

1957 for the period dtd.01.04.2005 to dtd.31.03.2016 raising a demand of Rs.3,74,286/-.

2. The case at hand is that, the dealer-appellant in the instant case had filed the E-CST return in Form-I under Rule 12(1)(b) of the CST(O) Rules, 1957 for the tax periods from 01.04.2015 to 31.03.2016 and has effected stock transfer and inter-state sale of his business goods. The dealer has effected inter-state sale u/s.3(a) of the CST Act worth of Rs.2,03,298/- and claimed concessional rate of tax @2% against declaration Form 'C' on NTO of Rs.1,99,205/- on which CST collected of Rs.3984/-. At assessment stage there is production of supporting declaration Form 'C' in original at Rs.1,39,835/- against inter-state sale u/s.3(a) of the CST Act and failure of submission of balance Form 'C' of Rs.63,463/- towards claim of concessional rate u/s.3(a) of the CST Act. Likewise the dealer had effected consignment of sale u/s.6(a) of the CST(O) Rules against declaration Form 'F' at Rs.1,10,30,382/- during the period in support of which there is production of supporting declaration Form 'F' in original worth of Rs.89,96,375/- towards claim of exemption u/s.6A of the CST Act by leaving balance amount of Form 'F' worth of Rs.20,34,007/-. Accordingly, the LAO determined the GTO and NTO at Rs.25,20,173/- and Rs.22,33,319/- respectively and calculated CST @2% on produced 'C' Form value of Rs.1,37,093/- (NTO), @14.5% on non-production of "C" Form value of Rs.62,218.62 (NTO) and @13.5% on wanting 'F' Form value of Rs.20,34,007/-. There is determination of total CST due of Rs.2,86,299/- and after adjustment of tax paid amount of Rs.4076/- at the time of filing of

return, balance tax payable is derived at Rs.2,82,223/-. There is levy of interest of Rs.92,063/- due to non-submission of declaration forms within the prescribed time and accordingly total demand raised of Rs.3,74,286/-.

3. Being aggrieved with such order of assessment, the dealer preferred first appeal before the learned JCST (Appeal) CT & GST Territorial Range, Bhubaneswar, who reduced the assessment to Rs.2,61,057/- from Rs.3,74,286/-.

4. Being further aggrieved with the order of the learned FAA, the present second appeal is preferred by the dealer-appellant.

5. Cross objection has been filed by the State-respondent in this case.

6. Heard the contention and submission of both the parties in this regard. Perused the grounds of appeal vis-à-vis orders of the fora below. After have a glance, it becomes clear that, the dealer failed to produce 'C' forms worth Rs.60,772/- and Rs.3534/- relating to the tax period Sept, 2015 and Feb, 2016 respectively at assessment stage for which there is determination of differential tax @11.5% at Rs.6,989/- and Rs.406/- on which interest levied on Rs.2178/- and Rs.102/- respectively due to non-submission of wanting 'C' forms till the date of assessment order. Furthermore, it reveals that, during the hearing of first appeal, the dealer also failed to produce the same amount of 'C' forms for the tax period Sept, 2015 and Feb, 2016 even if sufficient opportunity were given to him. So, the differential tax due along

with interest was calculated as given below due to delay in furnishing in declaration Form 'C'.

Tax and Interest Calculation on Pending 'C' forms at Appeal Stage				
Tax Period	Amount	Tax@11.5%	No. of Days Delay	Interest @1% for Days Delay
Sept, 2015	60772	6989	1007	2346
Feb, 2016	3534	406	855	116
Total	64306	7395	1862	

So, the learned first appellate authority determined the total differential tax due of Rs.7,395/- and interest of Rs.2,462/- thereon due to failure of non-submission of the above said 'C' forms.

7. With regard to the levy of tax and interest on production of valid 'F' forms, it was ascertained from assessment record that, as against wanting 'F' forms amounting to Rs.20,34,007/-, the learned AO calculated the total tax liability of Rs.2,75,090/- @13.5% / 14.5% at State rate and levied interest of Rs.89,783/- in total on the basis of number of days delay with relevant tax periods. It is also clear from the order of the learned FAA that, during the stage of hearing of first appeal, there were submission of two numbers of declaration Forms 'F' in original worth of Rs.6,55,915/- on behalf of the dealer, which were verified from TINXYS and found to be genuine for which those were accepted. There were wanting 'F' form amounting to

Rs.13,78,092/- till the date of hearing of first appeal even if sufficient opportunity were given to the appellant for production of wanting 'F' form for which the tax liability and interest was determined calculating the exact days of delay in furnishing the balance number of 'F' forms. The calculated tax liability and interest as done by the learned FAA is given below :

Tax and Interest Calculation on Pending 'F' forms at Appeal Stage				
Tax Period	Amount	Tax@13.5/14.5%	No. of Days Delay	Interest @1% for Days Delay
May, 2015	5670	765	1192	288
June, 2015	995119	134341	1099	49214
Oct, 2015	151214	20414	976	6641
Oct, 2015	168354	22728	976	7394
Dec, 2015	7735	1044	915	318
Jan, 2016	50000	7250	884	2136
TOTAL	1378092	186542.42	5979	65992

So, the table above makes it clear that the dealer is liable to pay tax of Rs.1,86,542/- and interest of Rs.65,992/- on submission of the above said wanting 'F' form. So tax liability was determined at Rs.1,93,937/- and interest of Rs.68,454/- due to wanting declaration forms 'C' and 'F' and tax of Rs.2742/- on 'C' form production value till hearing of first appeal. Accordingly, tax value was determined at Rs.2,65,133/- including interest under

CST Act and after adjustment of tax paid amount of Rs.4076/- at the time of filing of return by the dealer, the dealer-appellant was liable to pay balance tax due of Rs.2,61,057/- including interest u/r.8(1) of the CST(O) Rules, 1957. It was adjudicated upon by the learned FAA that the assessment order passed by the LAO was just and proper towards calculation of tax under CST Act due to non-submission of 'C' and 'F' declaration forms in support of inter-state sale and consignment sale. So, when two numbers of declaration form in original worth of Rs.6,55,915/- was submitted before the learned FAA for which the tax liability including interest was re-determined as mentioned above. In view of such, the learned FAA reduced the assessment figure to Rs.2,61,057/- from Rs.3,74,286/- as assessed by the LAO. Even if at the time of hearing of second appeal before this forum, the dealer also could not be able to file declaration forms. So, in view of such, the analysis made by the learned FAA needs no interference.

8. In the result, the appeal filed by the dealer-appellant is dismissed and the order of the learned FAA is hereby confirmed. Cross objection filed by the State-respondent is disposed of accordingly.

Dictated and Corrected by me,

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

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

