

**BEFORE THE SINGLE BENCH: ODISHA SALES TAX TRIBUNAL,
CUTTACK.
S.A.No. 84(C)/2019**

(Arising out of order of the Id.JCST (Appeal), Territorial Range,
Cuttack-II, Cuttack, in First Appeal Case No. AA-
107221722000098/CST/BH-IV/17-18,
disposed of on dtd.29.08.2019)

**Present: Sri S.K. Rout
2nd Judicial Member**

M/s. GE T&D India Limited,
Formerly known as M/s. Alstom T&D India Limited,
Plot No.M-6, 2nd Floor, Samant Vihar,
Bhubaneswar. Appellant

-Versus-

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

For the Appellant : Mr. R.C. Samantaray, Advocate
For the Respondent : Mr. D. Behura, S.C. & S.K. Pradhan, A.S.C.

(Assessment Period : 01.10.2013 to 31.12.2013)

Date of Hearing: 22.04.2022 *** Date of Order: 07.05.2022

ORDER

Challenge in this appeal is the order dtd.29.08.2019 passed by the learned First Appellate Authority/Joint Commissioner of Sales Tax, (Appeal), Territorial Range, Cuttack-II, Cuttack (in short, FAA/JCST) passed in First Appeal Case No. AA-107221722000098/CST/BH-IV/17-18 thereby confirming the order of assessment dtd.18.02.2017 passed by the learned Assessing Authority/ Sales Tax Officer, Bhubaneswar-IV Circle, Bhubaneswar (in short, AA/STO) u/r.12(3) of the CST (O) Rules,

1957 for the tax period 01.10.2013 to 31.12.2013 raising demand of Rs.6,43,994/- for failure on the part of the dealer-appellant to furnish statutory declaration Form 'E-1' in support of the exemption in the returns u/s.6(2) of the CST Act.

2. The case at hand is that, the dealer-appellant M/s. Alstom T & D India Ltd. bearing TIN-21751101991 is a Public Limited Company which is engaged in trading of electrical and electronics goods on wholesale/retail basis and execution of works contract in various states. On scrutiny of the returns filed in Form-I for the tax period from 01.10.2013 to 31.12.2013 under the CST Act, the Sales Tax Officer (Assessing Officer) found that the appellant-dealer has not furnished declaration forms in support of exemption/deduction and concession claimed in the returns. Consequently, the Assessing Officer initiated assessment proceeding under Rule 12(1) of CST(O) Rules and served a notice in Form IIB calling upon the dealer to furnish the statutory declaration forms. In response to the notice, the dealer company appeared and furnished declaration Form 'C' & 'E-1' to substantiate its claim of exemption. Hence the Assessing Officer completed the assessment basing on the information available in VATIS and the declaration forms submitted by the dealer. On perusal of the periodical returns filed by the instant dealer under CST Act for the above period, the Assessing Officer found that the dealer company has effected inter-state sales amounting to Rs.3,43,74,284/- and claimed exemption u/s.6(2) of the CST Act towards sale in transit. At the time of assessment, the dealer could be able to produce declaration Form 'C' of Rs.3,43,74,284/- &

'E-1' of Rs.21,74,600/- in support of his claim of exemption which were verified and accepted by the Assessing Officer. But the dealer could not produce the balance declaration form 'E-1' of Rs.3,21,99,684/- which was disallowed and taxed @2% treating the sale as inter-state sales on submission of corresponding declaration form 'C'. The Assessing Officer completed the assessment and levied tax amounting to Rs.6,43,994/- due to non-submission of statutory declaration Form 'E-1' in support of the claim of exemption which is under challenge in this appeal.

3. Being aggrieved with the assessment order of the learned AO, the dealer preferred First Appeal before the learned FAA/JCST, wherein the order of assessment was confirmed.

4. Further being aggrieved with the order of the learned FAA, the dealer preferred the present second appeal before this Tribunal.

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

6. Heard the contentions and submissions of both the parties in this regard. Learned Standing Counsel for the Revenue vehemently argued that no interest is levied in the instant case. So, the case may be remanded to the learned AO for levy of interest. Perused the case record, where from it becomes clear that, in the instant case, no interest is levied. If that is so, interest is to be levied which is mandate of law.

7. In the result, the case is remanded back to the learned AO for levy of interest by setting aside the order of the

learned FAA to that extent. Cross objection is disposed of accordingly.

Dictated and Corrected by me,

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

Sd/-
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