

**BEFORE THE DIVISION BENCH: ODISHA SALES TAX TRIBUNAL, CUTTACK.  
S.A.No. 268(ET)/2006-07**

(Arising out of order of the Id.ACST, Cuttack-I Range, Cuttack, in Appeal No. AA-(ET)7/CUIE/06-07,  
disposed of on dtd.11.08.2006)

**Present: Sri S. Mohanty & Sri R.K. Pattnaik**  
**2<sup>nd</sup> Judicial Member Accounts Member-III**

M/s. Indexport Limited  
(now known as  
M/s. Unilever Indexport Ltd.,  
Gandarpur, 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, Addl. Standing Counsel (C.T.)

Date of Hearing: 26.05.2018 \*\*\* Date of Order: 28.05.2018

**ORDER**

This appeal is directed against the order of the First Appellate Authority/Asst. Commissioner of Sales Tax, Cuttack-I Range, Cuttack (in short, FAA/ACST) in First Appeal Case No. AA-(ET)7/CUIE/06-07 dtd.11.08.2006 in confirming the order of assessment passed by the Assessing Officer/Sales Tax Officer, Cuttack-I East Circle, Cuttack (in short, AO/STO) for the assessment year 2000-01 u/s.9C of the Odisha Entry Tax Act, 1999 (in short, OET Act).

2. The backdrop of the case may be succinctly stated as follows :

The dealer's unit was subjected to Audit assessment u/s.9C of the OET Act for the tax period 2000-01 by the AO, whereby the AO passed an ex-parte order of assessment raising refund of Rs.38,143/- for the tax period.

3. On being aggrieved, the dealer carried the matter before the FAA, who in turn, remanded the matter to the AO for assessment afresh. Thereafter, in the remand assessment, the AO calculated the tax due applying the method as directed by the FAA and determined taxable turnover of the dealer at Rs.6,39,67,109.85. Tax payable @1% on it, calculated to Rs.6,39,671/-, whereas taking consideration of the tax already paid amounting to Rs.6,77,814/-, at the time of filing of return, the dealer was found eligible for refund of Rs.38,143/-.

4. Further being aggrieved with such assessment, the dealer preferred first appeal before the FAA bearing First Appeal Case No. AA-(ET)7/CUIE/06-07. The FAA in the impugned order dtd.30.12.06 confirmed the order of AO. Hence, this second appeal preferred by the dealer on the contention that, the dealer had not suppressed anything. He had filed statement in Form E-3 except for the month of 11/2000 and 01/2001. However, he has filed revised return though in late for these two months. So, in acceptance of the revised return, the Entry Tax liability should have been calculated.

5. The appeal is heard without cross objection from the side of the State.

6. Adverting into the impugned order in the light of dealer's contention, the impugned order itself depicts the dealer's argument was already taken into consideration by the AO and the FAA during the second round of litigation. Initially the original assessment was passed ex-parte. The FAA had remanded the matter to the AO for assessment afresh. There was remand assessment and the dealer was found to get refund of Rs.38,143/-. The dealer's total turnover was

determined at Rs.6,77,81,517.85. The deduction towards goods sent to outside of the State depot (branch transfer) of Rs.38,14,408/- was made. As a result, the TTO was determined at Rs.6,39,67,109.85. Tax was calculated on it that means the plea of the dealer was considered by the AO. It is not the case of the dealer that, the TTO determined by the AO is wrong. In that view of the matter, it is held that, the tax as calculated by the AO, which is confirmed by the FAA is correct. Be that as it may, there is no reason to interfere with the order of the FAA. Rather it is found that, the appeal is preferred only for the sake of appeal without raising any substantial question of law and fact. Accordingly, it is ordered.

The appeal is dismissed as of no merit.

Dictated and Corrected by me,

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

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

I agree,

Sd/-  
(R.K. Pattnaik)  
Accounts Member-III