

**BEFORE THE SINGLE BENCH: ODISHA SALES TAX  
TRIBUNAL, CUTTACK.  
S.A.No. 46(C)/2019**

(Arising out of order of the Id.JCST (Appeal), Balasore Range,  
Balasore, in First Appeal Case No. AA-7/BAC-2015-2016  
(CST), disposed of on dtd.16.01.2019)

**Present: Smt. Sweta Mishra  
2<sup>nd</sup> Judicial Member**

M/s. Tirupati Enterprises,  
Simulia Bazar, Baliapal,  
Dist. Balasore.

.... Appellant

**-Versus-**

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

.... Respondent

For the Appellant : Mr. M.P. Jena, Advocate

For the Respondent : Mr. S.K. Pradhan, A.S.C. (C.T.)

(Assessment Period : 2008-09)

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Date of Hearing: 16.04.2021 \*\*\* Date of Order: 23.04.2021

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**ORDER**

This appeal is directed against the order of the learned First Appellate Authority/ Joint Commissioner of Sales Tax (Appeal) Balasore Range, Balasore (in short, FAA/JCST) in First Appeal Case No. AA-7/BAC-2015-2016 (CST) dtd.16.01.2019 in confirming the assessment order passed by the learned Sales Tax Officer, Balasore Circle, Balasore (in short, STO) for the assessment year 2008-09 u/r. 12(3)(a) of the Central Sales Tax (Orissa) Rules, 1957 (in short, CST(O) Rules.

2. Facts of this case can be briefly stated thus:-

The dealer-appellant in the instant case is engaged in trading of groundnut, groundnut seeds, coconut brooms and betel leaf and decorticating groundnut to seeds for sale on wholesale and retail basis. It transpires from record that after confrontation of one tax Evasion Report submitted by the Sales Tax Officer, Enforcement Range, Balasore, the Id.STO, Balasore Circle, Balasore has completed the assessment by establishing the escaped turnover to the tune of Rs.58,32,430/- basing on the tax evasion report and raised the demand of Rs.6,99,891/- at the assessment stage.

3. Being aggrieved with the order of assessment the dealer preferred first appeal before the Id. First appellate authority/ Joint Commissioner of Sales Tax (Appeal) Balasore Range, Balasore, who in turn, dismissed the appeal and confirmed the order of assessment and hence the tax demand remained unaltered.

4. Being further aggrieved with the order of the Id. FAA the dealer knocked the door of the this Tribunal by way of filing this second appeal with the contention that the order passed by the Id. FAA is illegal, arbitrary and in contravention of provisions of law and hence needs to be quashed.

5. State-respondent has filed cross objection in this case.

6. Learned Advocate appearing on behalf of the dealer has challenged the order passed by the learned FAA. He has vehemently argued that, the order of the learned FAA appears to be unjust and improper. The order of assessment is

wrong. The order passed by the learned JCST is not proper and fair because there is no ground in confirming the gross turnover by accepting slips relating to dtd.23.06.2008 and dt.25.08.2008 covering an amount of Rs.5832430/-, which does not belong to the dealer-company. The finding amount submitted by the learned STO, Enforcement Range, Balasore in the name of M/s. Guru Prasad Enterprises of Dantun, West Bengal is not correct. There were no transactions with the above mentioned party. Learned STO, Enforcement Wing has not also made any inquiry in detail to establish his opinion regarding the amount available in the slips. The learned STO, Balasore raised extra demand including penalty accepting the report of learned STO, Enforcement Wing, Balasore on presumption basis and arbitrarily. Being aggrieved with the order of assessment the dealer-appellant filed appeal before the learned FAA, who without proper hearing and without appreciating the submission of the dealer-appellant dismissed the appeal. The alleged slips of paper as said to be ledger of M/s. Guru Prasad Enterprises, Dantun, West Bengal was not confronted to the proprietor of M/s. Guru Prasad Enterprises or any of his authorised person. Therefore, allegation framed by STO is wrong and based on presumption. Therefore, the allegation is baseless, illegal and without application of mind. So, the learned Advocate for the dealer has prayed to allow the appeal filed by the dealer and the matter should be remanded back to the learned STO, Balasore or to the learned FAA with a direction to cross verify with the books of accounts of M/s. Guru Prasad Enterprises, Dantun, West Bengal.

7. On the other hand, during the course of hearing, learned Addl. Standing Counsel, Mr. Pradhan for the State argued that, the grounds raised in the appeal petition are misconceived and liable to be dismissed in toto. The dealer-appellant was given sufficient opportunities to produce the documentary evidence in favour of his stand taken in the grounds of appeal for disposal by the learned FAA, but the dealer failed to produce the same. Hence, his plea is not acceptable. The order of the learned FAA appears to be just and proper. There is no reasonable merit in the second appeal filed by the dealer-appellant, which is not sustainable in the eyes of law. So, he has prayed to dismiss the appeal and to confirm the order of the learned FAA.

8. Heard the learned Advocate Mr. M.P. Jena appearing on behalf of the dealer and learned Addl. Standing Counsel Mr. S.K. Pradhan appearing on behalf of the State. Gone through the grounds of appeal, impugned orders of appeal and assessment, cross objection filed by the state-respondent and arguments of both the sides at the time of hearing. In view of the facts and circumstances of the case and after analysing the points raised in this appeal, I am of the view that, this is a fit case where the matter should be remanded back to the learned FAA to re-compute the tax liability of the dealer as per provision of law. Accordingly, it is ordered.

9. The appeal filed by the dealer is allowed on contest. The order of the learned FAA is hereby set-aside. The matter is remanded back to the learned FAA with a direction

to cross verify the alleged transaction appearing in the seized paper with the books of accounts maintained by M/s. Guru Prasad Enterprises, Dantun, West Bengal and to re-compute the tax liability of the dealer as per provision of law after giving the dealer a reasonable opportunity of being heard within a period of three months from the date of receipt of this order. The cross objection filed by the State-Respondent is disposed of accordingly.

Dictated and Corrected by me,

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

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