

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

S.A.No. 105(ET)/2010-11

(From the order of the Id.DCST, Sundargarh Range, Rourkela,
in Appeal No. AA.45 (RL-II) ET 2009-10, dtd.27.11.2009, confirming
the assessment order of the Assessing Officer)

**Present: Sri S. Mohanty
2nd Judicial Member**

M/s. Vanijya Vikash (P) Ltd.,
Village- Bhalapatra, P.O. Kalunga,
Dist. Sundargarh.

... Appellant

-Versus-

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

.... Respondent

For the Appellant : None
For the Respondent : Mr. S.K. Pradhan, ASC (C.T.)

(Assessment Year : 2004-2005)

Date of Hearing: 20.11.2018

Date of Order: 20.11.2018

ORDER

This second appeal is directed against the order of the learned First Appellate Authority/Deputy Commissioner of Sales Tax, Sundargarh Range, Rourkela (in short, FAA/DCST) in First Appeal Case No. AA.45 (RL-II) ET 2009-10 whereby the FAA has confirmed the ex-parte order of assessment u/s.7(4) of the Odisha Entry Tax Act, 1999 (in short, OET Act) determining the tax liability at Rs.12,241/- for the period 2004-05 of the appellant-dealer.

2. The appellant-dealer was subjected to assessment u/s.7(4) of the OST Act for the tax period 2004-05 and on the basis of the GTO determined under OST Act i.e. Rs.13,60,136/-, the GTO and TTO

under OET Act was determined at Rs.12,24,122/-. Entry tax @1% was levied on it, which was calculated at Rs.12,241/-.

3. Being aggrieved by such assessment, the dealer had preferred appeal before the FAA, whereas the FAA turned down the prayer of the dealer and confirmed the demand as the dealer could not produce any document relating to payment of entry tax.

4. Being unsuccessful before both the fora below, the dealer has preferred this second appeal challenging thereby the determination of tax liability to be unsustainable. It is contended that, the dealer has dealt with declared goods and first point tax paid goods. So, the dealer is not liable to pay entry tax. The contention of the State in cross objection is the determination of tax is just and proper.

5. The appeal is heard ex-parte as the dealer-appellant did not turn up even after receipt of the notice of hearing.

6. In the appeal in hand, the dispute relates to entry tax liability of the dealer. Admittedly, the dealer has purchased goods. The dealer's liability under OST Act has not been set-aside. Liability under OET Act is consequential to the tax liability under OST Act. The plea of the dealer like the goods dealt by him was declared goods is not supported by any evidence. Similarly, it is also not established that, the dealer has purchased goods from the registered dealer of the same locality. Once the claim of the taxing authority is the dealer has brought goods from outside the local area, the dealer is under the obligation to establish if the selling dealer is a registered dealer situated within the local area. Further, there is no iota of evidence to accept the plea that, the goods dealt by the dealer were declared goods. Be that as it may, it is held that, the tax liability under OET Act in the case in hand being consequential to the tax liability under OST

Act, the appeal by the dealer is devoid of any merit. Accordingly, it is ordered.

The appeal is dismissed on contest as of no merit.

Dictated and Corrected by me,

Sd/-
(S. Mohanty)
2nd Judicial Member

Sd/-
(S. Mohanty)
2nd Judicial Member