BEFORE THE CHAIRMAN, ODISHA SALES TAX TRIBUNAL: KATAKA

S.A. No. 49 (VAT) of 2024

(Arising out of order of the learned JCST (Appeal), Territorial Range, Sambalpur in Appeal No. AA06/SAII/VAT/2020-21, disposed of on 21.06.2024)

Present: **Shri G. Sharma, Chairman**

M/s. Deepak Kapoor,
Contractor's Colony, Burla,
Sambalpur ... Appellant

-Versus-

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

For the Appellant : Sri B.P. Mohanty, Advocate
For the Respondent : Sri N.K. Rout, Addl. S.C. (CT)

Date of hearing: 11.08.2026 *** Date of order : 08.09.2026

O R D E R

Challenging the legality and propriety of order dated 21.06.2024 passed by the Joint Commissioner of Sales Tax (Appeal), Territorial Range, Sambalpur (hereinafter referred to as 'First Appellate Authority') in Appeal No. AA06/SAII/VAT/2020-21, this appeal has been filed by M/s. Deepak Kapoor (hereinafter referred to as 'Dealer').

2. The brief facts relevant for disposal of this appeal run thus–

The Dealer is engaged in execution of works contract. Basing on the Audit Visit Report (AVR), the Sales Tax Officer, Sambalpur II Circle, Sambalpur (hereinafter referred to as 'Assessing Authority') initiated assessment proceeding u/s. 42 of the Odisha Value Added Tax

Act, 2004 (in short, 'OVAT Act') for the period 01.10.2015 to 30.06.2017. The Assessing Authority considering the nature of works as civil works mainly construction of buildings, allowed deduction of labour and like charges @ 30% as per Appendix to Rule 6(e) of the OVAT (Amendment) Rules as well as expenses towards consumables and machineries as per Table, determined the TTO; thereby computed the liability of ₹65,57,194.00 towards tax and penalty after giving credit of TDS amount for the period under assessment. Being aggrieved with the order of assessment, the Dealer preferred first appeal before the learned First Appellate Authority. The First Appellate Authority dismissed the appeal and confirmed the order of assessment, hence this appeal.

3. The State filed no cross-objection.

4. Learned Counsel appearing on behalf of the Dealer in course of argument raised the sole ground that the observation of the learned First Appellate Authority is wholly contradictory to the materials on record with regard to TDS of ₹25,73,755.00, which was deducted by the Executive Engineer, R&B Division, Deogarh from the bills of the Dealer and thus, the Dealer is legally entitled for credit of such TDS amount and the same is liable to be adjusted against the tax liability of the Dealer. Supporting the submission, learned Counsel for the Dealer filed copies of letter No. 3970 dated 14.08.2024 issued by the Superintending Engineer, Deogarh (R&B) Division and Letter No. 1854 dated 03.07.2020 issued by the Executive Engineer, Deogarh (R&B) Division confirming the deduction and deposit of TDS amount into Govt. exchequer.

5. Per contra, Addl. Standing Counsel (CT) appearing for the State supported the orders of the fora below in disallowing the credit of TDS amount to be just and proper on the ground that basing on the

letter No. 208/CT&GST dated 10.04.2024 received from the circle to the effect that no such information found relating to payment of TDS amount by the Executive Engineer, R&B Division, Deogarh, therefore, non-acceptance of TDS amount cannot be called into question in appeal.

6. On perusal of the documents filed by the learned Counsel for the Dealer before this forum, it transpires that copies of letter No. 3970 dated 14.08.2024 issued by the Superintending Engineer, Deogarh (R&B) Division, confirming the fact that the TDS amount of ₹25,73,799.00 was deducted from the bills of the Dealer for the period 30.12.2015 to 17.05.2017 and duly deposited into Govt. exchequer through cheque till 31.12.2015 and from 01.01.2016 there was provision of book adjustment for TDS and royalty in IFMS for which there was no need to deposit the TDS, besides letter No. 1854 dated 03.07.2020 also confirmed that the TDS certificate of gross value of ₹6,43,44,895.00 having TDS amount of ₹25,73,799.00 was issued by the Executive Engineer, Deogarh (R&B) Division in favour of the Dealer for the years 2015-16, 2016-17 and 2017-18 along with detail payment certificate as well as division wise deposit. Thus, it amply clear that despite the confirmation of deduction and deposit of TDS amount relating to the works executed by the Dealer for the period under assessment by the concerned authority, the credit of TDS amount of ₹25,73,755.00 disallowed by the fora below in absence of information/confirmation by the concerned contractee is unlawful and required interference in appeal. Furthermore, since the Superintending Engineer/Executive Engineer issued TDS certificates and officially confirmed the deduction and deposit of TDS amount into the Govt. exchequer as aforesaid, the Sales Tax authorities are bound to allow such deduction as per settled law. Having regard to the above backdrop

of the matter *vis-a-vis* the material evidence produced before this forum, I am of the humble opinion that the orders of the fora below suffer from infirmity in disallowing the TDS amount, and thus, matter is required to be remanded to the Assessing Authority for consideration of due credit of TDS amount of ₹25,73,755.00, which has been duly deducted and credited into the Govt. exchequer basing on the letters dated 14.08.2024 and 03.07.2020 issued by the concerned Superintending Engineer and Executive Engineer respectively, against the tax liability of the Dealer for the period under assessment. In this context, the Dealer is also directed to appear and produce the material documents relating to the claim of TDS amount before the Assessing Authority in remand assessment.

7. In the result, the appeal filed by the Dealer stands allowed and the impugned order of the First Appellate Authority confirming the assessment order is hereby set aside to the above extent. The matter is remitted back to the Assessing Authority for computation of tax liability afresh after giving due credit of TDS amount keeping in view the observations made supra as per law within a period of three months from the date of receipt of this order.

Dictated & Corrected by me

Sd/-
(G. Sharma)
Chairman

Sd/-
(G. Sharma)
Chairman