemption and non-extension of time for submission of declaration form in IV towards its claim of concessional sales.

5. Cross objection has been filed by the Respondent State seeking non-intervention in the order passed by the Ld. FAA.

6. Heard the case from the learned counsel of the State. As there is no appearance from the side of the dealer-appellant the case is decided *exparte* on its own merit basing on the materials available on record.

7. As transpires from record the dealer has returned its GTO and TTO at Rs.2,90,04,977.00 and Rs.1,78,848.00 respectively. But the Ld. STO in completing the assessment while accepted the figure has

determined the TTO at Rs.2,65,29,355.00 primarily on account of disallowance of the claim of exemption made by the dealer.

8. It is evident from record that the unit which has been certified by the General Manager, District Industries Centre, Balasore, has undertaken expansion as defined in I.P.R. after 1.4.1986 but before 1.12.1989 on the basis of an exclusive project report duly apprised by financing institution has gone into commercial production in respect of such expansion on 14.11.1991 i.e. after 1.4.1986. Accordingly the unit was considered to become eligible for exemption from payment of sales tax in sale of its finished products to the extent of increased commercial production over and above the "installed capacity" as existed prior to expansion for a period of seven years from the date of commercial production i.e. from 14.11.1991 as per entry 30-FFFFF of the Tax Free List.

9. On examination of the relevant certificates issued by the General Manager, District Industries Centre, Balasore, the Ld. STO found that the dealer's unit is eligible for exemption on sale of HDPE woven sacks in excess of 20,00,000 numbers. During the year it had effected sales of 23,20,000 numbers of sacks and as such, the Ld. STO found the dealer to be eligible for exemption on sale of 3,20,000 sacks (i.e. 23,20,000 - 20,00,000). Accordingly, the claim of exemption made by the dealer was limited to Rs.24,75,622.00 (i.e. for 3,20,000 sacks). The above findings of the Ld. STO have also been ratified by the Ld. FAA on examination of the relevant documents.

10. Although the dealer appellant has raised dispute over the above determination of exempted sale, it failed to adduce any evidence before this forum to negate the above finding. Accordingly, this forum do not find any cogent reason to interfere in the order passed by the Ld. FAA. Further, it is found that the claim of concessional sales against form IV has duly been addressed by the Ld. FAA. The Ld. FAA has already considered 14 nos. of Form IV, amounting to Rs.1,27,24,297.00 produced before him. In absence of any further form IV, the claim of the dealer in this score is found to be devoid of merit.

11. In view of the facts and circumstances discussed above, we do not find any good ground to interfere in the impugned order passed by the Ld. FAA.

12. Resultantly, the appeal preferred by the dealer appellant is dismissed and the impugned order passed by the Ld. FAA stands confirmed. Cross objection filed is disposed of accordingly.

Dictated and corrected by me

Sd/-
(S.R.Mishra)
Accounts Member-II.

Sd/-
(S.R.Mishra)
Accounts Member-II.

I agree,

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

I agree,

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