

**BEFORE THE SINGLE BENCH: ODISHA SALES TAX TRIBUNAL:  
CUTTACK.**

**S.A.No.88(C) of 2016-17**

(Arising out of the order of the learned JCST, Ganjam Range,  
Berhampur in Appeal No.AAC-13/2013-14,  
disposed of on 28.11.2016)

**P r e s e n t :**

**Shri Subrat Mohanty,  
2<sup>nd</sup> Judicial Member.**

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

... Appellant

**- V e r s u s -**

M/s. Pragyan Associates,  
Rambha, Dist:Ganjam.

... Respondent

For the Appellant

... Mr.S.K.Pradhan, Addl. S.C.(CT).

For the Respondent

... Mr.K.C.Prusty, Advocate.

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Date of hearing: 26.03.2018

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Date of Order: 26.03.2018  
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**ORDER**

The sole question to be decided in this appeal is, whether the first appellate authority was in wrong in not imposing penalty or interest on the sale amount against which the dealer could file declaration Form-C only at appellate stage.

2. Bereft un-necessary details, the crux of the dispute between the dealer and the revenue may be stated as follows:

In a proceeding under Section 12(3)(g) of the CST (O) Rules for the tax period 01.04.2007 to 30.09.2012, the assessing authority accepted of 'C' declaration form for the sale amount of Rs.17090720.00 but as the dealer failed to produce 'C' declaration form for the rest amount of Rs.18812387.00 then he imposed penalty besides the tax

due treating the same as interstate sale which became calculated to Rs.20133.00.

3. In appeal preferred by the dealer, the first appellate authority on acceptance of wanting of 'C' declaration form for the amount of Rs.1344000.00 re-determined the TTO and thereafter the tax due and penalty determined by the assessing authority was deleted. When the matter stood thus the State has preferred this appeal with the contention like the first appellate authority should have imposed penalty for such delay furnish of declaration form 'C'.

**Finding:-**

4. At the outset, it is pertinent to mention here that as against the interstate transaction the dealer has initially filed 'C' declaration form for Rs.17090720.00. He was found wanting to furnish 'C' declaration form for the rest amount of interstate sale. As a result, the assessing authority calculated the tax due and imposed penalty there upon in the proceeding under Section 12(3)(g) of the CST (O) Rules. However, in appeal the dealer could furnish the wanting declaration forms and the first appellate authority on due verification accepted the forms and there upon, the tax due and penalty became deleted. Such being the order of the first appellate authority the only claim of the state is penalty. Once the forums are accepted by state, then the sale was against 'C' declaration form and there is no question of charging any tax and once there is no demand of tax. Then, there is no scope for imposing penalty. In that view of the matter, in respectful agreement with the argument advanced by learned Counsel for the dealer, I am in my considered view that, the order of the first appellate forum calls for no interference. Hence, it is ordered.

5. The tax appeal is dismissed on contest as of no merit.

Dictated and Corrected by me,

**(Subrat Mohanty)**  
**Judicial Member-II**

**(Subrat Mohanty)**  
**Judicial Member-II**