



1957 (in short, 'CST (O) Rules') in respect of the dealer-assessee for the tax period 2005-06.

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

The dealer-assessee M/s. East India Steels (P) Ltd., Rourkela carries on business of manufacturing and sale of C.I. casting. On receipt of notice from the assessing officer the authorized representative of the dealer-Company appeared before him and produced the books of account for his examination. On verification of the aforesaid documents the assessing officer could ascertain that during the relevant year the dealer-Company had effected sale of C.I. casting worth `16,77,59,016.00 at a concessional rate of tax @ 1% against statutory declaration in Form 'C'. The dealer-Company could furnish Form 'C' for `11,97,53,496.00 out of the aforesaid sale turnover and failed to furnish the declaration in Form 'C' for the balance amount of `4,80,05,520.00. The assessing officer, therefore, taxed the aforesaid amount at appropriate rate and determined the GTO and NTO at `16,94,36,843.00 and `16,77,59,016.00 respectively after allowing deduction of `16,77,827.00 towards collection of sales tax. He thereafter taxed the NTO of the dealer @ 1% on `11,97,53,496.00, @ 8% on

₹4,80,05,520.00 and calculated the tax payable at ₹50,37,976.56. He allowed the dealer adjustment of ITC of ₹9,19,438.00 under the CST Act. Since the dealer-Company had already paid ₹7,58,399.00 at the time of furnishing its return, he sent a demand notice requiring the dealer to pay the balance amount of ₹33,60,140.00 as per terms and conditions of the said notice towards its tax dues for the period under assessment.

Being aggrieved with the aforesaid order of assessment the dealer preferred an appeal before the first appellate authority challenging the same on the grounds that the assessment was bad, illegal and arbitrary since the dealer was not allowed reasonable time to furnish the wanting 'C' Forms. As the assessment was completed in haste without following the principles of natural justice, it was urged on behalf of the dealer-assessee to set aside the same.

The first appellate authority fixed a date i.e. 13.05.2010 for hearing of the appeal and on that date the dealer had appeared before him through his Counsel and sought for time. The first appellate authority then adjourned the case to 25.05.2010 for hearing but on that date none appeared on behalf of the dealer. When the first appellate authority found that the assessment in the instant case related to the year 2005-06 which was completed on 30.03.2009 and in between despite lapse of long four years after the year of actual sale the

dealer could not furnish the requisite 'C' forms, he (the first appellate authority) concluded that this non-submission of 'C' forms by the dealer within the prescribed time period proved that it (the dealer-assessee) had falsely claimed the sale at the concessional rate of tax and thereby delayed payment of actual tax dues. Therefore, he disposed of the appeal exparte on merit confirming the order of assessment.

3. The dealer then carried this appeal before this Tribunal contending that it was not given reasonable time by the forums below to furnish the required declaration form and for that their orders were bad in the eyes of law being against the principles of natural justice. It is also contended on behalf of the dealer-assessee that the appeal which was disposed of exparte by the first appellate authority is not in accordance with the provisions of law.

4. The State has filed its cross-objection in this appeal stating therein that as per Rule 12(7) of the Central Sales Tax (Return & Turnover) Rules the required statutory declaration form should be furnished by the dealer before the authority concerned within three months after the end of the period to which the declaration or certificate relates to. In the instant case the dealer failed to produce the declaration even after lapse of four years in the meantime. Therefore, the dealer should not be granted further time to produce the required 'C' and 'F' forms. Learned Addl. Standing Counsel (CT) appearing on behalf of the State thus submitted that in the aforesaid circumstances,

the demand raised by the first appellate authority appears to be justified and should not be interfered with by this Tribunal.

5. In course of hearing it was found that the dealer-appellant despite being informed by way of affixture service of notice on it through Rourkela-II Circle, Panposh to appear before this forum in order to substantiate its claim did not turn up on the date fixed for hearing of its appeal before this forum. None even appeared on its behalf seeking time to produce the wanting declaration forms in the instant case which is now found to be the only issue remained with the dealer-appellant seeking intervention of this Tribunal in the matter. As this is a pretty year old matter the appeal was heard from the side of the State only to be disposed of *ex parte* on merit as per Rule 60(1) of the OST Rules read with Rule 22 of the CST (O) Rules.

6. As revealed from the order of assessment the dealer could furnish 'C' form for `11,97,53,496.00 and failed to produce the said declaration form in respect of `4,80,05,520.00. The assessing officer had rightly determined its tax liability by taking into consideration the documents furnished before him by the dealer-appellant. Later on in course of considering its appeal the first appellate authority had also waited for the dealer to appear before him and produce the wanting declaration form which would have ultimately gone in favour of the dealer in reduction of its tax liability. The dealer failed to

produce the relevant documents before him at that time which ultimately made the first appellate authority to dispose of its appeal exparte. At present it is also noticed that the dealer probably does not have the wanting 'C' forms with it which could be produced before this forum even and as such defaulted in filing the wanting declaration forms in support of its claim. Under such circumstances, this Tribunal has no other option but to hold that the impugned order does not suffer from any sort of infirmity or illegality as contended by the dealer-appellant.

7. In the result, the appeal is dismissed and the impugned order passed by the first appellate authority is hereby 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)**  
**1<sup>st</sup> Judicial Member**

I agree,

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