



short, 'OST Act') against the dealer-assessee pertaining to the period 2000-01.

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

The dealer-assessee carries its business in grocery and stationery items as well as tinned food, K. oil, rice, wheat, cattle feed and readymade garments, home appliances etc. He maintains purchases, sales and stock accounts of his business. The assessing officer on verification of its books of account found that it had disclosed total purchase of goods at ₹1,52,38,634.74; sale of goods at ₹1,55,81,500.78 and further disclosed its opening stock of goods at ₹6,93,235.85 while closing stock of goods at ₹7,23,226.11 during the relevant period. Thus its return figure was accepted since there was no adverse report against it for that period and it had maintained all the accounts pertaining to purchase, sale and stock etc. in its establishment. However, in absence of the Registration Certificate of the selling dealer on first point tax paid purchases the assessing officer treated its books of account and return figure as incorrect, incomplete and rejected the same. In the result, its tax liability was raised and it was asked to pay a sum of ₹21,48,664.00 more towards its tax liability for that period.

3. Being aggrieved with the said order the dealer-assessee preferred an appeal before the first appellate authority. As the first appellate authority found that the dealer failed to produce purchase register before him which was required for verification and confirmation of the purchase of first point tax paid goods the same could not be verified and further the purchases made from the dealers having registration numbers also could not be verified he confirmed the order of assessment done by the assessing officer with tax demand of ₹21,48,664.00.

4. Being aggrieved the dealer-assessee came up with the present appeal before this forum challenging the aforesaid order passed by the first appellate authority. The dealer-appellant raised the following grounds to substantiate its appeal :-

- (i) The order passed by the learned first appellate authority is highly illegal, arbitrary and bad in law;
- (ii) The determination of GTO and TTO in its case for the relevant period was also done in a very arbitrary manner;
- (iii) The assessing officer should not have rejected its books of account only on the ground of non-submission of list of selling dealers with their registration number; and

- (iv) The first appellate authority should have considered the list of the selling dealers without confirming the order of the assessing officer of Paradip Circle, Paradip.

In the instant appeal no cross-objection has been filed on behalf of the State.

5. In course of hearing learned Counsel for the dealer-appellant submitted that the first appellate authority dismissed the claim of the dealer that it was not liable to pay sales tax on the goods purchased from the selling dealer within the State of Odisha on the sole ground that the dealer had failed to produce the purchase register even though the dealer had produced a list of selling dealers with their registration number. At present the dealer-appellant intends to produce the purchase register and certain documents as additional evidence to substantiate its claim that it had purchased goods at first point of sale within the State of Odisha. To this effect he also filed a petition alongwith some documents to substantiate its above claim and urged before the Court to accept those documents and remit back the matter to the assessing officer for reassessment of its tax liability for that relevant period. The dealer-assessee filed the xerox copies of documents which it intends to produce before the assessing officer if its submission would be allowed by this forum. The documents intended to be used as evidence by the dealer-assessee appear to be quite relevant

for a just decision in the case. Therefore, in the interest of justice we feel that the dealer-assessee should be afforded with an opportunity to produce those documents before the assessing officer for a fresh assessment of its liability u/S. 12(4) of the OST Act for that relevant period.

6. In the result, the order passed by the first appellate authority as well as the order passed by the assessing officer are hereby set aside and the case is remitted back to the assessing officer with a direction to make fresh assessment in respect of the dealer-assessee for the relevant period 2000-01 u/S. 12(4) of the OST Act taking into consideration the documents to be filed by the dealer-assessee justifying the purchases of goods having suffered tax at first point if those documents are genuine and authentic. The dealer-appellant is directed to appear before the assessing officer with all its documents within a month from the date of receipt of this order and in that event the assessing officer shall do well in completing the reassessment proceeding within three months from the date of appearance of the dealer before him.

Dictated & Corrected by me,

**Sd/-**  
**(Smt. Suchismita Misra)**  
**Chairman**

**Sd/-**  
**(Smt. Suchismita Misra)**  
**Chairman**

I agree,

**Sd/-**  
**(Subrat Mohanty)**  
**1<sup>st</sup> Judicial Member**

I agree,

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