

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

The dealer-assessee M/s. Lucas Indian Service Ltd., Bhubaneswar deals in auto ignition system and automobile battery. As such it transfers goods to other branches located outside the State. On receipt of Audit Visit Report (AVR) containing a single discrepancy as noticed by the Audit Team with regard to non-submission of 'F' declaration forms by the dealer-assessee, the Dy. Commissioner of Sales Tax (LTU), Bhubaneswar Range, Bhubaneswar (in short, 'assessing officer') assessed it u/R. 12(3) of the Central Sales Tax (Odisha) Rules, 1957 (in short, 'CST (O) Rules') for the tax period from 01.02.2007 to 31.03.2009 and determined its additional tax dues including penalty payable at `34,87,079.00. He thus issued a demand notice accordingly.

The dealer-assessee being aggrieved by the aforesaid order of assessment preferred an appeal before the first appellate authority. The dealer could furnish 140 nos. of photo copies of declaration in Form 'F' valued at `81,47,943.89 in support of its claim of stock transfer of goods to other branches situated outside the State of Odisha. The first appellate authority accepted the same with observation that the transactions reflected thereon needed verification in detail. He thus set aside the order of assessment and directed the assessing officer to allow the dealer-appellant opportunity of being heard with further direction to the dealer to produce the original declarations in Form 'F' for the aforesaid amount i.e. `81,47,943.89 before the

assessing officer on the date fixed by him. He also observed in his order that on production of declaration forms by the dealer-appellant the assessing officer after verifying the authenticity of the transactions reflected in the forms with reference to the books of account of the appellant would allow the claim advanced by the dealer towards branch transfer and issue revise order accordingly.

3. The dealer then carried a second appeal before this forum on the ground that the first appellate authority was not justified in passing the impugned order without affording reasonable opportunity to the dealer for filing of wanting 'F' forms of ₹11,50,932.00 which the dealer could not file before the assessing officer despite its sincere efforts for the same. It is also contended on behalf of the dealer-assessee that as the respective outside branches involved in stock transfer transactions with this dealer did not issue wanting 'F' forms to the dealer's branch for the reason of those not being obtained from the department concerned the first appellate authority should have given another opportunity to the dealer-assessee for filing of those 'F' forms before him.

The State has filed cross-objection in the present appeal mentioning therein that the assessing officer as well as first appellate authority had given enough opportunities to the dealer for filing of required forms which it could not comply in time. Therefore, there is no need for affording further opportunity to the dealer in this regard.

4. In course of hearing of the appeal learned Counsel appearing on behalf of the dealer fairly submitted that the dealer was not able to furnish 'F' forms for the balance amount and it would be

appropriate if the impugned order passed by the first appellate authority is confirmed. Learned Addl. Standing Counsel (CT) appearing on behalf of the State submitted that in view of the aforesaid submission from the side of the dealer-assessee and the cross-objection filed on behalf of the State in this case he had got nothing more to say in this appeal.

5. In the aforesaid circumstances as discussed in the foregoing paragraph the second appeal preferred by the dealer-assessee is dismissed and the impugned order passed by the first appellate authority is confirmed. Cross-objection is disposed of accordingly.

Dictated & Corrected by me,

Sd/-
(Smt. Suchismita Misra)
Chairman

Sd/-
(Smt. Suchismita Misra)
Chairman

I agree,

Sd/-
(A.K. Dalbehera)
1st Judicial Member

I agree,

Sd/-
(Rabindra Ku. Pattnaik)
Accounts Member-III