BEFORE THE DIVISION BENCH-I, ODISHA SALES TAX TRIBUNAL: KATAKA

S.A.No. 130(C) of 2013-14

(Arising out of order of the learned Joint Commissioner of Sales Tax, Jajpur Range, Jajpur Road, in Appeal No. AA-78 KJ (C) 12-13, disposed of on 24.09.2013)

Present: **Shri G. Sharma** **Chairman** **&** **Shri S.S.Roy** **Accounts Member**

M/s. Maa Santoshi Industries,
At/P.O. Khuntakata, Suakati,
Dist. Kendujhar … Appellant

-Versus-

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

For the Appellant : Mr. B.N. Mohanty, Advocate
For the Respondent : Mr. N.K. Rout, Addl. S.C. (CT)

Date of hearing: 19.08.2026 *** Date of order: 10.09.2026

ORDER

Challenging the legality and propriety of order dated 24.09.2013 passed by the Joint Commissioner of Sales Tax, Jajpur Range, Jajpur Road (hereinafter referred to as 'First Appellate Authority') in Appeal No. AA-78 KJ (C) 12-13, this appeal has been filed by M/s. Maa Santoshi Industries (hereinafter referred to as 'Dealer').

2. The brief facts relevant for disposal of this appeal run thus–

In the instant case, the Dealer undertakes processing of iron

ore lumps in a crusher unit to manufacture size iron ore and iron ore fines. The Dealer effects purchase of iron ore lumps inside the State and after crushing, sells the same both inside and outside the State besides export sale. On the basis of an Audit Visit Report (AVR), the Asst. Commissioner of Sales Tax, Keonjhar Circle, Keonjhar (in short, 'Assessing Authority') initiated assessment proceeding u/r. 12(3) of the Central Sales Tax (Orissa) Rules, 1957 (hereinafter referred to as 'CST (O) Rules') against the Dealer for the assessment period 01.04.2008 to 31.03.2010. In course of verification, the Assessing Authority found that the Dealer failed to submit required statutory declarations in Form 'C' for an amount of ₹1,17,12,749/- for the claim of concessional CST sale and also supported documents against Form 'H' for the claim of export sales, accordingly, the Assessing Authority completed the assessment and raised tax demand of ₹14,37,423/- including two times of penalty. Being aggrieved with the order of assessment, the Dealer preferred first appeal before the learned First Appellate Authority. The First Appellate Authority after considering some declarations in Form 'C' filed at his level, partly allowed the appeal and reduced the demand to ₹7,66,049/- including penalty, hence this appeal.

3. The State filed cross-objection.

4. In course of the hearing, the learned Counsel for the Dealer assailed the orders of the fora below to be unlawful on the sole ground that mere non-submission of wanting statutory declarations forms before the Assessing Authority or First Appellate Authority does not attract imposition of penalty as per settled law. Accordingly, learned Counsel prayed for deletion of penalty in the interest of justice.

5. Per contra, the learned Addl. Standing Counsel (CT) appearing for the State in terms of cross objection submitted that since the Dealer failed to submit the required declaration forms despite

sufficient opportunities, the fora below though assessed the tax liability of the Dealer including penalty, but did not levy interest thereon as per statutory provision. Relying on the decisions of the Hon'ble Apex Court in the case of ***Royal Boot House v. State of J&K and others***, **(1984) 56 STC 212 (SC);** and ***Indodan Industries Ltd. v. State of UP & Others,* [2010] 27 VST 1 (SC),** he argued that the impugned order is liable to be modified to the extent of levy of interest.

6. Admittedly, in the present case, the Dealer could not able to produce wanting statutory declarations in Form-C and H towards the claim of inter-State sales as well as export sales respectively before the Assessing Authority and also First Appellate Authority. As a result, the authorities below levied penalty u/r. 12(3)(g) of the CST (O) Rules for the period under assessment and the same has been challenged as illegal and unlawful by the Dealer. Even before this forum, the Dealer is unable to furnish any such wanting declaration forms. In this context, we are alive of the legal principle enunciated by the Hon'ble High Court of Orissa in the case of ***M/s. General Traders, Berhampur v. State of Odisha*** (**STREV No. 64 of 2017**, dated 08.12.2022), wherein the Hon'ble Court considering the Circular dated 20.04.2015 issued by the Commissioner of Commercial Taxes, Odisha have held that –

> 7.4. In view of the aforesaid Circular issued by the Commissioner of Commercial Taxes, instructing not to enforce penalty under Rule 12(3)(g) in the circumstance where there was non-filing of declaration forms in respect of *bona fide* transactions, particularly in absence of substantive provision for such imposition under Section 9(2) of the CST Act, this Court is of the considered opinion that the First Appellate authority was justified in deleting penalty as imposed by the Assessing Authority while finalizing Audit Assessment."

In view of such settled position of law, we are of the humble opinion that imposition of penalty u/r. 12(3)(g) of the CST (O) Rules by the fora below for non-furnishing of statutory declarations is liable to be

deleted in the ends of justice.

7. As regards to the issue raised by the State on levy of interest for the differential amount of tax accrued due to non-submission of declaration form, the statutory provision under Rule 8 of the CST (O) Rules provides for levy of interest if a registered dealer fails without sufficient cause to pay the amount of tax as due as per the return furnished by it.

In the case of ***Royal Boot House*** cited supra, the Hon'ble Apex Court held that –

> " ... In the present case it is the admitted position that tax due on the basis of quarterly return was not paid as required by sub-section (3) and the petitioner was, therefore, not (sic) liable to pay interest on the amount of tax in respect of which default was committed at the rate prescribed in sub-section (2) from the last date prescribed for filing quarterly return under the Act up to the date of payment. The High Court was, therefore, right on the facts of the present case in holding that the petitioner was liable to pay interest on the amount of tax in respect of which default was committed..."

Also in the case of ***Indodan Industries Ltd.*** cited supra, the Hon'ble Apex Court have ruled that interest is compensatory in nature in the sense that when the assessee pays tax after it becomes due, the presumption is that the Department has lost the revenue during the interregnum period and that the assessee enjoys that amount during the said period and in order to recover the lost revenue, the levy of interest is contemplated.

Keeping in view the settled position of law, this forum is of the humble opinion that both the Assessing Authority and First Appellate Authority have not discharged their statutory duty in levying interest for the differential amount of tax accrued due to non-submission of declaration forms by the Dealer for the period under assessment. Therefore, the submission of the State on this score merits consideration,

accordingly the matter needs to be remanded to the Assessing Authority for levy of interest as per law by deleting penalty.

8. In the result, the appeal filed by the Dealer stands allowed and the order of the First Appellate Authority is hereby set aside. The matter is remitted back to the Assessing Authority for recomputation of tax liability by deleting penalty and imposing interest as per law keeping in view the observations made supra within a period of three months from the date of receipt of this order. Cross-objection is disposed of accordingly.

Dictated & Corrected by me

Sd/-
(G. Sharma)
Chairman

Sd/-
(G. Sharma)
Chairman

I agree,

Sd/-
(S.S. Roy)
Accounts Member