BEFORE THE JUDICIAL MEMBER-I:
ODISHA SALES TAX TRIBUNAL: CUTTACK.

S.A. No. 190(ET) of 2018
(Arising out of the order of the learned JCCT (Appeal), Sundargarh Territorial Range, Rourkela, in First Appeal Case No. AA V 32 ET of 2014-15, disposed of on dtd.16.08.2018)

P r e s e n t: Shri A.K. Dalbehera, O.S.J.S.
M.A., LL.M.
1st Judicial Member

M/s. Vasundhara Metaliks Pvt. Ltd.,
Podajalanga, Belaimunda,
Dist.- Sundargarh. ... Appellant

- V e r s u s -

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

For the Appellant ... Mr. R.K. Mishra, Advocate
For the Respondent ... Mr. M.S. Raman, A.S.C.

Date of hearing: 12.03.2021 *** Date of order: 07.04.2021

O R D E R

This appeal is directed against the order dtd.16.08.2018 passed by the learned Joint Commissioner CT & GST (Appeal), Sundargarh Range, Rourkela (hereinafter referred to as, the learned JCCT) in First Appeal Case No. AA V 32 ET of 2014-15, wherein he confirmed the assessment made by the learned Sales Tax Officer, Rourkela II Circle, Panposh (hereinafter referred to as, the learned STO) for the assessment period 01.04.2007 to 31.03.2010 u/s.9C of the

Orissa Entry Tax Act, 1999 (hereinafter referred to as, the OET Act).

2. Bereft unnecessary details here in this case, it is apt to mention here that, on the self-same audit visit report the dealer was assessed u/s.42 of the OVAT Act and the assessment under OVAT Act was carried to first appellate authority at the behest of the appellant-dealer and thereafter, before this Tribunal in S.A. No.305(V) of 2018. In the VAT appeal, the dealer has taken the self-same pleas which were considered by this Tribunal and in the result, the Tribunal has allowed the said appeal today. It is noteworthy to mention here that, assessment under OET Act is necessarily consequential to the assessment under OVAT Act. So, once the appeal on assessment under OVAT Act is allowed, the appeal on OET assessment being consequential also needs to be allowed.

3. Avoiding further discussion which is redundant, it is believed that the appeal is to be allowed and the matter has to be remanded to the learned STO for reconsideration and examination as regards the imposition of penalty taken in the grounds of appeal. Hence it is ordered.

4. The appeal stands allowed and the impugned order is hereby set aside. The learned STO is directed to reconsider and examine whether in the peculiar facts and circumstances of the case imposition of penalty u/s.9C(5) of the OET Act is justified and such exercise is to be expedited and completed within a period of three months from the date of receipt of a copy of this order after providing a reasonable opportunity to the appellant-dealer and keeping in view the findings and

observations of the Tribunal. The cross objection is accordingly disposed of.

Dictated & corrected by me,

Sd/-	Sd/-
(A.K. Dalbehera)	(A.K. Dalbehera)
1st Judicial Member	1st Judicial Member