

vermicelli, sauce, squash, vinegar etc. for which it purchased raw materials like vanaspati, turmeric, dhania, chili, jeera, suji, tomato and chemicals both from within and outside the State of Odisha. On the basis of the report submitted by the Investigating Officer of Sales Tax Enforcement Wings, Cuttack, the team recovered some incremental documents with reference to books of accounts. In course of investigation, the investigating officials found two Oxford Exercise Notebooks containing 95 & 100 written pages showing the opening stock production, dispatch etc. of different articles in trade, where the authorized representative of the dealer admitted the suppressed amount of Rs.20,000.00. The investigating team also seized a folder polythene file containing 94 written pages, where the sale suppression of Rs.31,58,687.00 was established. Likewise, a bunch of loose sheets containing 54 gate passes showing dispatch of goods on different dates were seized but the appellant-dealer failed to produce the books of account at the time of assessment. The team also seized a note books containing 220 written papers pertaining to business activities which revealed sale suppression of Rs.98,91,314.00 which was also established. As per the above observation the learned DCST completed the assessment to the best of his judgment and determined the GTO and TTO at Rs.5,55,06,894.00. VAT @ 4% on Rs.3,50,00,000.00, @ 5% on Rs.2,50,06,894.00 and @ 13.5% on Rs.5,00,000.00 was calculated at Rs.27,17,844.70 and penalty u/s.43(2) of the OVAT Act came to Rs.54,35,689.00. Tax and penalty together came to Rs.81,53,534.00 which was to be paid by the appellant-dealer.

3. Being aggrieved by the order of the learned DCST, the appellant-dealer preferred an appeal before the learned JCST who confirmed the order of the learned DCST. Being further aggrieved by the order of the learned JCST, the appellant-dealer preferred the second appeal before this forum.

4. The respondent-Revenue has filed cross objection supporting the orders of both the lower fora below.

5. Heard the learned Counsel for the appellant-dealer and the learned Addl. Standing Counsel for the respondent-Revenue. Perused the orders of both the fora below, the grounds taken by the appellant-dealer, cross objection and the materials available on record. Before going into the elaborate discussion on the disputed questions raised in this case for decision, it is apt to mention here that, the OET appeal in the case in hand is consequential to the appeal under OVAT Act bearing S.A. No.300(V) of 2017-18. The findings regarding tax liability under OET Act is consequential to the tax liability under OVAT Act. If the OVAT appeal has been decided in favour of the respondent-Revenue, then there is no reason to interfere with the order of the learned first appellate authority here in this appeal with regard to OET liability. Thus, when the OVAT appeal is dismissed, then being consequential to it, the OET appeal also needs to be dismissed. Thus it can only be said that, the order passed under OET Act by the first appellate authority calls for no interference. So, I found that there is no necessity to interfere with the impugned order.

6. In the result, the appeal filed by the appellant-dealer is dismissed and the impugned order is hereby confirmed. The cross objection is disposed of accordingly.

Dictated & corrected by me,

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

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