

'CST(O) Rules') against the dealer-assessee pertaining to the period 2003-04.

2. The facts as revealed from the case record, in brief, are as follows :-

The dealer-assessee is a manufacturer of aluminium alloy conductor, aluminium conductor, A.C.S.R. conductor of different specifications having its business establishment at Industrial Estate, Angul. Pursuant to a notice issued u/R. 12(5) of the CST (O) Rules the authorized representative of the dealer-Company had appeared before the assessing officer in person and had produced the books of account for the year 2003-04 before him. On verification of the books of account of the dealer-assessee pertaining to the aforesaid period the assessing officer found that the dealer had effected CST sales worth ₹4,29,24,575.01 of finished products during the year 2003-04 and had collected CST @ 1% on the above CST sales in respect of its inter-State sales. The dealer had also produced required 'C' declaration forms worth ₹4,03,57,569.99 and failed to submit the balance 'C' form amounting to ₹11,82,206.00 which came after deduction of freight and insurance charges paid separately by the dealer-assessee as mentioned in its sale bills. Accordingly the assessing officer after due calculation demanded the balance amount of tax amounting to ₹93,186.00 to be paid by the

dealer-assessee since it had already paid a sum of ₹4,52,254.00 alongwith its return pertaining to the relevant assessment period.

Being aggrieved with the said order the dealer-assessee preferred an appeal before the first appellate authority describing the order of assessment as bad in law. It was also contended by the dealer-assessee before the first appellate authority that the Sales Tax Officer completed his assessment without affording an opportunity to the dealer-assessee for production of 'C' forms for the balance amount in respect of CST sales effected by it during that period. The first appellate authority after examining the order of assessment and the 'C' form furnished by the dealer-assessee ultimately accepted the 'C' form after verification and determined the tax liability of the dealer-assessee at ₹4,34,191.25. Since the dealer had already paid a sum of ₹4,52,254.20 he held that a sum of ₹18,063.00 is refundable to it.

3. Being aggrieved with the aforesaid order of the first appellate authority the State came up with this appeal on the ground that both the assessing officer and the first appellate authority had irregularly allowed concessional rate of tax @1% on CST sales against 'C' form when the condition i.e. the goods manufactured out of aluminium had not suffered tax in the State of Odisha. In the aforesaid circumstances the State urged for modification of the order of

assessment as well as the order passed by the first appellate authority and for levy of appropriate tax from the dealer-assessee.

4. The dealer-assessee has not filed any cross-objection in this appeal. But in course of hearing learned Counsel for the dealer-assessee placed a written note of submission alongwith some documents to apprise this Bench that the dealer-assessee in the instant case is a Small Scale Industrial Unit and a permanent registration certificate was issued in its favour. Law is well settled that as per Sl. No. 20(f) of the F.D. Notification No. 14700-CTA-37/01(PT) dated 31.03.2001, SRO 160/01, Ex-GAZ 531 dated 31.03.2001 the goods manufactured by SSI Units in the State of Odisha which have been sold directly against 'C' forms, the rate of tax shall be 1% instead of 4%.

5. From the documents filed by the dealer-assessee such as DIC Registration Certificate; order of assessment passed by the Dy, Commissioner of Sales Tax, Angul Circle, Angul for the years 2004-05 and 2005-06 in respect of the present dealer-assessee i.e. M/s. Bharat Electrical Accessories Pvt. Ltd. as well as the correspondence made between the Director of Industries to the Commissioner of Commercial Taxes, Odisha and the minutes of the meeting held by the Director of Industries it is clearly revealed that the present dealer-assessee is an SSI Unit and as such entitled for the concession of 1% tax on sale of goods manufactured by it against 'C' forms. It is found from the order of

first appellate authority that the dealer-assessee had furnished 'C' form revealing sale of goods worth ₹10,11,355.92 in bill No. 30 dated 25.07.2003 besides the 'C' forms worth ₹4,03,57,569.99 which it (the dealer) had shown before the assessing officer. Under such circumstances we do not find any infirmity in the order of the first appellate authority in allowing the concession in favour of the dealer-assessee and reducing the order of assessment in respect of the sale of goods against valid 'C' forms.

6. Accordingly, the appeal preferred by the State is dismissed.

Dictated & Corrected by me,

Sd/-
(Smt. Suchismita Misra)
Chairman

Sd/-
(Smt. Suchismita Misra)
Chairman

I agree,

Sd/-
(Subrat Mohanty)
1st Judicial Member

I agree,

Sd/-
(Prabhat Ch. Pathy)
Accounts Member-I