

BEFORE THE FULL BENCH: ODISHA SALES TAX TRIBUNAL: CUTTACK.

Present: **Smt. Suchismita Misra**, Chairman,
Shri A.K. Dalbehera, 1st Judicial Member,
&
Shri R.K. Pattnaik, Accounts Member-III.

S.A.No.200(C) of 2002-03

(Arising out of the order of the learned ACST, Ganjam Range,
Berhampur, in Sales Tax Appeal Case No. AAC.21/2002-2003,
disposed of on dtd.21.1.2003)

M/s. Rao & Prusty,
Kapileswarpeta, Berhampur. ... Appellant

- V e r s u s -

State of Odisha, represented by the
Commissioner of Sales Tax, Odisha,
Cuttack. ... Respondent

For the Appellant : N o n e
For the Revenue : Mr. M.L. Agarwal, S.C.

Date of hearing: 03.02.2020 ***** Date of order: 11.02.2020

ORDER

This appeal is directed against the order dtd.21.01.2003 passed by the learned Asst. Commissioner of Sales Tax, Ganjam Range, Berhampur (hereinafter referred to as, the learned ACST) in Sales Tax Appeal Case No. AAC.21/2002-2003, wherein he reduced the tax demand from Rs.7,04,378.00 to Rs.6,96,315.00 made by the the learned Sales Tax Officer, Ganjam I Circle, Berhampur, Ward-A (hereinafter referred to as, the learned STO) in an assessment u/s.12(5) of the Central Sales Tax Act (Orissa), 1956 (hereinafter referred to as, the CST(O) Rules) in respect of the appellant-dealer for the assessment year 1999-2000.

2. The brief facts of the case are that, the appellant-dealer carried on business in pulses, seasonal goods, oil seeds etc. on

wholesale basis. In response to notice, the appellant-dealer appeared and produced the books of account consisting of purchase and sales register duly supported with purchase invoices and sale memos which were duly examined by the learned STO. On examination of the books of account, the learned STO found that the appellant had effected sale of declared goods for an amount of Rs.1,68,39,593.12 in course of interstate sales to the registered dealers on the strength of 'C' form but had not included in the net turnover. On scrutiny of the accounts, the learned STO found that, the appellant-dealer had sold declared and non-declared goods to the tune of Rs.1,87,85,074.40 and the appellant-dealer had failed to submit the required 'C' forms amounting to Rs.6,97,970.00. The learned STO also found that the dealer had effected sale of mango papada (Ambasada) for a sum of Rs.1,51,437.50 to unregistered dealers to outside the State of Odisha which was taxed @ 12%. The learned STO completed assessment by raising an extra demand of Rs.7,04,378.00.

3. Being aggrieved by the order of the learned STO, the appellant-dealer preferred an appeal before the learned ACST who after considering the matter reduced the tax demand to Rs.6,96,315.00. Being aggrieved by the order of the learned ACST, the appellant-dealer preferred this second appeal before this forum.

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

5. When the matter was taken up for hearing, none appeared on behalf of the appellant-dealer and as such it was heard *ex parte* and is disposed of on merit. The learned Standing Counsel appearing for the respondent-Revenue submitted that, the learned ACST has considered the matter properly and had passed the order and as such the order passed by the learned ACST suffers from no infirmity. The appeal preferred by the appellant-dealer has no merit and as such the same is liable to be dismissed.

6. Perused the orders of both the learned fora below, grounds of appeal filed by the appellant-dealer, submission of the respondent-Revenue and the other materials on record. It is seen from the impugned order that, the dealer had sold goods to M/s. Balaji Overseas Corporation, Calcutta amounting to Rs.2,05,100.00 which the learned STO had wrongly shown as Rs.2,50,000.00. But the appellant-dealer had not submitted required 'C' form against Rs.6,52,970.00 at the time of assessment. The appellant had sold goods to the selling dealers during the year 1999-2000 and the learned STO had completed the assessment on 22.10.2002. Thus even after lapse of two years of sales the appellant had failed to obtain 'C' forms from the purchasing dealer and he had sufficient opportunities to procure such forms. Accordingly, the learned ACST rightly calculated at different tax rates and computed the GTO, TTO and the balance tax required to be paid by the appellant-dealer (which was determined at Rs.6,96,315.00). In view of such observation, we find no infirmity in the impugned order.

7. 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

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

I agree,

Sd/-
(Suchismita Misra)
Chairman

I agree,

Sd/-
(R.K. Pattnaik)
Accounts Member-III