



the assessment year 2003-04 u/s.12(4) of the Orissa Sales Tax Act, 1947 (hereinafter referred to as, OST Act).

2. The brief facts of the case are that, the respondent-dealer deals in trading of all types of hood works and also engaged in execution of contract works under Garrison Engineer, Chandipur. The learned AA after verification of books of account completed the assessment to the best of judgment by rejecting the books of account of the respondent-dealer as not true and correct and determined the GTO at Rs.9,15,236.76. After allowing deduction of Rs.3,80,510.00 towards labour and service charges, Rs.89,320.50 towards materials purchased from inside registered dealer which were utilized in the contract work, Rs.981.00 towards collection of Orissa Sales Tax and Rs.98.16 towards collection of surcharge, determined the TTO at Rs.4,44,326.50 which was taxed @12%. Total tax was calculated to Rs.53,319.28 on which surcharge @ 10% was also levied upon. Tax and surcharge together was calculated to Rs.58,651.09. The respondent-dealer having paid Rs.22,040.00 through TDS, was required to pay the balance amount of Rs.36,611.00.

3. Being aggrieved by the order of the learned AA, the respondent-dealer preferred an appeal before the learned JCST who reduced the demand to return figure. Being aggrieved with the order of the learned JCST, the Revenue as appellant has preferred the second appeal.

No cross objection has been filed by the respondent-dealer.

4. When the matter was taken up for hearing, none appeared on behalf of the respondent-dealer and as such the matter was heard exparte but on merit.

5. The Revenue has come up with the second appeal on the grounds that the order of the learned JCST appears to be unjust and improper; that the learned JCST has committed the gross irregularities by way of allowing total deduction towards the goods as he has considered the same as tax suffered goods. The assessment order shows that the dealer has received Rs.9,05,977.00 from Garrison Engineer, Chandipur towards execution of works contract but on verification it is seen that the dealer has filed return disclosing the total sale proceed to the tune of Rs.23,880.00 which is not incorporated to his sale transaction and the payment received during the year 2003-04. Further he has purchased raw materials of Rs.93,113.00 for the purpose of execution of works contract which is not entered in his purchase register, so he has rejected the books of account and raised up demand of Rs.36,111.00 and that the order of the learned JCST may be set aside and that of the learned STO may be restored.

6. Heard the learned Addl. Standing Counsel for the Revenue. Perused the materials available on record including the orders of both the fora below. The learned JCST on examination of the books of account of the respondent-dealer with reference to the returns filed found that the respondent-dealer had incorporated his sales transaction and payment received during the year under assessment in his regular books of account. As regards the disclosure of low sales turnover the learned JCST found that the firm is a repair unit

in which all purchases towards repairing materials are made from inside the State of Odisha with payment of tax. It was also found by the learned JCST that one set of Govt. way bill bearing no.BB-0855455 dtd.03.12.2002 received by the respondent-dealer was not utilized by him as he had not purchased from outside the State. However, 42% towards labour and service charges allowed by the learned AA was found just and proper by the learned JCST and was upheld. On such facts the learned JCST rightly reached at the conclusion that since all purchases were made in the State of Odisha which suffered tax the further raising of tax by the learned AA was illegal and arbitrary. Thus, the learned JCST reduced the assessment to return figure which is justified. The grounds taken in the appeal have no basis at all and the learned Addl. Standing Counsel could not bring anything concrete to substantiate any of the grounds of appeal. Thus, there is no infirmity in the impugned order. Hence, it is ordered.

7. The appeal stands dismissed being devoid of any merit and the impugned order is hereby confirmed.

Dictated & corrected by me,

Sd/-  
(A.K. Dalbehera)  
1st Judicial Member

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