BEFORE THE ACCOUNTS MEMBER-I: ODISHA SALES TAX TRIBUNAL: KATAKA.
S.A. No. 46(ET) of 2020

(Arising out of the order of the learned JCST (Appeal), CT & GST Territorial Range, Bhubaneswar, in First Appeal Case No. AA-106221822000062, disposed of on 30.04.2019)

P r e s e n t: Shri A. Bhoi, Accounts Member-I

M/s. S.J. Developers and Housing Pvt. Ltd, B/6, Miknik Mall,A-103, Nayapalli, IRC Village, Bhubaneswar ... Appellant

- V e r s u s –

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

For the Appellant: : Mr.K.R. Mohapatra, Advocate &
: Mr. N.K.Dash, Advocate.
For the Respondent: : Mr. S.K.Pradhan, Addl.SC(CT).

Date of hearing : 23.10.2026 * Date of order :30.10.2026**

O R D E R

The present appeal preferred by the Dealer is directed against the impugned order of the Learned Joint Commissioner of Sale Tax (Appeal), CT & GST Territorial Range, Bhubaneswar, (herein after referred to as Ld. First Appellate Authority/Ld.FAA)

passed on 30.04.2019 in First Appeal Case No. AA-106221822000061, confirming the assessment order of the Sales Tax Officer, Bhubaneswar II Circle, Bhubaneswar, (hereinafter referred as Assessing Authority) made under Section 9(C) of the Odisha Entry Tax Act, for the tax period from12.08.2014 to 30.09.2015 involving additional tax demand of ₹93,609.00.

2. The brief facts of the case are that the appellant dealer company M/s. S.J. Developers and Housing Private Limited is Private Limited Company engaged in Real Estate business as works contractor for construction of residential flats. The dealer purchased construction materials and capital goods from outside the State and caused entry of the same inside the local area for use in course of execution of works contract. During the material period the dealer contractor has effected total purchases of scheduled goods worth ₹7,76,39,330.00 both from inside and outside the State of Odisha which includes outside State purchases of scheduled goods worth ₹81,94,158.00. On verification the Assessing Authority found that the dealer contractor has not disclosed the quantum of freight charges and other incidental charges on the outside State purchases. Thus the Assessing Authority added 3% of the purchase price towards

freight charges and determined the Taxable Turnover of ₹83,58,041.00. Tax @2% calculated which comes to ₹1,67,161.00. After deduction of tax paid amount of ₹1,35,958.00, the balance tax calculated to ₹31,203.00. A penalty of ₹62,406.00 is imposed on the balance tax due U/s.9C(5) of the OET Act, against the dealer company for the material period.

3. On being aggrieved by the order of assessment, the dealer company has preferred an appeal before the Joint Commissioner of Sales Tax (Appeal), CT & GST Territorial Range, Bhubaneswar, who being the First appellate authority, confirmed the demand raised by the Assessing authority.

4. The Dealer Company on being dissatisfied by the order of ld. FAA, has preferred second appeal before this Tribunal on the ground that the Learned Assessing Authority as well as the Learned First Appellate Authority have erred in the facts and in law to enhance the Taxable Turnover of the Dealer on the basis of the Audit Visit Report with the assumption that the dealer has not paid any tax on freight.

5. The State Respondent has filed Memorandum of Cross Objection against the appeal preferred by the Dealer.

6. In course of hearing of appeal the Learned Advocate appearing for the appellant company reiterated the grounds of appeal and argued that alleged freight charges are included in the purchase value of goods. Secondly levy of penalty is illegal.

7. The Addl. Standing counsel appearing for the State strongly contested that the dealer appellant has failed to furnish any documentary evidence in support of the freight charges, hence levy of differential entry tax towards freight charges and imposition of penalty are justified which warrants no interference.

8. Gone through the contentions of the rival parties, orders of the forum below, grounds of appeal and cross objection filed by the State vis–a-vis the materials available on record.

9. Perusal of record reveals that the dealer has effected purchases of construction materials and capital goods both from inside and outside the State of Odisha. On examination of purchase account of the dealer the Assessing Authority found that the dealer has effected purchases of materials of ₹56,53,552.00 and capital goods of ₹25,40,606.00 totaling to ₹81,94,158.00 from the outside State. The Assessing Authority added 3% freight charges and determined purchase value of ₹83,58,041.00. On careful observation of the case it is seen

that the Assessing Authority has not established regarding non-inclusion of freight charges by the dealer appellant and added the same. So the order of assessment is found as non-speaking assessment order.

10. Under Section 2(j) of the OET Act, the "purchase value" of scheduled goods generally includes transport and freight charges incidental to the purchase. The contractual terms of the purchase and the supporting documents may be relevant, when determining the amount to be included. The Assessing Authority as well as First Appellate Authority have not examined the original invoices to determine whether freight charges was actually borne by the dealer before sustaining addition. In the instant case, it is reported that the dealer has effected purchases of materials and capital goods amounting to ₹81,94,158.00 from outside the State caused entry to the local area for use in course of execution of works contract. It appears that without verifying the invoices the Assessing Authority has determined the outside purchases of ₹81,94,158.00, simply by accepting the Audit Visit Report. Thus, the Tribunal is compelled to draw a conclusion that there is a need of verification of tax invoices vis-à-vis the freight charges while

determining the purchase value of Scheduled goods effected from the outside State.

11. In view of the discussion made above, the case needs to be remanded back to the Assessing Authority for proper verification of the relevant invoices to ascertain the purchase value of goods of outside purchase.

12. In the result, the appeal filed by the dealer is allowed in part. The impugned order of First Appellate Authority is hereby set-aside. The case is remanded back to the Assessing Authority for verification of the supporting documents and recomputation of tax liability of the dealer as per law keeping in view the observations made above within a period of three months from the date of receipt of this order. The appellant dealer is directed to appear before the Assessing Authority along with supporting documents to substantiate his claim. The cross objection is disposed of accordingly.

Dictated and corrected by me.

Sd/-
(A. Bhoi)
Accounts Member-I

Sd/-
(A. Bhoi)
Accounts Member-I