

2. The brief facts of the case are that, the appellant-dealer carried on business in different sarees, dress materials and imitation jewellery etc. On the basis of a Tax Evasion Report submitted by the DCST, Vigilance, Bhubaneswar Division, Bhubaneswar it was seen that the appellant-dealer had effected sales of tax exempted goods worth Rs.7,52,370.00 which constituted 43.35% of the total sale and taxable goods @ 4% worth Rs.9,83,380.00 being 56.65% of the total sales. Thus the turnover sales of the dealer was determined at Rs.9,82,908.00. The appellant-dealer admitted that the sales bills were issued only on demand by the customers. So, the learned STO added Rs.9,82,908.00 to the GTO and TTO of the appellant-dealer. So 43.35% of the GTO equals to Rs.8,52,181.24 was treated as sale of tax exempted goods. The TTO of goods was determined at Rs.11,13,634.76 eligible to be taxed @ 4% which came to Rs.44,545.00. The dealer was imposed with penalty of Rs.44,545.00, which along with tax amounting to Rs.89,090.00 was to be paid by the appellant-dealer.

3. Being aggrieved by the order of the learned STO, the appellant-dealer had preferred an appeal before the learned JCST. The learned JCST without interfering with the order of the learned STO just confirmed the order of the assessment.

4. Being dissatisfied with the order of the learned JCST, the appellant-dealer has preferred this appeal before this forum with a prayer to quash the order of the learned JCST.

5. The Revenue filed the cross objection with a prayer for rejecting the appeal with a plea that the appellant-dealer violated the provisions of Sec.95 of the OVAT Act.

6. Heard both the sides. Perused the materials available on record. I have also meticulously gone through the grounds taken in the second appeal so also the submissions made in the cross objection. it is seen that the learned Counsel for the appellant-dealer

could not substantiate anything in support of the grounds taken in the appeal so as to reverse the impugned order. The assessment order reveals that the Vigilance officials had examined the stock-in-trade of the business and found that the dealer had not raised sale bills in course of regular business. As per the report the dealer had purchased goods from both inside and outside the State of Odisha without any payment of OVAT. The report of the Vigilance officials further revealed that the dealer had effected sales tax for exempted goods worth Rs.7,52,370.00 which constituted 43.35% of the total sale and the taxable goods @ 4% worth Rs.9,83,380.00 being 56.65% of the total sales. The learned STO after necessary verification found that the appellant-dealer is liable to pay tax w.e.f. 18.07.2009 on which the first sale was effected. As the appellant-dealer had not registered under the OVAT Act it is liable to pay both tax and penalty under the OVAT Act for which the turnover sales of the appellant-dealer was determined at Rs.9,82,98.00. The taxable turnover of goods was determined at Rs.11,13,734.76 eligible to be taxed @ 4% which was calculated as Rs.44,545.00 and the same amount of penalty was also imposed u/s.44(1) of the OVAT Act. Although being aggrieved by the order of the learned STO, the appellant-dealer had preferred the first appeal but it failed to furnish relevant documents to rebut the findings of the learned STO. Hence the learned JCST rightly concluded that on the estimation of daily average sale, determination of GTO and TTO by the learned STO were all based on materials on record for which the said order was not interfered with which in my considered opinion is proper. The appellant-dealer during second appeal also failed to produce any evidence to substantiate the pleas taken in the grounds of appeal. Hence, the grounds of appeal are not legally sustainable. It is the statutory obligation of the appellant-dealer to get registered u/s.10(4) read with Sec.25(2) of the OVAT Act and maintain the books of account. The order of the learned STO

clearly established the factum of non-registration and evasion of tax. Hence, I am not inclined to interfere with the impugned order.

7. In the net result, the appeal 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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