

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

S.A.No. 2(C)/2015-16

(Arising out of order of the Id. Addl.CST (Appeal), Central Zone, Odisha, Cuttack, in First Appeal Case No. AA-CUIE/4/2003-04, disposed of on dtd.10.02.2015)

**Present: Sri S.K. Rout
2nd Judicial Member**

M/s.Utkal Flour Mills,
Naya Bazar, Dist. Cuttack. Appellant

-Versus-

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

For the Appellant : Mr. I. Bux, Advocate

For the Respondent : Mr. M.L. Agarwal, Standing Counsel

(Assessment Period : 2000-01)

Date of Hearing: 08.04.2022 *** Date of Order: 18.04.2022

ORDER

Challenge in this appeal is the order dtd.10.02.2015 passed by the learned Addl. Commissioner of Sales Tax (Appeal), Central Zone, Cuttack, Odisha/First Appellate Authority (in short, ACST/FAA) in First Appeal Case No.AA-CUIE/4/2003-04, confirming the order of assessment passed by the learned Assessing Authority, Asst. Commissioner of Sales Tax, Cuttack-I Range, Cuttack (in short, AA/ACST) u/s.12(5) of the Central Sales Tax Rules (Orissa), 1957 (in short, CST(O) Rules) for the period 2000-01 raising an extra demand of Rs.26,435/-.

2. The case at hand is that, the dealer-appellant deals in production of wheat products. Notice u/r.12(5) of the CST(O) Rules was issued to him for 2000-01. Pursuant to such notice, the dealer produced books of accounts and the same on being examined by the learned ACST, it was found that the dealer had no sale under CST Act, but there was stock transfer of bran of Rs.36,52,878.72 to outside the State. But during course of assessment, the dealer could not submit declaration Form 'F' worth of Rs.2,29,869/- towards the claim of branch transfer of Bran u/s.6A of the CST Act. In absence of declaration form, the learned AO determined the GTO and NTO at Rs.2,29,869/- and taxed the entire NTO @10% and also charged surcharge @15% raising total tax and surcharge demand of Rs.26,435/-.

3. Being aggrieved with such order of assessment, the dealer filed first appeal before the Id.ACST (Appeal) Central Zone, Cuttack, who dismissed the appeal and confirmed the assessment order.

4. Being dissatisfied with the order of Id.FAA, the present second appeal has been preferred by the dealer.

5. Cross objection has been filed by the State-respondent in this case.

6. Heard the contentions and submissions of both the parties in this regard. Perused the orders of the fora below, the grounds of appeal and cross objection vis-à-vis the materials on record.

7. The sole contention of the dealer-appellant is that, wheat bran comes under the category of cattle feed and as such it

is exempted from tax. Per contra, learned Counsel for Revenue forcefully argued that wheat bran is taxable as per the settled position of law and it does not matter as to for which purpose, the same is used.

8. On perusal, it becomes clear that bran is taxable @4% during the period under challenge vide Sl.No.15 of the taxable list which is entailed as “Bran except when sold as cattle feed” and also it does not come within the purview of Entry 30-D of the tax free list. Moreover, the appellant could not be able to prove that the goods in question were transacted for the purpose of cattle feed. So, in the above premises, the contention of the dealer to the effect that the goods-in-question were tax free is outrightly refuted. Bereft of such, the dealer also failed to produce ‘F’ forms before the first appellate authority. All these aspects are well appreciated by the learned FAA in consonance with the mandate of law and as such, the same needs no interference.

9. In the result, the appeal preferred by the dealer is dismissed and the order of the Id.FAA is hereby confirmed. Cross objection filed by the State-respondent is disposed of accordingly.

Dictated and Corrected by me,

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

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

