BEFORE THE FULL BENCH : ODISHA SALES TAX TRIBUNAL: CUTTACK.

S.A. No. 11 (ET) of 2014-15

(Arising out of order of the learned Addl.CST(Appeal), Central Zone, Odisha, Cuttack, in Appeal Case No. AA-269/JCST/J/2011-12, disposed of on 28.01.2014)

Present : **Smt. Suchismita Misra, Chairman**
Smt. Sweta Mishra, 2nd Judicial Member
&
Shri Rabindra Ku. Pattnaik, Accounts Member-III

M/s. Mangilall Rungta,
At/PO- Barbil, Dist. Keonjhar. . . . Appellant

- V e r s u s –

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

For the Appellant … Mr. P.K. Behera, A/R
For the Respondent … Mr. S.K. Pradhan, Addl. S.C.(CT)

Date of hearing: 25.06.2019 **** Date of order: 25.06.2019

O R D E R

This appeal is directed against the order dated 28.01.2014 passed by the Addl. Commissioner of Sales Tax (Appeal), Central Zone, Odisha, Cuttack (first appellate authority) in Appeal Case No. AA-269/JCST/J/2011-12 confirming the order of assessment passed by Joint Commissioner of Sales Tax, Jajpur Range, Jajpur Road (in short, 'assessing officer') in the following circumstances.

2. The facts out of which this appeal arose are that the dealer-appellant named and styled as "M/s. Mangilall Rungta" in the District of Keonjhar is engaged in mining and processing of iron ores, and manganese ores. On the report of Audit in respect of the business concern of the dealer the assessing officer had issued notice to the dealer-assessee and then on verification of his business transactions found him liable to pay a sum of `62,45,462.11 towards entry tax for the assessment period from 01.04.2008 to 31.03.2009. Since the dealer had already made payment of tax to the tune of `30,47,365.00 and was also eligible for ET set off of `14,70,963.00 the same was adjusted against the tax payable and as such the balance amount of `17,27,134.00 was demanded from him.

Being aggrieved with the order of assessment, the dealer-appellant preferred first appeal while contending that the order of assessment was illegal, arbitrary and not in consonance with law for the reasons that the dealer-appellant had brought scheduled goods into the local area from outside the State which were not manufactured inside the State of Odisha and thus in terms of the judgment of the Hon'ble High Court of Orissa rendered in the case of Reliance Industries Vs.

State of Odisha in W.P. (C) No.6515 of 2006 they (the dealer) did not pay entry tax thereon. It was further contended that the area from outside the local does not include area beyond customs frontier of India as per the provisions of Sec. 2 of OET Act read with Sec. 3 of the said Act and as such levy of tax on imported manganese ore was illegal. After hearing the dealer-appellant and considering the grounds advanced on its behalf learned first appellate authority dismissed the appeal and confirmed the order of assessment.

3. The dealer-appellant then came up with this appeal assailing the order of first appellate authority on the ground that in view of the provisions of OET Act, no entry tax should be levied on the goods brought by it during the relevant period under assessment.

The State has filed cross-objection in this case.

4. In course of hearing the appeal in presence of both the parties the Authorized Representative for the dealer-appellant, however, submitted that the appellant had already deposited the entire demand amount determined by the assessing officer and at the same time he also enclosed copies of e-challans while submitting further that the appellant wants to withdraw the appeal.

5. Learned Addl. Standing Counsel (CT) appearing on behalf of the State then vehemently submitted that the appellant is not competent to withdraw the appeal because in view of the judgment of

the Hon'ble Apex Court rendered in the case of State of Kerala and others Vs. Fr. William Fernandez etc. reported in [2018] 57 GSTR 57 (SC), the appeal filed by this dealer has to be dismissed outrightly.

6. After going through the aforesaid judgment of Hon'ble Apex Court it is seen that as per the conclusions arrived at by the Hon'ble Apex Court in various cases including the Odisha Entry Tax Act, 1999 the aforesaid statute does not exclude levy of entry tax on the goods imported from any place outside the territory of India into a local area for consumption, use or sale. The import of goods from any territory outside India comes to an end when the goods entered into the custom frontiers of India and are released for home consumption and further entry tax legislation are fully covered by Entry 52 List II and the submission that essence of Entry 52 is octroi which can be levied only by local authorities and State has no legislative competence to impose entry tax under Entry 52 List II is fallacious. In the instant case, the dealer-Company had purchased goods in course of inter-State trade or commerce and as such the assessing officer after valuation of different taxable goods determined its liability on account of sales and then determined the amount which it was required to pay in respect of its business transaction during the relevant period. Pursuant to the conclusions arrived at by the Hon'ble Apex Court we find no infirmity in the order of the assessing officer and as such the first appellate

authority has rightly concluded the liability of the dealer-assessee in the entire process.

7. In the result, it is found that the dealer-appellant having no valid and cogent reason to prefer this appeal before this Tribunal its appeal has to be rejected outrightly. Accordingly, the appeal is dismissed. Cross-objection is disposed of accordingly.

Dictated & Corrected by me,

Sd/-
(Smt. Suchismita Misra)
Chairman

Sd/-
(Smt. Suchismita Misra)
Chairman

I agree,

Sd/-
(Smt. Sweta Mishra)
2nd Judicial Member

I agree,

Sd/-
(Rabindra Ku. Pattnaik)
Accounts Member-III