

(Odisha) Rules, 1957 (in short, 'CST (O) Rules') pertaining to the tax period 2004-05.

2. The facts as revealed from the case record are as follows :

The dealer-assessee M/s. Vedvyas Ispat Limited, Rourkela, Sundargarh is a manufacturer of sponge iron. It purchases raw materials and consumables for manufacturing of finished goods. In response to the notice issued against it u/R. 12(5) of the CST (O) Rules the dealer-assessee alongwith its Advocate appeared before the assessing officer with its books of account which were duly verified by the assessing officer. On verification of those books of account the assessing officer found that the dealer-appellant claimed to have dispatched 809.920 MT of sponge iron to its consignment agents for sale. However, the assessing officer rejected the said claim by treating those transactions as inter-State sales as the dealer could not furnish declarations in Form- 'F' for its consignment sales in respect of sponge iron worth ₹69,38,085.00 and in addition to this the dealer could not submit any other related documents like consignment sale agreement, agent appointment letter, sale patti, sale invoice raised by its agents, transportation details, details of payments received from agents etc. for his (assessing officer) verification. The dealer was also found to have effected branch transfer without declaring the places outside the State to which it intended to transfer the stock for sale, as revealed on

verification of its registration record. It was further noticed by the assessing officer that the dealer had not declared any consignment agent till the date of assessment and there was also no application for amendment in its registration records pending for consideration at that time. The assessing officer then determined the GTO and NTO of the dealer-assessee after allowing deduction of ₹38,13,418.00 towards sales tax collected by the dealer. He calculated the CST to be paid by the dealer @ 4% on ₹8,32,16,161.00 (sale against valid 'C' form), @ 8% of ₹1,21,19,291.00 (sale without 'C' form) and @ 8% of ₹77,97,170.00 (consignment sales disallowed by the assessing officer). As the dealer had already paid ₹38,13,416.00 towards its tax liability for that relevant period, he (the assessing officer) required it to pay the balance sum of ₹11,08,547.00 as per the terms and conditions of the demand notice sent to it.

Being aggrieved by this order of assessment the dealer-assessee filed an appeal before the first appellate authority contending before him that the assessing officer had grossly erred both in law and fact by determining the GTO and NTO of the dealer at ₹10,69,46,040.00 and ₹10,31,32,622.00 respectively for the period under assessment. The assessing officer did not give it reasonable opportunity to submit the wanting declaration in Form- 'C' for ₹1,21,19,291.00 and further to rectify certain 'F' form since there was

no legal requirement for the dealer to mention the place of business of the consignment agent in the Registration Certificate of the dealer as per provision u/S. 6-A of the CST Act. The assessing officer had improperly disallowed the consignment sales and as such the dealer-assessee urged before the forum below to set aside the said order of assessment. The first appellate authority, however, on considering the grounds of appeal alongwith materials available on record confirmed the findings of the assessing officer while dismissing the appeal preferred by the dealer.

3. Being dissatisfied with the order of the first appellate authority the dealer carried this appeal before the Tribunal on the ground that the first appellate authority should not have decided the appeal *exparte* against it. He should have afforded reasonable opportunity to the dealer to submit wanting declaration in Form 'C' and to rectify the 'F' form in question. Besides the above the dealer also raised some other points, as mentioned in its memorandum of appeal, to sustain this appeal.

No cross-objection has been filed on behalf of the State in this appeal.

4. In course of hearing of the appeal it was found that none appeared on behalf of the dealer-assessee to participate in this proceeding before the Tribunal despite service of notice on the dealer by

way of affixture as reported by the Joint Commissioner of CT & GST Circle, Rourkela-II Circle, Panposh and kept on record. Hence, the matter was heard exparte to be disposed of on merit as per Rule 60(1) of the OST Rules.

5. As revealed from the impugned order the first appellate authority had served a notice on the dealer and sent intimation thereafter requiring the dealer to participate in the proceeding on the appointed date. As the dealer did not respond to his notice he proceeded with the hearing of the appeal and then decided the same exparte against the dealer. His order reveals that sufficient time was given to the dealer to produce the wanting declaration in Form 'C' as well as for rectification of Form 'F'. The dealer, however, did not bother to furnish the wanting documents to substantiate its claim. Before this forum also the dealer remained absent without any justifiable reason. The impugned order virtually remained unchallenged and uncontroverted in this appeal. Therefore, considering the concurrent findings of both the authorities below and as we do not find any illegality in the impugned order affirming the order of assessment we confirm the same in this appeal.

6. In the result, the appeal is dismissed being devoid of merit.

Dictated & Corrected by me,

Sd/-
(Smt. Suchismita Misra)
Chairman

Sd/-
(Smt. Suchismita Misra)
Chairman

I agree,

Sd/-
(Smt. Sweta Mishra)
2nd Judicial Member

I agree,

Sd/-
(Prabhat Ch. Pathy)
Accounts Member-I