

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

S.A.No. 415(V)/2016-17

(From the order of the Id.Addl. CST(Appeal), South Zone,
Berhampur, in Appeal No. AA(VAT) 42/2015-16, dtd.30.01.2017,
modifying the assessment order of the Assessing Authority)

**Present: Sri S. Mohanty
2nd Judicial Member**

**Sri R.K. Pattnaik
Accounts Member-III**

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

.... Appellant

-Versus-

M/s. Gimpex Limited,
Bhubaneswar.

... Respondent

For the Appellant : Mr. S.K. Pradhan, ASC (CT)
For the Respondent : Mr. C.R. Das, Advocate

(Assessment period : 04/2012 to 03/2014)

Date of Hearing: 28.08.2018 Date of Order: 28.08.2018

ORDER

The limited point raised by the State-appellant in this appeal is, the calculation of ITC by the learned First Appellate Authority/Addl. Commissioner of Sales Tax (Appeal), South Zone, Berhampur (in short, FAA/Addl.CST) in the impugned order suffers from arithmetical or typographical mistake. At the threshold, the question of maintainability of the appeal was raised by the Bench and in it's reply, learned Addl. Standing Counsel submitted that, the FAA has put a figure, which is imaginary and not based on record. The FAA has confirmed the order of the Assessing Authority/Deputy Commissioner of Sales Tax, Bhubaneswar-III Circle, Bhubaneswar (in short, AA/DCST). As per the assessment order, the excess ITC as determined was Rs.42,37,675/- whereas, while confirming the order of the AA, the

FAA has determined the refund of ITC at Rs.47,46,163.20. If it is a clerical or typographical mistake, it should have been raised before the same forum invoking provision u/s.81 of the Odisha Value Added Tax Act, 2004. Provision u/s.78 has limited the jurisdiction of this forum within the provision u/s.77(7) of the OVAT Act. So, we are of the consensus view that, no substantial question of law or fact is raised by the appellant in this appeal save and except arithmetical mistake crept in the impugned order passed by the FAA. Be that as it may, we are of the opinion that, the appeal sans merit. However, while dismissing the appeal, liberty is given to the State authority to raise a prayer for correction in arithmetical mistake in calculation of the ITC in the impugned order before the FAA. Accordingly, it is ordered.

The appeal is dismissed whereas State is at liberty to take up the question relating to the arithmetical mistake in the impugned order before the FAA.

Dictated and Corrected by me,

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

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

I agree,

Sd/-
(R.K. Pattnaik)
Accounts Member-III