

**BEFORE THE SINGLE BENCH: ODISHA SALES TAX TRIBUNAL:
CUTTACK.**

S.A.No.2037 of 2005-06

(Arising out of the order of the learned ACCT, Appellate Unit,
Bhubaneswar in Appeal No.AA.56/BH-I/05-06,
disposed of on 09.11.2005)

P r e s e n t : **Shri Subrat Mohanty,**
2nd Judicial Member.

M/s.Sun Electronics,
I.E. Mancheswar, BBSR. ... Appellant

- V e r s u s -

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

For the Appellant: ... Mr.S.P.Mishra, Auth/dealer.
For the Respondent: ... Mr.S.K.Pradhan, Addl. S.C.(CT).

Date of hearing: 26.03.2018 * * * Date of Order: 26.03.2018

ORDER

The dealer has assailed order of the first appellate authority dtd.09.11.2005 passed in first appeal case No.AA.56/BHI/05-06 wherein the tax demand reduced to Rs.10,408.00 from Rs.15,512.00 for the assessment assessed under Section 12(4) of the OST for the year 2001-02.

2. Only question raised by the dealer in this appeal is whether the first appellate authority was wrong in not allowing sufficient opportunity to the dealer to produce the declaration Form-XXXIV and thereby the consequential determination of tax by adding the said amount TTO if wrong?

3. The un-disputed fact in this appeal are the instant dealer is a trader as well as manufacturer deals in inverter, UPS, generator etc. In a proceeding under Section 12(4) of the OST Act for the tax period 2001-02, the assessing authority found that the dealer has failed to produce the

declaration Form-XXXIV against the sale of Rs.118800.00. As such, he added the same to the TTO and the tax due was computed accordingly. In appeal before the first appellate authority preferred by the dealer the dealer could produce declaration Form XXXIV to the tune of Rs.58,000.00. However, he failed to produce the declaration form for the rest amount i.e. Rs.60,800.00. On acceptance of the declaration form, the first appellate authority re-determined the TTO by reducing it by Rs.58,000.00 then the tax due was calculated at Rs.10,408.00.

4. Being dis-satisfied with such assessment, the dealer has preferred this appeal on the contention like sufficient opportunity was not provided to the dealer for production of declaration forms and the dealer is ready to furnish the declaration form before this forum.

5. The assessment order was passed on 30.03.2005, whereas the first appellate authority passed the impugned order on 09.11.2005. The dealer could produce declaration forms to the tune of Rs.58,000.00 before the first appellate authority. When the matter stood thus, the dealer preferred this appeal and it is almost 13 years, the dealer failed to produce the wanting declaration forms. Thus, it can be said that the dealer has not provided proper opportunity or time to furnish declaration forms. When he failed to do so, the necessary consequence is, he not entitled to the concessional rate as against the production of declaration form. Be that as it may, it can safely be said that the impugned order suffers from no illegality, hence calls for no interference. Resultantly, the tax demand as raised in the impugned order remained undisturbed.

6. The tax appeal preferred by the dealer is dismissed on contest as of no merit.

Dictated and Corrected by me,

(Subrat Mohanty)
Judicial Member-II

(Subrat Mohanty)
Judicial Member-II