

production of finished products allowed in the order of assessment by the Sales Tax Officer, Rourkela-II Circle, Panposh (in short, 'learned Assessing Authority') under Section 7(4) of the Odisha Entry Tax Act, 1999.

2. It is felt worthwhile to provide a brief fact of the case that M/s. Larsen and Toubro Ltd., Kansbahal is engaged in manufacturing and sale of heavy machineries and equipments. The learned assessing authority has completed assessment under Section 7(4) of the OET Act raising demand of ₹16,22,774.00 for the assessment year, 2001-02. The first appeal as preferred by the dealer-company though resulted in reduction of demand to ₹12,40,108.00, the set off of tax for ₹1,13,643.00 allowed in assessment by the learned assessing authority has been disallowed. Aggrieved, the dealer-company has filed this second appeal for relief. Hence, this second appeal.

3. Mr.U.Behera, learned Advocate representing the dealer-assessee submits that the ld.FAA has disallowed the legitimate claim of set off of ₹1,13,643.00 against entry tax paid on purchase of raw materials for production of finished products holding that the representative of the dealer-company has not submitted any detail calculation sheet dealer-wise list of tax

paid on body of the bill, opening stock, closing stock, sale of finished goods under the OST, CST and Branch transfer for calculation of tax set off amount on raw materials purchased this year and sold under OST to get tax set off. It is submitted that despite submission of the detailed statement/documents at the first appellate stage towards claim of set off, disallowance of the same by the ld.FAA banking upon FD Notification No.14688/CTA/37/2001/F dated 31.03.2001 is illegal and unwarranted, since the Notification in question is not at all relevant to the present case.

There is no cross objection filed by the State.

4. Rival submissions are gone through. The orders of the forums below, grounds of appeal and the materials available on record are perused. On perusal of the order of assessment, it transpires that the ld.STO has determined GTO of ₹39,67,88,354.00. Allowing deduction of ₹7,02,22,797.00 towards tax suffered purchases, the TTO got determined at ₹32,65,65,557.00. The total tax due has been worked out at ₹48,78,149.00 on levy of entry tax on TTO at different rates as the ld.STO deemed proper. The ld.STO considered allowing set off of ₹1,13,643.00 against entry tax paid on raw materials consumed for production of finished products. The dealer-

appellant having earlier paid ₹31,41,732.00, the entry tax stood payable to ₹16,22,774.00 in assessment. The first appeal as preferred by the dealer-appellant was partly allowed except disallowing of set off of ₹1,13,643.00 holding that “as per FD Notification N.14688/CTA/37/2001 dated 31.03.2001, the set off of tax on raw materials utilized for production of finished products is admissible as per entries of items found in rate chart of list C of OST Act both for OST and OET purpose. The raw materials of finished product for heavy machineries are not included for set off in that notification. So the tax set off allowed by the STO for ₹1,13,643.00 is not allowed now.”

5. On going through the first appeal, it is apparent that the ld.FAA has disallowed set off ₹1,13,643.00 relying on amendments made by the Finance Department to the notification No.20206-CTA-14/76 F dated 23.04.1976 in SRO No.150/2001 (No.14688-CTA-37/2001/F dated 31.03.2001) inserting certain entries in the notification. Perusal of the said amendment/notification makes it clear that it has no relevance to the present case in relation to allowance of set off in the wake of payment of entry tax on raw materials consumed for production of finished products as allowed in assessment. The ld.FAA has erred in disallowance of set off as allowed in

assessment. Hence, the contention made by the dealer-appellant befits consideration and the first appeal order is sought to be modified on this score.

6. Resultantly, the appeal filed by the dealer-appellant is allowed. The order of ld.FAA is modified to the extent of allowing set off as allowed in assessment. The ld. STO shall re-compute the tax liability as per the observations made above.

Dictated & Corrected by me

Sd/-
Bibekananda Bhoi)
Accounts Member-I

I agree,

Sd/-
(Bibekananda Bhoi)
Accounts Member-I

I agree,

Sd/-
(G.C. Behera)
Chairman

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