BEFORE THE CHAIRMAN, ODISHA SALES TAX TRIBUNAL: KATAKA

S.A.No.13(C) of 2022

(Arising out of order of the learned Joint Commissioner of CT & GST (Appeal), Sundargarh Territorial Range, Rourkela, in Appeal No.AA 14 (RL-I-C) of 2020-21, disposed of on 31.01.2022)

Present: **Shri G. Sharma, Chairman**

M/s. Primetals Technologies India
Pvt. Limited, Qr.No.M/54,
Basanti Colony, Raurkela,
Dist. Sundaragada … Appellant

-Versus-

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

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

Date of hearing: 21.09.2026 *** Date of order: 13.10.2026

ORDER

Challenging the legality and propriety of order dated 31.01.2022 passed by the Joint Commissioner of CT & GST (Appeal), Sundargarh Territorial Range, Rourkela (hereinafter referred to as 'First Appellate Authority') in Appeal No.AA 14 (RL-I-C) of 2020-21, this appeal has been filed by M/s. Primetals Technologies India Pvt. Ltd. (hereinafter referred to as 'Dealer').

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

The Dealer, in the present case, is engaged in execution of trading of all kinds of motor other than electric motor, anchors, ball

bearings, ceramic articles, chain made of iron or steels, computer software, computer spare parts, peripherals and accessories, machinery, parts and spare parts of all kind of machine etc. The Dealer has effected sales in course of inter-State trade and commerce. Provisional assessment was initiated by the Sales Tax Officer, Rourkela-I Circle, Uditnagar (in short, 'Assessing Authority') against the Dealer U/r.12(1) of the Central Sales Tax (Orissa) Rules, 1957 (hereinafter referred to as 'CST(O) Rules') for the assessment period 01.04.2016 to 31.03.2017. On scrutiny of the returns filed by the Dealer, the Assessing Authority found that the Dealer has claimed exempted sale of goods valued ₹10,79,31,845/- u/s.6(2) of the CST Act, but failed to furnish the wanting declarations in Form 'C' and corresponding 'E-1' form for ₹2,68,92,633/- out of total claim, thus the Assessing Authority taxed the said turnover at appropriate rate, accordingly, raised a tax demand of ₹19,09,377/- including interest for the period under assessment. Being aggrieved with the order of assessment, the Dealer preferred first appeal before the learned First Appellate Authority. The First Appellate Authority after considering submission of Form 'C' worth ₹98,38,980/- without supporting 'E-1' form at his level, recomputed the tax liability and reduced the tax demand to ₹14,79,650/- including interest, hence this appeal.

3. In course of hearing, the learned Counsel for the Dealer fairly submitted that the Dealer despite all efforts unable to collect and produce the wanting 'C' and 'E-1' forms and the same is beyond the control of the Dealer. He further argued that imposition of interest on the tax as demanded by the Assessing Authority as well as by the First Appellate Authority is illegal and unlawful. Supporting his argument, learned Counsel for the Dealer placed reliance on the decisions of the Hon'ble Apex Court in ***J.K. Synthetics Ltd. v. Commercial Taxes Officer,*** **(1994)**

4 SCC 276, ***India Carbon Ltd. v. State of Assam*** **(1997) 6 SCC 479;** and ***Khemka & Co. (Agencies) Pvt. Ltd. v. State of Maharashtra*** **(1975) 2 SCC 22** and argued that the impugned order passed by the First Appellate Authority on this score needs to be set-aside in the interest of justice.

4. Per contra, learned Addl. Standing Counsel (CT) appearing for the State submitted that since the Dealer failed to submit the required declaration forms despite sufficient opportunities, the fora below have rightly assessed the Dealer by imposing tax and interest as per statutory provision. Relying on the decisions of Hon'ble Apex Court in ***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),** learned Addl. Standing Counsel (CT) for the State pleaded that the appeal has no merit and liable to be dismissed.

5. Admittedly, in the present case, the Dealer furnished declaration Form 'C' for ₹98,38,980/- before the First Appellate Authority, but failed to furnish corresponding 'E-1' forms, so the same was disallowed and taxed @2%. That apart, for the balance amount of ₹1,70,47,861/- as the Dealer could not able to produce the required declarations in Form 'C' and 'E-1' for the claim of 6(2) sales before the First Appellate Authority for which, the First Appellate Authority computed the tax liability and reduced the tax demand to ₹14,79,650/- along with interest.

As regards to the issue raised by the Dealer 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 v. State of J&K and others***, **(1984) 56 STC 212 (SC)**, 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. v. State of UP & Others,*** **[2010] 27 VST 1 (SC)**, 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 the First Appellate Authority has rightly discharged his 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 Dealer on this score merits no consideration,

8. In the result, the appeal filed by the Dealer stands dismissed and the order of the First Appellate Authority reducing the assessment order is hereby confirmed.

Dictated & Corrected by me

Sd/-
(G. Sharma)
Chairman

Sd/-
(G. Sharma)
Chairman