

appeals preferred by the dealer-assessee with a direction for reassessment of the tax liability of the dealer-assessee in respect of the assessment periods 1985-86 and 1986-87.

2. As revealed from the case record the first appellate authority disposed of the above stated four appeals preferred by the dealer-assessee against the orders of assessment passed by the Sales Tax Officer, Sambalpur-III Circle, Jharsuguda (in short, 'assessing officer') u/S. 12(5) of the Odisha Sales Tax Act, 1947 (in short, 'OST Act') and u/R. 5 of the Addl. Odisha Sales Tax Rules, 1975 (in short, 'OAST Rules') pertaining to the assessment periods 1985-86 and 1986-87 respectively. During the period of assessment it was found that the dealer-assessee though attracted the liability under the OST Act had not applied for registration and as such had not paid any tax. As a result of this a notice u/S. 12(5) of the OST Act was served on the dealer-contractor and in response to the said notice one Parimal Debanath, a partner of the Company, had appeared before the assessing officer. He was heard and his statement was recorded by the assessing officer. The material facts pertaining to the case were confronted to him and then ultimately the assessing officer held the dealer-assessee liable to pay tax alongwith penalty of `9,86,073.00 under the OST Act and `1,23,383.00 under the OAST Rules for the period 1985-86 and

`1,50,115.00 under the OST Act and `18,764.00 under the OAST Rules for the period 1986-87.

The dealer-assessee then preferred appeals challenging the aforesaid order in respect of both the periods of assessment before the first appellate authority. These four appeals were disposed of together by a common order passed by the first appellate authority. The first appellate authority taking into account the materials on record, the orders of assessment as well as grounds of appeal reviewed the facts and circumstances of those cases and then came to a conclusion that the findings of the assessing officer appeared to be contradictory. So he remitted back the cases to the assessing officer to reassess the tax liability once again in consonance with the books of account and then to come to the conclusion as to whether the work done by the dealer-assessee was under 'works contract' exigible to tax under the OST Act. He (the first appellate authority) also directed the assessing officer to examine the supply of materials and equipment by the employer-contractee in detail to come to a conclusion if there was any escapement of tax on that score. His further instruction to the assessing officer was to make a due probe regarding the arrangement between the employer-contractee and the dealer-appellant by verifying the books of account maintained by the dealer-assessee and also to find

out if there was any transfer of property in goods which were exigible to tax under the OST Act.

3. Being aggrieved with the aforesaid order, the dealer-assessee preferred the abovementioned second appeals before this forum which were heard together as those cases relate to the same dealer and the points to be addressed by this forum are also same in all these appeals. Thus for the sake of convenience those four appeals are being disposed of through this common order.

4. In the instant appeals no cross-objection has been filed by the State-respondent. However, the dealer-appellant remained absent when the appeals were taken up for hearing for which these appeals were heard exparte.

5. In course of hearing learned Standing Counsel (CT) for the State submitted that as revealed from the order passed by the first appellate authority the orders of assessment passed by the assessing officer were set aside and the matters relating to both the assessment periods were sent back to the assessing officer for reassessment. The impugned order passed by the first appellate authority has already been carried out by the assessing officer in the meantime and fresh assessments have already been done. In such circumstances these appeals have certainly become infructuous. While making the aforesaid submission learned Standing Counsel (CT) for the State also filed a

memo alongwith copy of the order which was passed by the Sales Tax Officer, Sambalpur-III Circle, Jharsuguda on 03.08.2005 pertaining to the tax periods 1985-86 and 1986-87.

6. In view of the aforesaid development in the matter and further as the dealer-assessee did not come forward to put forth his case we find that there is absolutely no merit in the present appeals worth consideration.

7. In the result, as discussed above in the foregoing paragraphs, we dismissed the above mentioned four appeals as those are being infructuous.

Dictated & Corrected by me,

Sd/-
(Smt. Suchismita Misra)
Chairman

Sd/-
(Smt. Suchismita Misra)
Chairman

I agree,

Sd/-
(Subrat Mohanty)
1st Judicial Member

I agree,

Sd/-
(Prabhat Ch. Pathy)
Accounts Member-I