



Rs.5,77,170.00 including interest charged u/s. 12(4-a) of the OST Act and surcharge @10% levied after allowing Rs.5,13,139.38 being the purchase tax paid of the equivalent paddy out of which rice was obtained. This led the dealer-assessee to file appeal before the Ld. ACST.

The ld. ACST on careful consideration of the facts that the dealer-assessee has neither filed grounds of appeal nor appeared before him for appeal hearing despite due service of notice and intimations issued there-under disposed of the exparte appeal confirming the order of assessment as the dealer-appellant was not interested to pursue the case.

3. Being aggrieved, the dealer has filed appeal before this Tribunal with the following grounds:-

- I. The ex-parte order of assessment and first appeal are bad in law as well as in facts.
- II. The learned Asst. Commissioner is not justified to reject the first appeal without providing reasonable opportunity, particularly when the exparte order has been passed on 28.09.2006 and issued vide memo No.99187 dtd.31.10.2006 and received by the appellant on 27.11.2006.
- III. The interest charged u/s.12 (4-A) may kindly be waived.
- IV. The order of assessment is otherwise hearing, illegal and without prejudice excessive.

4. The Respondent-State has not filed any cross objection.

5. The dealer-appellant has not appeared before the Bench on the date fixed for hearing hence this appeal is disposed of on merit basing on the materials available in the record.

6. Mr. M.S. Raman, the ld. Additional Standing Counsel (C.T.) appearing on behalf of the State supported the appeal order which confirmed the demand raised by the ld. STO. He stated that the dealer has revised return which resulted in increase of both gross turnover as well as taxable turnover. The appellant has shown the purchase of paddy weighing Qntl.26721.20 for Rs.1,39,91,916.00 but the figures obtained from the civil supplies department shown that the dealer respondent has effected purchase of paddy weighing Qntl.27171.00 for Rs.1,42,27,279.02. Besides, he stated that the dealer has no point to agitate against the order of assessment passed by the ld. STO for he has neither furnishing grounds of appeal before the ld. ACST nor appeared personally or through authorised

representative before the first appellate forum even though opportunity were allowed by the ld. ACST by issuing notice and subsequent intimations there-under in connection with appeal hearing for which the ld. ACST has not interfered with the findings of the ld. STO in the impugned assessment order.

7. Heard the ld. Addl. S.C. (C.T.) in absence of the dealer-appellant or any representative on its behalf. Gone through the impugned orders of assessment as well as the first appeal and grounds of appeal filed by the dealer-appellant. Now, the dispute before this bench is to decide as to whether the order of the ld. ACST can be sustained in the eyes of law? The dealer-appellant has neither appeared nor caused production of any materials to the effect that the assessment order was passed by the ld. STO on ex-parte also no material is produced before this Bench that there is no grounds for levying interest charged u/s.12(4-a) of the OST Act. In view of the above, we do not find any reason in interfering with the appeal order of the ld. ACST in absence of any valid or cogent evidences brought to the notice of this Bench by the dealer-appellant for consideration.

8. In the result, the appeal is dismissed. The order of the ld. ACST is confirmed.

Dictated and corrected by me,

**Sd/-**  
**(P.C. Pathy)**  
**Accounts Member-I**

**Sd/-**  
**(P.C. Pathy)**  
**Accounts Member-I**

**I agree,**

**Sd/-**  
**(Suchismita Misra)**  
**Chairman**

**I agree,**

**Sd/-**  
**(S. Mohanty)**  
**2<sup>nd</sup> Judicial Member**