



referred to as, learned ACST/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 01.04.2016 to 31.03.2017 raising demand of ₹8,52,496.00.

2. The brief fact of the case is that, the dealer in the instant case M/s. Jay Jagannath Industries having TIN-21884700765 was found to have effected total sales of rice bran in course of interstate trade and commerce to the extent of ₹1,73,26,029.00 on 'C' form condition at concessional rate of tax. Basing on the same, assessment proceeding u/r.12(1) of the CST(O) Rules was initiated, so the dealer was noticed for production of books of account pursuant to which the dealer neither appeared nor produced books of account for verification. So in absence of any books of account, the learned assessing authority completed the assessment basing on the materials available with the office and the GTO and NTO was determined at ₹1,73,26,029.00 each and the tax payable calculated at ₹1,25,000.00. After allowing adjustment of rupees towards admitted tax paid the balance tax payable found to ₹7,41,301.00. Apart from this, an amount of ₹1,11,195.00 imposed as interest. So, the total tax and interest together payable was calculated at ₹8,52,496.00.

3. Against such tax demand, the dealer preferred first appeal before the learned first appellate authority who confirmed the tax 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 the original order of assessment was passed *ex parte* and the appellant was not afforded adequate opportunity to file the required documents and 'C' declaration forms in support of its claim of interstate sale against 'C' forms and the assessment authority disallowed the said turnover and raised an illegal tax demand of ₹7,41,301.00 and levied interest of ₹1,11,195.00. So, the order of assessment is highly illegal, arbitrary and violative of principles of natural justice.

7. Per contra, learned Addl. Standing Counsel for the Revenue argued that the dealer-appellant was found to have effected sales of rice bran in course of interstate trade and commerce on 'C' form condition at concessional rate of tax. Accordingly, basing on the same, assessment proceeding u/r.12(1) of the CST(O) Rules was initiated by the assessing authority. This apart, learned Addl. Standing Counsel also contended that after availing sufficient reasonable opportunities the appellant neither appeared personally nor produced the books of account along with the requisite 'C' declaration forms on the date fixed for the purpose. So, the learned first appellate authority passed the assessment order *ex parte* on the basis of materials available with the record. The dealer is supposed to furnish the required declaration forms within the prescribed time frame u/r.7A(1) of the CST(O) Rules, but it (dealer) did not do so even after availing sufficient time till the passing of appeal order.

8. Heard the contentions and submissions of both the parties in this regard. Perused the grounds of appeal vis-à-vis the materials available on record. On perusal of the order of the learned first appellate authority it becomes evident that sufficient opportunity was given to the dealer by the learned assessing authority for production of books of account along with the 'C' declaration forms. But the dealer-appellant failed to produce the books of account along with the wanting 'C' declaration forms at the assessment stage. This apart the order of the learned first appellate authority reveals that even the dealer also failed to produce 'C' declaration forms before the first appellate authority. So, in view of such, as per mandate of law learned first appellate authority has rightly confirmed the assessment order done by the assessing authority and as such at no point of time it can be said that it is unjust. But now fact remains that during the hearing of the second appeal, the dealer-appellant has submitted 14 nos. of 'C' declaration forms. If that is so, adhering the principles of natural justice, due importance must be given to those forms. In view of such, to my view the case is to be remanded back to the assessing authority for reassessment giving due consideration to the declaration forms filed by the dealer before this forum.

9. In the result, the appeal preferred by the dealer is partly allowed and the orders of the fora below hereby set aside. The case is remitted back to the learned assessing authority for reassessment considering the declaration forms 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 forms before the learned assessing authority during the stage of reassessment. Accordingly, the cross objection is disposed of.

Dictated & corrected by me,

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

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