

**BEFORE THE JUDICIAL MEMBER-I: ODISHA SALES TAX TRIBUNAL:
CUTTACK.**

S.A. No. 63 (C) of 2013-14

(Arising out of the order of the learned DCST (Appeal), Cuttack II Range,
Cuttack, in First Appeal Case No. AA/8B/CST/CUC II/10-11,
disposed of on dtd.20.05.2013)

P r e s e n t : Shri A.K. Panda,
1st Judicial Member

M/s. Champdani Industries Limited,
Choudwar, Cuttack. ... Appellant

- V e r s u s -

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

For the Appellant ... Mr. S.K. Samal, Advocate
For the Respondent ... Mr. S.K. Pradhan, A.S.C.

Date of hearing: 06.12.2018 ***** Date of order: 13.12.2018

ORDER

This appeal is directed against the order dtd.20.05.2013 passed by the learned Deputy Commissioner of Sales Tax (Appeal), Cuttack II Range, Cuttack (hereinafter referred to as, the learned DCST) in First Appeal Case No. AA/8B/CST/CUC II/10-11, wherein and whereby he has dismissed the first appeal by confirming the order of the learned Sales Tax Officer, Cuttack II Circle, Cuttack (hereinafter referred to as, the learned STO) passed in an assessment u/r.12(5) of the Central Sales Tax (Orissa) Rules, 1957 (hereinafter referred to as, the CST(O) Rules) in respect of the appellant-

dealer for the assessment period year 2005-06 raising a balance tax demand amounting to Rs.19,990.00.

2. The appellant-dealer bearing Registration No.CTC-II-959 is a manufacturer and seller of carpet and to manufacture the finished goods, it used raw materials like P.P. yarn, B.C.F., jute yarn and cotton yarn. In an assessment u/r.12(5) of the CST (O) Rules for the assessment year 2005-06, being noticed, the authorized representative of the appellant-dealer appeared and produced the books of account before the learned STO which were duly examined by him. On examination of the books of account and the other relevant documents, the learned STO found out that, in addition to the other transactions, though the appellant-dealer has claimed branch transfer of goods amounting to Rs.7,72,099.00 on the strength of the statutory 'F' declaration form, it has produced the required declaration form amounting to Rs.6,05,239.00 and as such on consideration of the same, he finally determined the NTO and levied tax thereon and the order passed by him resulted in a balance tax demand of Rs.19,990.00, to be paid by the appellant-dealer.

3. After the assessment, being aggrieved with the order of the learned STO, the appellant-dealer preferred an appeal before the learned DCST bearing First Appeal Case No. AA/8B/CST/CUC II/10-11. At the first appeal stage, though the appellant-dealer produced 3 nos. of 'F' declaration form amounting to Rs.1,41,150.00, the learned DCST found out the forms to be defective and accordingly rejected its claim by confirming the order of the learned STO. Thus, again being aggrieved with the order of the learned DCST, the appellant-dealer has preferred this second appeal.

4. Cross objection has been filed by the respondent-Revenue supporting the order of the learned forums below.

5. Heard both the sides. The learned Counsel appearing for the appellant-dealer submitted that, the learned DCST has not considered the fact and law in its proper perspective and has disallowed the claim of the appellant-dealer in spite of production of the required statutory declaration form in duplicate and as such the order passed by him being illegal, the

same is liable to be set aside and the appeal preferred by the appellant-dealer is liable to be allowed. On the other hand, the learned Addl. Standing Counsel appearing for the respondent-Revenue supported the orders of the learned forums below and urged for dismissal of the appeal.

6. Perused the orders of both the learned forums below and the other materials on record. From the materials on record, it is seen that, though the appellant-dealer has claimed stock transfer of goods amounting to Rs.7,72,099.00 on the strength of the statutory 'F' declaration form, it could be able to produce the required form amounting to Rs.6,05,239.00 and failed to produce it for rest of the transactions amounting to Rs.1,45,150.00 before the learned STO. Of course, subsequently, at the first appeal stage, though it produced 3 nos. of 'F' declaration form amounting to Rs.1,41,150.00, the learned DCST found out the forms to be defective and accordingly asked for further evidence in accordance with to the provisions of the Central Sales Tax Act and when the appellant-dealer failed to produce any further evidence in support of its claim, he did not accept the produced declaration forms and rejected its claim of concessional rate of tax. Even at this stage, the appellant-dealer has failed to produce any further material in support of its claim as advanced before the learned forums below. On scrutiny of the entire materials available on record, a conclusion can clearly be arrived that, the learned DCST has not committed any sort of illegality in not accepting the claim of the appellant-dealer and by determining its tax liability accordingly. As the order passed by the learned DCST suffers from no infirmity, the same needs no interference of this forum.

7. In the result, the appeal is dismissed being devoid of merit. The cross objection is disposed of accordingly.

Dictated & corrected by me,

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

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