



concessional rate in tax but without furnishing the declaration form 'C'. In the assessment, the assessing authority found that, the dealer had furnished declaration form 'C' for Rs.19,33,794.00 and failed to file declaration form for balance sale amount of Rs.7,22,221.00. Thereafter, denying concession in rate of tax against the interstate sale to the extent not supported with declaration form 'C', calculation of the tax liability was done and finally, the dealer was asked to pay balance tax of Rs.54,018.00 and penalty of Rs.1,08,036.00.

3. Being aggrieved, the dealer knocked the door of the first appellate authority who in turn recalculated the tax liability in consideration of the declaration forms already filed and the declaration forms further filed before him. Ultimately, the assessing authority has accepted the declaration form 'C' for further amount of Rs.4,25,221.00 at his level, as a result, he recalculated the tax due payable by the dealer at Rs.21,928.31 and penalty at Rs.43,856.62.

4. The dealer being aggrieved with the order of first appellate authority has preferred this appeal. The main contention of the dealer is, sufficient opportunity was not provided to produce and furnish the declaration form 'C'. However, in the argument learned Counsel appearing for the dealer has filed a detail chart of the declaration form 'C' furnished before the first appellate authority and vehemently argued that, the dealer could failed to furnish declaration form worth of Rs.53,045.00 only, so the calculation by the first appellate authority is arithmetically wrong as well.

5. Gone through the chart filed by the dealer. At this level it is not possible to reconcile the entire declaration forms furnished before the assessing authority or before the first appellate authority and to calculate the exact amount for which the declaration form could not be furnished. However, perusal of the impugned order it does not reveal any such arithmetical or calculation mistake but, the dealer's claim is, there was calculation mistake, therefore it is held that, the matter can be remitted back to the assessing authority for the purpose of recalculation. While remanding the matter for recalculation as per submission of the learned

Counsel for the dealer, it is apt to mention here that, the principle is well settled, for non-furnish of declaration form 'C' the dealer is not entitled to concession in rate of tax, however the dealer is not liable to pay penalty only when it is established that, dealer could not get the declaration forms for no fault on his part. Further, it is made clear that, the dealer is necessarily liable to pay interest for delay in payment of tax.

With the observation hereinabove, it is ordered. The matter is remitted back to the assessing authority for recalculation taking into consideration of the entire declaration forms furnished by the dealer and thereafter to raise the tax due and interest accordingly as per the observation above.

Dictated & corrected by me,

Sd/-  
(S. Mohanty)  
1st Judicial Member

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