



Central Sales Tax (Odisha) Rules, 1957 (in short, 'CST (O) Rules') for the tax period 2005-06.

2. The facts as revealed from the case record are as follows :

The dealer-assessee M/s. Sri Balaji Metallica (P) Ltd. carries on the business of manufacture and sale of sponge iron in course of its inter-State trade and commerce. On receipt of the notice from the assessing officer it appeared before him and produced its books of account for his verification. The assessing officer on examination of its books of account could find that the dealer had effected sale of finished goods worth ₹2,49,30,627.00 including tax during the relevant period and out of this it had made export sales worth ₹5,86,830.00 against Form 'H'. Similarly out of the above mentioned amount it made sales worth ₹1,43,36,311.00 against Form 'F' and sales worth ₹96,22,584.00 against declaration in Form 'C'. It had collected sales tax of ₹3,84,902.00 during the period under assessment. However, it failed to produce the required 'C' forms, 'H' forms as well as 'F' forms in respect of certain transactions before the assessing officer during the assessment for which it was taxed at appropriate rate for those transactions which came to ₹14,20,744.84. The dealer had paid ₹1,42,745.00 towards its tax dues at the time of filing its returns and further ₹1,60,064.00 as per the demand raised. Therefore, the dealer

was intimated to pay the balance amount of ₹11,17,396.00 as per the terms and conditions of the demand notice issued to it.

Being aggrieved with the aforesaid order of assessment the dealer preferred an appeal before the first appellate authority questioning the legality of the assessment. It was contended on behalf of the dealer-assessee before the first appellate authority that the assessing officer had not given reasonable opportunity to the dealer to produce the required declaration Forms 'C', 'F' and 'H' and further disallowed set off claimed by it (the dealer) towards input tax credit. As revealed from the order of the first appellate authority the dealer was served with a statutory notice for hearing of the appeal but it did not respond. Thus the first appellate authority after providing sufficient opportunities to the dealer to participate in the hearing of its appeal proceeded to hear the appeal ex parte when he felt further notice to the dealer would be a futile exercise only on his part. Since in the instant case the demand was raised due to non-submission of declarations in Form 'C', 'F' and 'H' by the dealer and the dealer also failed to produce those wanting declaration forms before him despite reasonable opportunities afforded to it he (the first appellate authority) verified the order of assessment and confirmed the same.

3. The dealer then brought the second appeal before the Tribunal almost on the same grounds as it had advanced in its appeal

before the first appellate authority. It also contended that it was never served with any notice by registered post or through any other effective mode of service of notice on it for which the authorities below had grossly erred in law by passing an ex parte order against it in violation of the principle of natural justice.

4. This second appeal preferred by the dealer was posted to 10.09.2019 for hearing. However, on a petition filed on behalf of the dealer-appellant seeking adjournment of the hearing to some other date the matter was posted to 17.09.2019. However, on that day i.e. 17.09.2019 when the appeal was taken up for hearing none appeared on behalf of the dealer-appellant for which the matter was heard ex parte and disposed of on merit as per Rule 60(1) of the OST Rules read with Rule 22 of the CST (O) Rules.

5. In this appeal a cross-objection was filed on behalf of the State with the contentions that the second appeal as preferred by the dealer is devoid of merit. The assessing officer as well as first appellate authority have rightly completed the assessment and the appeal respectively on the basis of statutory provisions. The dealer had failed to produce the statutory forms within the stipulated period as envisaged under Rule 12(7) of the CST (R&T) Rules, 1957.

6. On perusal of the order of assessment and the order of the first appellate authority it could be gathered that the assessing officer had verified the books of account of the dealer thoroughly for which he justifiably allowed certain claims of the dealer on being satisfied with the correctness of the declaration in Forms 'C', 'F' and 'H' which were produced before him. He then determined tax to be paid by the dealer for certain transactions in respect of which it failed to produce the declaration forms. The first appellate authority has categorically mentioned in page-3 of his order regarding the dealer's default in furnishing aforesaid declaration forms pertaining to its (the dealer's) claim. The dealer also failed to produce those wanting forms before this forum. Its default in appearance before this forum without any justifiable reason clearly indicates that it may not have any document at all to justify its claim for reduction in the assessment. Under such circumstances we find absolutely no reason to interfere with the impugned order.

7. In the result, the order of the first appellate authority is hereby confirmed and the appeal is dismissed. Cross-objection is disposed of accordingly.

Dictated & Corrected by me,

**Sd/-**  
**(Smt. Suchismita Misra)**  
**Chairman**

**Sd/-**  
**(Smt. Suchismita Misra)**  
**Chairman**

I agree,

**Sd/-**  
**(Smt. Sweta Mishra)**  
**2<sup>nd</sup> Judicial Member**

I agree,

**Sd/-**  
**(Prabhat Ch. Pathy)**  
**Accounts Member-I**