



2. The brief facts of the case are that, the respondent-dealer carried on business in trading of A.C. sheet, cement, iron bar and steel goods, hardware goods, paints, scarp etc. The respondent-dealer had effected purchases both from inside and outside the State and sales were effected only inside the State. On the basis of the Audit Visit Report (in short, the AVR), the learned STO found the disallowance of ITC amounting to Rs.11,928.68 on purchase of retail invoice No.63/dt.12.07.2009 from M/s. Konark Asbestos; sales suppression of Rs.49,379.00 detected since there was no material stock in the dealer's godown at Vedvyas, Rourkela; the dealer had purchased MS rod @ Rs.24,752.00 per MT while the sale value of MS rod was @ Rs.18,500.00 per MT; and input tax of Rs.11,179.00 was disallowed since there was no stock at the godown at Vedvyas, Rourkela on 31.03.2011. Therefore, the learned STO completed the assessment on exparte basis raising an extra demand of Rs.1,92,482.00. Being aggrieved by the order of the learned STO, the respondent-dealer preferred an appeal before the learned JCST who allowed the appeal in full and annulled the assessment.

3. Being aggrieved by the order of the learned JCST, the Revenue as appellant has preferred this second appeal through the grounds of appeal with a prayer to annul the order of the learned JCST and restore the order of the learned STO.

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

5. Heard both the sides. Perused the materials on record vis-à-vis the grounds of appeal. Also perused the orders of both the fora below. It is seen that tax has been paid by the respondent-dealer on purchase which is adjustable from the tax recovered on sale. The respondent-dealer had purchased goods from M/s. Sahu Agency, Rourkela which is a registered dealer under OVAT Act. Hence the transaction was between two registered dealers. The respondent-

dealer has availed ITC on the strength of invoice No.63 dtd.12.07.2009. The selling dealer has collected and deposited the tax and the respondent-dealer has taken ITC and paid the balance tax. As regards the sale suppression of Rs.49,379.00 it is seen that besides the business place at Bramhmani Tarang, Rourkela there is an additional place of business at Tilkanagar, Bandamunda used as godown which is effective from 14.08.2011. Hence the extra demand of tax without verifying the stock position in Tilkanagar, Bandamunda is not reasonable for which the extra demand of tax is not genuine and proper. As regards the purchase of MS Rod from M/s. Gourav Industries vide invoice No.34 dtd.02.07.2010 @ Rs.24,572.00 per MT and selling of the same to M/s. M.L. Shah vide invoice No.Nil dtd.30.09.2010 @ Rs.18,500.00 per MT it is seen that copies of such invoices are available in the record. Hence the genuine purchase of MS Rod and selling of the same are well established. It is natural for the respondent-dealer to purchase MS Rod at higher price and sell the scrap materials like MS pipe cutting, rod cutting etc. at a lower price. Hence, there is no irregularity if the transaction of MS Rod which varies due to difference in size. Therefore, the grounds taken in the appeal are baseless. In view of such analysis, I am not inclined to differ from the findings of the learned JCST. In fact, there is no infirmity in the impugned order.

6. In the net result, the appeal is dismissed and the impugned order is hereby confirmed.

Dictated & corrected by me,

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

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