

Orissa Entry Tax Act, 2004 (hereinafter referred to as, the OET Act).

2. The brief facts of the case are that, the appellant-dealer is a partnership concern engaged in manufacturing and sale of coal tar pitch in liquid form, naphthalene, dehydrated coal tar and creosote oil. The creosote oil is used by the firm in its own consumption as its fuel. Purchases and sales are made both from inside and outside the State of Odisha. On receipt of fraud case report submitted by the STO, Investigation Unit, Samablpur, the learned STO initiated reassessment proceeding under the OET Act and issued notice to the appellant-dealer. In response to the notice, the authorized person of the appellant-dealer appeared and produced the books of account for verification. On verification of the fraud case report the learned STO observed that the appellant-dealer had brought the scheduled goods such as coal tar pitch for job work from the principal business place of M/s. Epsilon Carbon Pvt. Ltd. situated at Bellary, Karnataka and thus such entry of scheduled goods attracted entry tax liability u/s.3(1) of the OET Act. The learned STO confronted the authorized person of the appellant-dealer firm but the argument advanced by the authorized person was not accepted by the learned STO. The learned STO found that the appellant-dealer had brought the scheduled goods of Rs.6,19,85,631.00 from outside the State of Odisha. Tax @ 1% on the aforesaid turnover was calculated at Rs.6,19,856.00. Two times penalty of Rs.12,39,712.00 was imposed on the appellant-dealer u/s.10(2) of the OET Act. Thus, tax and penalty together was calculated at Rs.18,59,568.00.

3. Being aggrieved by the order of the learned STO, the appellant-dealer preferred an appeal before the learned JCST who confirmed the order of the learned STO. Being further aggrieved by the order of the learned JCST the appellant-dealer has preferred the second appeal.

4. The appellant-dealer has come up with the second appeal on the grounds that the order of the forum below is arbitrary and illegal; that the learned STO as well as the learned JCST have not properly gone through the agreement produced by the appellant-dealer which leads to the present demand which is not only excessive but also illegal; that the reassessment proceeding is unjustified which needs to be quashed; the penalty imposed is illegal and excessive which should be quashed.

Cross objection has been filed by the Revenue supporting the impugned order.

5. Heard the learned Counsel for the appellant-dealer and the learned Addl. Standing Counsel appearing for the Revenue. Perused the materials available on record so also the orders of both the fora below. I also perused the grounds of appeal and the plea taken in the cross objection. On perusal of the materials available on record it is seen that the appellant-dealer brought the scheduled goods i.e. the solid coal tar pitch from outside the local area i.e. Karnataka as per the agreement and processed the same into liquid coal tar pitch and sold to the job contractors which is reflected in Sl. No.97 of Part-I of the scheduled goods under the OET Act. Hence, the appellant-dealer is liable to pay tax on the scheduled goods u/ss.3(1) and 3(2) of the OET Act. The escapement of turnover

is well established as per Section 10(2) of the OET Act. Hence the penalty imposed is proper as per the statute. The grounds taken in the appeal could not be established by the appellant-dealer. Hence, I hold that there is no merit in the appeal which is liable to be dismissed. Hence, it is ordered.

6. The appeal is dismissed being devoid of any merit and the impugned order is hereby confirmed. The cross objection is disposed of accordingly.

Dictated & corrected by me,

Sd/-
(A.K. Dalbehera)
1st Judicial Member

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