BEFORE THE CHAIRMAN, ODISHA SALES TAX TRIBUNAL: KATAKA

S.A. No. 1(C) of 2023

(Arising out of order of the learned Addl. Commissioner of Sales Tax (Appeal), Rourkela, in Appeal No. AA88 (RL-II-C) of 2018-19, disposed of on 28.10.2022)

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

M/s. Siemens Limited,
M/54, Basanti Colony,
Rourkela, 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
Mr. K.K. Panda, Advocate
For the Respondent : Mr. N.K. Rout, Addl. S.C. (CT)

Date of hearing: 06.08.2026 *** Date of order : 03.09.2026

O R D E R

Challenging the legality and propriety of order dated 28.10.2022 passed by the learned Addl. Commissioner of Sales Tax (Appeal), Rourkela (hereinafter referred to as 'First Appellate Authority') in Appeal No. AA88 (RL-II-C) of 2018-19, this appeal has been filed by M/s. Siemens Limitted (hereinafter referred to as 'Dealer').

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

The Dealer, in the instant case, carries on business in trading of medical equipments, transformer and other electrical goods, besides

execution of works contract. The Dealer has effected sales in course of inter-State trade and commerce and transit sale u/s.6(2) of the Central Sales Tax Act, 1956 (hereinafter referred to as 'CST Act') as well as branch transfer of goods u/s.6A(1) of the CST Act. Basing on the Notification vide No.3810/CT dt.03.03.2018 of the CCT, Odisha, the learned Joint Commissioner of Sales Tax, CT & GST Circle, Rourkela-II, Panposh (in short, 'Assessing Authority') initiated the assessment U/r.12(3) of the Central Sales Tax (Orissa) Rules, 1957 (in short, 'CST(O) Rules') against the Dealer for the period from 01.04.2016 to 30.06.2017. In course of assessment, the Assessing Authority found that the Dealer has already been assessed u/r.12(1) of the CST(O) Rules for the tax period 01.04.2015 to 31.03.2017 on dt.12.04.2018, accordingly, assessment for the period 01.04.2017 to 30.06.2017 was completed. On verification of books of account and relevant statutory forms, the Assessing Authority found that the Dealer failed to submit the required statutory declarations in Form 'C' of ₹15,28,225/- against concessional inter-State sale, 'E-1' towards the claim of exempted sales for an amount of ₹62,24,170/- and Form 'F' to the tune of ₹31,10,219/- towards branch transfer u/s.6A of the CST Act and levied tax at the appropriate rate, thereby, resulted in tax demand of ₹58,16,939/- including interest for the impugned period. Being aggrieved with the order of assessment, the Dealer preferred first appeal before the First Appellate Authority. The First Appellate Authority accepted some declarations in Form 'C', 'E-1' filed at his level and reduced the demand to ₹16,56,128/- including interest, hence this appeal.

3. Learned Counsel appearing on behalf of the Dealer submitted that due opportunity was not allowed by the authorities below to submit the required declarations in Form 'C', 'E-1' and 'F'. Before this forum,

he furnished one declaration 'E-1' form for an amount of ₹67,739/- and one 'F' form worth ₹16,52,669/-, accordingly, prayed for acceptance of the same in the ends of justice. The learned Counsel argued that the claim of exempted sale of ₹1,98,61,300/- disallowed by the First Appellate Authority on the ground that the Sl.No. of the form was hand written as '0963', is wholly unjustified without verifying the authenticity of the form from the issuing authority. Further, he argued that interest of ₹1,66,070/- levied on the Dealer is illegal, unwarranted and beyond the provisions of law.

4. Per contra, learned Addl. Standing Counsel (CT) appearing for the State submitted that since the Dealer failed to submit the statutory declaration forms despite sufficient opportunities, the authorities below have rightly assessed the Dealer by demanding such tax and interest. He also raised objection for acceptance of 'E-1' form and 'F' form produced before this forum on the ground of delay.

5. Admittedly, in the present case, the Dealer could not able to produce the required declarations in Form 'C', Form 'E-1' and 'F' for the claim of concessional CST sales, exempted sales and branch transfer respectively before the Assessing Authority and First Appellate Authority, as a result, the authorities below computed tax liability of the Dealer including interest for the period under assessment.

6. Notably, the statutory declaration forms are supplied to the seller by the dealer outside the State, which is beyond the control of the seller. The Dealer filed one wanting 'E-1' form of ₹67,739/- for the claim of exempted sale and one 'F' form of ₹16,52,669/- towards branch transfer for the period under appeal before this Tribunal, and if the said statutory forms are not accepted, the Dealer shall be prejudiced. Therefore, this Tribunal feels it proper to remand the matter

to the Assessing Authority with a direction to the Dealer to furnish the required ‘E-1’ and ‘F’ form in original before the Assessing Authority as the original forms have already been returned to the Dealer keeping Xerox copies thereof in the record. The Assessing Authority shall verify such statutory forms and accept the same, if found to be proper, and recompute the tax liability of the Dealer as per law.

Furthermore, the First Appellate Authority disallowed the claim of exempted sale of ₹1,98,61,300/- holding that the Sl.No. of ‘E-1’ form was hand written, which in my opinion is unlawful as the First Appellate Authority could have verified the authenticity of the ‘E-1’ form issued by the authority of Telengana State. Thus, the disputed ‘E-1’ form requires further examination by the Assessing Authority on remand and acceptance of the same, if found in order.

7. 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 for the period under assessment as per law keeping in view the observations made supra within a period of three months from the date of receipt of this order.

Dictated & Corrected by me

Sd/-
(G. Sharma)
Chairman

Sd/-
(G. Sharma)
Chairman