

BEFORE THE FULL BENCH: ODISHA SALES TAX TRIBUNAL: CUTTACK.

S.A.No.54 of 2002-03

(Arising out of the order of the ACST, Sambalpur Range,
Sambalpur, in Sales Tax Appeal Case No. AA-106 (SAII) of 1999-00,
disposed of on dtd.15.01.2002)

Present: **Mrs. Suchismita Misra**, Chairman,
Shri Ashok Kumar Panda, 1st Judicial Member,
&
Shri P.C. Pathy, Accounts Member-I.

M/s. Ganapati Rice Industries,
Bargarh. ... Appellant

- V e r s u s -

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

For the Appellant : N o n e
For the Respondent : Mr. M.S. Raman, A.S.C.

Date of Hearing: 20.11.2018 **** Date of Order: 29.11.2018

ORDER

This appeal is directed against the order dated 15.01.2002 passed by the learned Asst. Commissioner of Sales Tax, Sambalpur Range, Sambalpur (hereinafter referred to as, the learned ACST) in Sales Tax Appeal Case No. AA-106 (SAII) of 1999-00, wherein and whereby, he has dismissed the first appeal by confirming the order of the learned Sales Tax Officer, Sambalpur II Circle, Bargarh, Ward-A (hereinafter referred to as, the learned STO) passed in an assessment u/s.12(4) of the Orissa Sales Tax Act, 1947 (hereinafter referred to as, the OST Act) in respect of the appellant-dealer for the assessment year 1997-98 raising a balance tax demand and interest amounting to Rs.5,04,938.00.

2. The appellant-dealer being a rice miller used to purchase paddy for conversion of the same into rice and being a trader used to sale rice, broken rice and rice bran both inside as well as outside the State of Odisha. In an assessment u/s.12(4) of the OST Act for the assessment year 1997-98, being noticed, the authorized representative of the appellant-dealer firm appeared before the learned STO and produced the books of account and the other relevant documents which were duly been examined by him. On examination of the books of account and the other relevant documents, the learned STO took note of the entire transactions and determined the GTO and TTO and levied taxed thereon which came to be Rs.36,86,436.82. Then, the learned STO also found out that, the appellant-dealer has withheld certain amount of differential tax on sale of rice by not reflecting its actual turnover in the returns and accordingly he levied interest in connection with the same amounting to Rs.26,862.00. As the appellant-dealer had already paid tax to the tune of Rs.32,08,361.00 earlier, he raised the balance tax demand and interest amounting to Rs.5,04,938.00 in total, to be paid by the appellant-dealer.

3. After the assessment, being aggrieved with the order of the learned STO relating to the levy of interest, the appellant-dealer preferred an appeal before the learned ACST bearing Sales Tax Appeal Case No. AA-106 (SAII) of 1999-00. On hearing and on consideration of the materials available on record, the learned ACST found no merit in the contention of the appellant-dealer and accordingly dismissed the appeal by confirming the order of the learned STO. Thus, again being aggrieved with the order of the learned ACST, the appellant-dealer has preferred this second appeal.

4. No cross objection has been filed by the respondent-Revenue.

5. When the matter was taken up for hearing, none appeared on behalf of the appellant-dealer and as such it was heard exparte and is disposed of on merit. The learned Addl. Standing Counsel appearing for the respondent-Revenue submitted that, both the learned forums below have considered the matter properly and have passed the order and as the order passed by them suffers from no infirmity, the appeal preferred by the

appellant-dealer needs no interference and as such the same is liable to be dismissed.

6. Perused the orders of both the learned forums below and the other materials on record. From the materials on record, it is seen that, the appellant-dealer has withheld certain amount of differential tax on sale of rice by not reflecting its actual turnover in the returns and accordingly on consideration of the same, the learned STO levied interest upon it amounting to Rs.26,862.00 u/s.12(4-a) of the Orissa Sales Tax Act and the same has further been confirmed by the learned ACST at the first appeal stage.

7. Section 12(4-a) of the Orissa Sales Tax Act speaks as follows:-

“(1) If the Commissioner, while making an assessment under sub-section (2), (3) or (4) is satisfied that the dealer has knowingly produced incorrect accounts, documents or registers or has without sufficient cause furnished incorrect return or information affecting or intended to affect the quantum of the tax payable by him or his liability to pay tax for the period for which such assessment is made, he may direct that the dealer shall, in addition to the tax assessed under the said sub-section, pay interest at the rate of (Ten per cent) per annum on the tax payable in respect of the taxable turnover not incorporated in the return for a period of ninety days, or for the period beginning from the date on which the return was due and ending on the date of assessment, whichever is less).”

8. On consideration of the entire facts and circumstances and on consideration of the above provisions of law, it is very much clear that, the order passed by the learned STO and further being confirmed by the learned ACST suffers from no infirmity and as such the same needs no interference of this forum.

9. In the result, the appeal is dismissed being devoid of merit.

Dictated & corrected by me,

Sd/-
(Ashok Kumar Panda)
1st Judicial Member

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I agree,

Sd/-
(Suchismita Misra)
Chairman

I agree,

Sd/-
(P.C. Pathy)
Accounts Member-I