

**BEFORE THE SINGLE BENCH: ODISHA SALES TAX
TRIBUNAL, CUTTACK.
S.A.No. 47(ET)/2013-14**

(Arising out of order of the Id. DCST (Appeal), Cuttack-I
Range, Cuttack, in First Appeal Case No.
AA(ET)17/CUICT/2011-12, disposed of on dtd.11.07.2012)

**Present: Smt. Sweta Mishra
2nd Judicial Member**

M/s. Mahaveer Enterprises,
Malgodown, Dist. Cuttack. 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, A.S.C. (C.T.)

(Assessment Period : 01.04.2006 to 30.09.2009)

Date of Hearing: 03.03.2021 *** Date of Order: 03.03.2021

ORDER

The facts and circumstances of this case and the two orders of the learned lower fora below culminated to this second appeal.

2. The brief facts of the case is that :

The dealer-appellant in the instant case deals in dals, pulses, edible oil, spices like mustard seeds, jeera etc. on retail and wholesale basis and purchases the goods both from inside and outside the State of Odisha. Assessment has been completed on the basis of AVR submitted by the STO, Cuttack-I City Circle, Cuttack.

During the examination of books of accounts, the learned Assessing Officer confronted the AVR to the dealer-appellant. On being asked about non-payment of entry tax on freight of Rs.3,13,332/- on the purchase of goods from outside the State, the dealer-appellant admitted that by mistake he has not paid tax on the freight. Hence, the learned Assessing Officer added the amount of Rs.3,13,332/- to the purchase turnover disclosed by the dealer as suggested in the AVR, which has resulted in raising demand of Rs.20,804/-.

3. Being aggrieved with the order of assessment, the dealer preferred first appeal before the learned First Appellate Authority/DCST (Appeal), Cuttack-I Range, Cuttack, who in turn, dismissed the appeal and confirmed the order of assessment.

4. Being further aggrieved with the order of the learned FAA/DCST, the dealer knocked the door of this Tribunal by way of filing this second appeal with the contention that, the order passed by the learned FAA/DCST is unjust, improper and not based on facts and law.

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

6. Despite affixture service of hearing notice on the dealer, for reasons best known to it, neither engaged a counsel nor anybody on its behalf remained present before this Tribunal. This Tribunal, therefore, left with no other alternative except to hear the arguments of Mr. S.K. Pradhan, learned Addl. Standing Counsel appearing on behalf of the State and dispose of the matter on ex-parte basis.

7. Perused the assessment order as well as the first appeal order, all the materials available in the record, grounds of appeal submitted by the dealer-appellant. During the course of hearing, Mr. Pradhan, learned Addl. Standing Counsel argued that, the order of the learned FAA is just and proper. Despite reasonable opportunities offered, the dealer failed to appear before this Tribunal. He has vehemently argued that, there is no reasonable merit in the second appeal filed by the dealer, which is not sustainable in the eyes of law. Reasoned orders have been passed by the learned Assessing Officer as well as the learned FAA. The order of the ld.DCST is a genuine one. So, it should be confirmed by this Tribunal. The learned FAA has observed at Page No.2 of his order :

“Heard the case, perused the order of assessment and gone through the grounds of appeal. On perusal of assessment order, it is revealed that the learned assessing officer has completed the assessment on the basis of AVR and as per the provision of law which requires no interference at this forum”.

So, he has prayed to dismiss the appeal filed by the dealer and to confirm the order of the learned FAA.

8. Heard the learned Addl. Standing Counsel in absence of participation of the dealer in hearing of this appeal. Gone through the grounds of appeal, the impugned orders of appeal and assessment, argument of the learned Addl. Standing Counsel at the time of hearing. The dealer-appellant has not adduced any evidence on his behalf nor he has appeared before this Tribunal to substantiate the grounds of appeal filed by him.

9. In view of the facts and circumstances of the case, I am of the opinion that, the points raised by the learned Addl.

Standing Counsel is quite satisfactory and I do not find any defect in the order passed by the ld.DCST. The order of the ld.FAA is crystal clear with respect to the points raised by the dealer. He has dealt each and every item, which is self-explanatory in nature and requires no further interference by this Tribunal. Accordingly, it is ordered.

10. The appeal filed by the dealer is dismissed and the order of the ld.FAA is hereby confirmed. The cross objection filed by the State-Respondent is disposed of accordingly.

Dictated and Corrected by me,

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

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