

**BEFORE THE SINGLE BENCH: ODISHA SALES TAX TRIBUNAL,  
CUTTACK.**

**S.A.No. 101(ET)/2009-10**

(From the order of the Id.DCST, Cuttack-I Range, Cuttack, in Appeal No. AA-(ET) 104/CUIW/2008-09, dtd.28.03.2009, confirming the assessment order of the Assessing Officer)

**Present: Sri S. Mohanty  
2<sup>nd</sup> Judicial Member**

M/s. C.F.L. Pharmaceuticals Ltd.,  
Santa Sahi, Dist. Cuttack.

.... Appellant

**-Versus-**

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

.... Respondent

For the Appellant : Mr. R. Chhapolia, Advocate  
For the Respondent : Mr. S.K. Pradhan, A.S.C. (C.T.)

(Assessment period : 2004-05)

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Date of Hearing: 08.02.2019 \*\*\* Date of Order: 08.02.2019

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**ORDER**

Against the goods like medicines brought into local area and disposed of otherwise than by way of sale as sample medicine, the dealer claimed no liability under Entry Tax Act, whereas, the Revenue has levied entry tax in an assessment u/s.9C of the Odisha Entry Tax Act, 1999 (in short, OET Act) for the tax period 2004-05, resulting the tax due on the dealer determined at Rs.13,005/-. As against that, the dealer preferred appeal before the learned First Appellate Authority/Deputy Commissioner of Sales Tax, Cuttack-I Range, Cuttack (in short, FAA/DCST), who in turn, vide impugned order confirmed the order of the Assessing Authority. Accordingly, the demand remained undisturbed.

2. On this backdrop, the dealer has preferred this second appeal on the contentions that, the order passed by the AA is without jurisdiction. The GTO and TTO taken by the AA is wrong as the AA has not taken into consideration of the branch transfer against declaration Form 'F'.

3. The only question to be determined in this appeal is, whether the medicines given as sample free of cost is exigible to Entry Tax or not ? The AA hold the same as taxable under Entry Tax and fixed liability. The FAA confirmed the same. In the hearing, learned Addl. Standing Counsel placed reliance on the authority in **State of Kerala and Others Vrs. Fr. William Fernandez, Etc., Etc. (2018) 57 GSTR 6 (SC)** and argued that, when the goods came into local area, Section 2(d) read with Section 3 of the OET Act came into play.

*Per contra*, learned Counsel for the dealer on the other hand, fairly conceded to the authority and tax liability but argued that, the AA has not taken into consideration of the branch transfer against declaration Form 'F'. No evidence to that effect adduced by the dealer. On the other hand the authoritative pronouncement by the Apex Court mentioned above leaves no room for any tax exemption to the dealer. Hence, it is held that, the impugned order calls for no interference. In the result, it is ordered.

The appeal is dismissed on contest as of no merit.

Dictated and Corrected by me,

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

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