

u/R. 12(3) of the Central Sales Tax (Odisha) Rules, 1957 (in short, 'CST (O) Rules') for the tax period 01.07.2006 to 31.03.2008.

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

The dealer-assessee M/s. Agrasen Sponge Pvt. Ltd. at Mandiakudar, Sundargarh carries on business of manufacture and sale of Sponge Iron. Further it had also undertaken the trading of coal fines during the period under assessment. On receipt of the notice for audit assessment it (the dealer) had produced its computerized purchase register, sale register supported by sample copies of purchase and sale bills. The audit of the firm was conducted on 20.11.2009 and completed on 16.02.2010. As some anomalies were detected in the transactions held by the dealer-assessee as per the Audit Visit Report (AVR) the assessing officer verified the documents of the dealer. In course of his verification the dealer could not produce Form 'C' for ₹6,36,06,113.02 as well as valid declaration in Form 'H', purchase order, bill of lading and other relevant documents pertaining to its tax exempted sales towards export worth ₹52,49,750.00 before him. The dealer was also found to have collected excess tax of ₹19,460.00 during the month of April, 2007. Therefore, the assessing officer after calculating its tax liability for the relevant period required it to pay balance tax dues of ₹14,61,857.00 and penalty twice the tax dues which came to ₹29,23,715.00.

Accordingly he issued a notice demanding ₹43,85,572.00 to be paid by the dealer towards its tax dues.

The dealer being aggrieved with the aforesaid order of assessment challenged the legality of the same in an appeal before the first appellate authority. It was contended on behalf of the dealer that the assessing officer did not allow the dealer to file required declarations in Form 'C' and 'H' at the time of assessment. Further the order of assessment was passed more than one year after the date of receipt of AVR and as such the said order was illegal. The dealer also challenged levy of penalty and interest from it on the ground of same being against the provision of law. The first appellate authority after affording enough opportunities to the dealer for hearing proceeded ex parte against it as neither the dealer-appellant nor its authorized representative appeared before him and produced their books of account for his verification. Thus the first appellate authority disposed of the appeal considering the materials available on record and reduced the demand to ₹43,31,680.00. The dealer then carried this second appeal before the Tribunal on the same grounds as it had raised before the first appellate authority.

3. In course of hearing of the appeal it was contended on behalf of the dealer that it could produce the original 'C' form bearing No. HP/A2/B 1998158 issued by M/s. Sri Rama Steels Ltd. for

₹46,91,302.00 and urged before the Bench for reconsideration of the demand made against it (the dealer) towards its tax liability for that relevant period. Learned Counsel for the dealer also filed a xerox copy of the aforesaid 'C' form for perusal by this Bench. He submitted further that penalty should not be imposed on the dealer as it had never intended to evade the tax due on it in any manner. In reply to this submission learned Standing Counsel (CT) for the State submitted that the Revenue had got no objection if the matter would be remitted back to the assessing officer for fresh assessment but at the same time there should be specific direction to the dealer to produce all its documents such as books of account, declaration forms etc. before the assessing officer within the time as per his (assessing officer) instruction and further the assessing officer must consider all those documents, if any, will be produced before him, after verifying genuineness of those documents since the dealer had failed to produce those documents, as referred by it, before the first appellate authority despite opportunities given to it repeatedly for the same.

4. In view of the aforesaid contentions before us it is felt that the case should be remitted back to the assessing officer for fresh consideration of the tax liability of the dealer. Accordingly the matter is remanded to the assessing officer with a direction to make the assessment in question afresh after taking into consideration all the

documents filed by the dealer before him. In that process he would verify the genuineness of the documents to be produced before him by the dealer within one month from the date of receipt of this order by the dealer. The assessing officer must complete his assessment within three months from the date of receipt of this order.

5. In the result, the appeal is disposed of accordingly.

Dictated & Corrected by me,

Sd/-
(Smt. Suchismita Misra)
Chairman

Sd/-
(Smt. Suchismita Misra)
Chairman

I agree,

Sd/-
(Smt. Sweta Mishra)
2nd Judicial Member

I agree,

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