

**BEFORE THE SINGLE BENCH: ODISHA SALES TAX
TRIBUNAL, CUTTACK.
S.A.No. 55(ET)/2013-14**

(Arising out of order of the ld. DCST (Appeal), Cuttack-II
Range, Cuttack, in First Appeal Case No. AA/ET/28/CUII/11-
12, disposed of on dtd.25.02.2013)

**Present: Smt. Sweta Mishra
2nd Judicial Member**

Ajay Kumar Sahoo,
Partner - M/s. Sai Sales Corporation,
Niali, 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, A.S.C. (C.T.)

(Assessment Period : 01.04.2008 to 31.03.2010)

Date of Hearing: 26.04.2021 *** Date of Order: 26.04.2021

ORDER

This appeal is directed against the order of the learned First Appellate Authority/ Deputy Commissioner of Sales Tax (Appeal), Cuttack-II Range, Cuttack (in short, FAA/DCST) in First Appeal Case No. AA/ET/28/CUII/11-12 dtd.25.02.2013 in confirming the assessment order passed by the learned Sales Tax Officer/Assessing Authority, Cuttack-II Circle, Cuttack (in short, STO/AA) for the assessment period from 01.04.2008 to 31.03.2010 u/s. 10 of the Odisha Entry Tax Act, 1999 (in short, OET Act).

2. The brief facts of the case are that :

The dealer-appellant M/s. Sai Sales Corporation located at Niali in the district of Cuttack deals in sanitary goods, hardware goods, PVC Pipes etc. has been assessed by the Sales Tax Officer, Cuttack-II Circle, Cuttack u/s.10 of the OET Act for the period 01.04.2008 to 31.03.2010 resulted in raising of an extra demand of Rs.6,857/-. It is discussed in the order of assessment that the instant assessee who has been self-assessed u/s.9 of the OET Act basing on the acceptance of returns, in consequence to receipt of an investigation report from the Vigilance Wing of Cuttack Division bearing No.45/2009 dtd.30.09.2009, the Sales Tax Officer was of the opinion that there was prima-facie evidence of escaped assessment, which required the assessee to be re-assessed. Accordingly, the assessee was issued notice in Form E-32 and in response to notice issued, the assessee appeared and confronted to the allegations framed in the report submitted by Vigilance Wing of Cuttack Division. As the assessee failed to substantiate any stand in defence, the Assessing Officer completed the assessment by raising the impugned demand of Rs.6,857/- including penalty of Rs.4,571/-.

3. Being aggrieved with the order of assessment, the dealer preferred first appeal before the learned First Appellate Authority/Deputy Commissioner of Sales Tax (Appeal), Cuttack-II Range, Cuttack, who in turn, dismissed the appeal and confirmed the order of assessment.

4. Being further aggrieved with the order of the learned FAA/DCST, the dealer-appellant has knocked the door of this Tribunal by way of filing this second appeal with the

contention that, the order passed by the ld.FAA/DCST is unjust, improper and not based on facts and law.

5. No cross objection has been filed by the State-respondent in this case.

6. Despite affixture service of hearing notice on the dealer, for reasons best known to it, he neither engaged a counsel nor anybody on its behalf remained present before this Tribunal on the schedule date of hearing. This Tribunal, therefore, left with no other alternative except to hear the argument of Mr. S.K. Pradhan, learned Addl. Standing Counsel appearing on behalf of the State and to dispose of the matter on ex-parte basis.

7. Perused the assessment order as well as first appeal order, all the materials available in the record, grounds of appeal submitted by the dealer-appellant. During the course of hearing, Mr. Pradhan, Addl. Standing Counsel for the State argued that, the order of the learned FAA appears to be just and proper. There is no reasonable merit in the second appeal filed by the dealer, which is not sustainable in the eyes of law. The action of learned Assessing Authority and learned First Appellate Authority is justified being based on provisions of law. So, the learned Addl. Standing Counsel has prayed to dismiss the appeal filed by the dealer and to confirm the order of the learned FAA.

8. Heard the learned Addl. Standing Counsel, Mr. S.K. Pradhan on behalf of the State in absence of participation of the dealer in hearing of this appeal. Gone through the grounds of appeal, the impugned orders of appeal and assessment and argument of the learned Addl. Standing

Counsel at the time of hearing. The dealer has not adduced any evidence on his behalf nor he has appeared before this Tribunal to substantiate the grounds of appeal filed by him. No reasonable excuse is also explained by the dealer. It is also observed that the dealer neither participated himself nor through his counsel and no documentary evidence was produced before this Tribunal. In view of the facts and circumstances of the case and after analysing the points raised in this appeal, I am of the considered opinion that, the argument advanced by the learned Addl. Standing Counsel is quite genuine and satisfactory. Accordingly, it is ordered.

The appeal filed by the dealer-appellant is dismissed. The order of the learned First Appellate Authority is hereby confirmed.

Dictated and Corrected by me,

Sd/-
(S. Mishra)
2nd Judicial Member

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