

**BEFORE THE FULL BENCH, ODISHA SALES TAX
TRIBUNAL: CUTTACK**

S.A. No. 73(C) of 2012-13

(Arising out of order of the learned Joint Commissioner of
Sales Tax, Sundargarh Range, Rourkela,
in First Appeal Case No. AA49(RL-I-C) of 2011-2012,
disposed of on dated 21.08.2012)

Present: **Shri A.K. Das, Chairman**
Shri S.K. Rout, 2nd Judicial Member
&
Shri M. Harichandan, Accounts Member-I

M/s. Sree Jagannath Alloys Pvt. Ltd.,
Basanti Colony Road,
Rourkela. ... Appellant

-Versus-

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

For the Appellant : N o n e
For the Respondent : Sri D. Behura, S.C.
Sri S.K. Pradhan, A.S.C.

Date of hearing:23.06.2022 *** Date of order:29.06.2022

ORDER

This is an appeal at the instance of the dealer-
assessee assailing the order dtd.21.08.2012 passed by the
Joint Commissioner of Sales Tax, Sundargarh Range,
Rourkela (hereinafter referred to as, the first appellate
authority) in First Appeal Case No. AA 49(RL-I-C) of 2011-
2012, thereby confirming the order dtd.27.11.2009 passed

by Sales Tax Officer, Rourkela I Circle, Uditnagar (hereinafter referred to as, the assessing authority) raising tax demand of Rs.7,19,984.00 for the assessment period 2004-05 in the assessment framed u/r.12(8) of the Central Sales Tax (Orissa) rules, 1957 (hereinafter referred to as, the CST(O) Rules).

2. The facts of the case in nutshell are that, the dealer-assessee is a SSI unit who carries on business in manufacturing of MS Ingot and effects sale in course of interstate trade and commerce. The original assessment in respect of the dealer-assessee was completed on 31.03.2007 taxing the entire net sale of Rs.14,32,66,800.40 at the concessional rate of 1% on furnishing of 'C' form. Subsequently, in course of scrutiny it was noticed that the declaration in form 'C' bearing No.MAH-01/881701 issued by the outside State purchasing dealer i.e. M/s. Harjit Steel Industries, Nagpur was found to be defective and accordingly notice was issued u/r.10 of the CST(O) Rules for reassessment of the dealer-assessee. Pursuant to such notice the dealer re-submitted the 'C' form in question with letter from M/s. Harjit Steel Industries, Nagpur, wherein it was mentioned that 'c' form in question were genuine but the assessing authority was not inclined to accept the letter of M/s. Harjit Steel Industries, Nagpur and taxed the amount covered under the defective 'C' form @ 8% and raised tax demand of Rs.7,19,984.00.

2(a) The dealer-assessee challenging the demand raised by the assessing authority preferred appeal before the before the first appellate authority who also confirmed the order of assessment and demand raised by the learned STO, Rourkela I Circle, Uditnagar.

2(b) The dealer being further aggrieved with the dismissal of its appeal by the first appellate authority thereby confirming the order of assessment preferred the present second appeal.

3. When the appeal was called on for hearing, none appeared on behalf of the dealer-assessee despite due service of notice, so this forum was left with no other option except hearing the appeal exparte as the appeal relates to the period 2012-13.

4. We have heard the learned Standing Counsel for the Revenue, gone through the grounds of appeal raised in the memorandum of appeal vis-a-vis the impugned orders of the forums below and the materials on record. The only ground on which the impugned orders of the forums below are challenged is that, the authorities below are not justified in rejecting the 'C' form No.MAH-01/881701 for Rs.1,02,85,492.00 issued by outside State purchaser i.e. M/s. Harjit Steel Industries, Nagpur on the ground that the same was defective. The learned Standing Counsel for the Revenue supporting the impugned orders of the forums below vehemently urged that the 'C' form furnished by the dealer-assessee clearly indicate that it

was a tampered document and such form was utilised to evade payment of tax. When the 'C' form furnished by the dealer was defective the burden was on it to satisfy the authority that the same was genuine and it was entitled to concessional rate of tax. The forums below did not commit any illegality in rejecting the 'C' form submitted by the dealer-assessee as it (dealer) failed to furnish any certificate from the Sales Tax Officer who had issued the 'C' form. He submits that the appeal filed by the dealer-assessee is devoid of any merit and needs to be rejected.

5. The impugned order of the assessing authority, reveals that the 'C' form furnished by the dealer-assessee was in fact issued in favour of M/s. Maa Laxmi Steels Pvt. Ltd. for Rs.20,00,045.00 by M/s. Harjit Steel Industries, Nagpur who purchased the goods from the present dealer and such 'C' form was subsequently issued in favour of the dealer erasing the name of M/s. Maa Laxmi Steels Pvt. Ltd. The assessing authority also found that a separate sheet of paper containing details of sale was pasted on the backside of the form and the signature on both sides of the form did not tally. In view of such discrepancies found in the 'C' form furnished by the dealer-assessee, the same was rejected by the assessing authority which was also confirmed by the first appellate authority.

6. On going through the impugned orders of the forums below and the materials on record, we are also of the view that the dealer-assessee having claimed

concessional rate of tax on furnishing 'C' form for Rs.1,02,85,492.00, the burden was on it to prove the genuineness of the same. The 'C' form having been subsequently tampered incorporating the name of the present dealer in place of M/s. Maa Laxmi Steels Pvt. Ltd. in whose favour 'C' form was originally issued, the forums below were fully justified in rejecting such 'C' form. The genuineness of the 'C' form cannot be ascertained from the letter issued by M/s. Harjit Steel Industries, Nagpur. The dealer-assessee in order to prove the genuineness of the 'C' form should have obtained a certificate from M/s. Maa Laxmi Steels Pvt. Ltd. in whose favour the 'C' form was issued or it could have obtained a certificate from the concerned Sales Tax Officer who had issued the 'C' form to substantiate its claim that the same had been issued against transaction of Rs.1,02,85,492.00. The grounds on which the defective 'C' form submitted by the dealer was rejected is just and proper and there is no illegality and impropriety in such finding of the forums below warranting interference of this Tribunal. The dealer in spite of availing sufficient opportunity could not replace the 'C' forms for which we do not feel it just and proper to give another opportunity to it as urged in ground No.11 of memorandum of appeal to replace such 'C' form. The learned Counsel for the dealer-assessee has referred to numerous decisions in the grounds of appeal raised in the memorandum of appeal which with due humility in our

view were rendered in different facts and circumstances and have no application to the case in hand.

7. In view of the discussion made above, the second appeal filed by the dealer-assessee stands dismissed and the impugned order of the forums below stands confirmed.

Dictated & Corrected by me

Sd/-
(A.K. Das)
Chairman

Sd/-
(A.K. Das)
Chairman

I agree,

Sd/-
(S.K. Rout)
2nd Judicial Member

I agree,

Sd/-
(M. Harichandan)
Accounts Member-I