



the Orissa Sales Tax Act, 1947 (hereinafter referred to as, OST Act).

2. The brief facts of the case are that, the respondent-dealer carried on business in manufacturing and sale of steel furniture and fibre plastic door as well as trading in laboratory equipment. On the basis of fraud case report submitted by the Circle IST against the respondent-dealer regarding purchase suppression of Rs.47,664.00, the learned STO initiated assessment, rejected the books of account and completed the assessment to the best of judgment by enhancing the turnover by Rs.4,76,640.00 i.e. ten times of the suppressed turnover. The learned STO determined the GTO at Rs.18,96,815.00 and allowing deduction of Rs.1,17,071.00 towards collection of tax, deduction of Rs.15,755.00 was allowed towards first point tax goods and further deduction of Rs.1,700.00 was allowed towards job works, thereby the TTO stood at Rs.17,62,289.00. Tax was calculated at Rs.14,671.00 and the respondent-dealer was liable to pay surcharge @ 10% on tax due. So, the total tax with surcharge came to Rs.1,61,387.12. The respondent-dealer having paid Rs.1,28,099.00 was required to pay Rs.49,288.00.

3. Being aggrieved by the order of the learned STO, the respondent-dealer preferred an appeal before the learned JCST who reduced the demand to Rs.5,016.00. Being aggrieved with the order of the learned JCST, the Revenue as appellant has preferred the second appeal.

4. The respondent-dealer has filed cross objection supporting the order of the learned JCST.

5. The Revenue has come up with the second appeal on the grounds that the order passed by the learned JCST appears to be unjust and improper; that regarding purchase of rejected plywood, the respondent-dealer had produced a self made purchase voucher pertaining to M/s. Sharma Decorators which was disallowed by the reporting authority as well as assessing authority as observed by the order of the learned JCST but in the assessment order this fact has not been depicted at any point which shows that the respondent-dealer is taking different contention at different fora which indicates that it was an afterthought activity and the document produced was the post-item document and that the order of the learned JCST may be modified to that extent and accordingly revised demand may be made.

6. Heard the learned Addl. Standing Counsel for the Revenue and the learned Counsel for the respondent-dealer. Perused the materials available on record including the orders of both the fora below. I also perused the grounds taken in the appeal and the plea taken in the cross objection. The Revenue during the course of hearing pressed more for ground No.2 but on perusal of the impugned order it is seen that the learned JCST has given reason for the same. As per the impugned order the bills were there which the Circle IST had noted down. The respondent-dealer had preserved the same to be accounted for. Since the bills were relating to recent dates i.e. 29.10.2004 and 11.11.2004 and the date of inspection being 27.11.2004, the purchase entry of bills were never too late and the respondent-dealer was paying tax on sale of goods under the OST Act, after manufacturing of the items. So to

this effect the appeal was allowed. It is also reflected in the impugned order that regarding the proof of purchase of rejected plywood the IST had asked for purchase invoice. The respondent-dealer had produced a self made purchase voucher dtd.27.10.2004 obtained from M/s. Sharma Decorator and Caterer for Rs.10,000.00 depicting the rejected materials sold by the decorator. It was found by the learned JCST that the respondent-dealer had declared in his statement before the IST on 27.11.2004 as “however, I have taken into account”. As the respondent-dealer had accounted in some form or other the learned JCST rightly opined that it could not be held as a suppression. Hence to that effect the appeal was allowed. Accordingly, the learned JCST rightly determined the suppressed amount and computed the tax accordingly. I do not find any infirmity in the impugned order. The learned Addl. Standing Counsel could not give any plausible reason in support of the grounds of appeal to stand. Hence, it is ordered.

7. The appeal stands dismissed being devoid of any merit and the impugned order is hereby confirmed. The cross objection is accordingly disposed of.

Dictated & corrected by me,

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

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