

**BEFORE THE JUDICIAL MEMBER-II:
ODISHA SALES TAX TRIBUNAL: CUTTACK.**

P r e s e n t: **Shri S.K. Rout,**
 2nd Judicial Member

S.A. No. 46(C) of 2021

(Arising out of the order of the learned Addl. Commissioner of
Sales Tax, Territorial Range, Bolangir,
in 1st Appeal No. AA 01 (KBJ) of 2020-21(CST),
disposed of on dtd.25.06.2021)

M/s. Maa Manshadevi Traders,
Road No.5, At/P.O.- Kantabanji,
Dist.- Bolangir.

... Appellant

- V e r s u s -

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

... Respondent

For the Appellant ... Mr. K.K. Sahoo &
 Mr. S.R. Panda, Advocate
For the Respondent ... Mr. N.K. Rout, A.S.C.

Date of hearing: 29.08.2023 *** Date of order: 13.09.2023

ORDER

The dealer prefers this appeal challenging the order
dtd.25.06.2021 passed by the learned Addl. Commissioner of
Sales Tax, Territorial Range, Bolangir (hereinafter referred to
as, ACST/first appellate authority) in 1st Appeal No. AA 01
(KBJ) of 2020-21(CST), thereby confirming the order of
assessment dtd.26.03.2018 passed by the learned Sales Tax
Officer, Kantabanji Circle, Kantabanji (hereinafter referred to
as, learned STO/assessing authority) u/r.12(1) of the Central

Sale Tax (Orissa) Rules, 1957 (hereinafter referred to as, the CST(O) Rules) for the tax period 01.04.2012 to 31.03.2013 raising demand of ₹3,59,034.00.

2. The brief fact of the case is that, the dealer-appellant in the instant case M/s. Maa Manshadevi Traders having TIN-21414700296 deals in rice bran. During the period under assessment, the dealer-appellant was found to have effected total sales of rice bran in course of interstate trade and commerce to the extent of ₹64,27,915.00 on 'C' form condition at concessional rate of tax. So, the assessment proceeding was initiated u/r.12(1) of the CST(O) Rules and the demand as mentioned above was raised against the dealer.

3. Against such tax demand, the dealer preferred first appeal before the learned first appellate authority who confirmed the demand.

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 the course of argument, learned Counsel for the dealer vehemently contended stating that no opportunity was given for submission of 'C' declaration forms and as such it is illegal.

Per contra, learned Addl. Standing Counsel for the Revenue supported the orders of fora below stating that sufficient opportunity was given to the dealer for submission of 'C' form.

7. Heard the contentions and submissions of both the parties in this regard. Perused the materials available on record vis-à-vis orders of fora below. After have a glance it is evident from the assessment order that the learned assessing authority allowed reasonable opportunities for production of books of account along with the 'C' declaration forms. But the dealer failed to produce the books of account along with wanting 'C' declaration forms at the assessment stage. Apart from this, it is evident from the order of the learned first appellate authority that even if opportunity was given to the dealer for production of books of account along with the requisite 'C' declaration forms, but the dealer failed to do so. In view of such, learned first appellate authority has rightly adjudicated upon the matter which is inconsonance with the provisions of law and as such the same needs no interference. But fact remains that during the time of hearing of this second appeal the dealer has produced 'C' declaration form for which the same should be duly considered otherwise there will be violation of principle of natural justice.

8. In the result, the appeal preferred by the dealer is partly allowed and the orders of the fora below are hereby set aside. The case is remitted back to the learned assessing authority for reassessment giving due consideration to the 'C' declaration form filed by the dealer before this forum within a

period of three months of receipt of this order. The dealer is also instructed to produce the original 'C' declaration form before the learned assessing authority during the time of reassessment. Cross objection is disposed of accordingly.

Dictated & corrected by me,

(S.K. Rout)
2nd Judicial Member

(S.K. Rout)
2nd Judicial Member