



Tax Act, 1947 (in short, 'OST Act') for the tax period i.e. from Quarter Ending 6/2004 to 9/2004 (2004-05).

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

The dealer-assessee M/s. Ranisati Minerals (P) Ltd. being a manufacturing concern manufactures sized iron ores and iron ore fines out of iron ore lumps. In response to a notice issued u/S. 12(4) of the OST Act, one of its (dealer's) Directors had appeared before the assessing officer. He had produced turnover statements of the dealer-assessee alongwith books of account comprising of purchase register, purchase invoice, sale register and sale bills before the assessing officer for his verification. The assessing officer on examination of the stock statement found that the dealer had disclosed its opening balance of iron ore lumps at MT 652.260 and purchase of such lumps at MT -17144.330 for `1,52,78,349.00 including payment of sales tax as well as entry tax. During the period under assessment it (the dealer) had disclosed sale of size iron ore at MT-5817.825 for `1,37,23,358.00 and claimed the entire sale amount as deduction towards first point tax paid goods. The assessing officer, however, determined its tax liability while holding since the dealer was engaged in a manufacturing process of the aforesaid goods which have a distinct commercial value on account of those being completely different from

the iron ore lumps, the turnover of the dealer had to be taxed at appropriate rate i.e. @ 4%. Accordingly he completed the assessment requiring the dealer to pay `6,03,828.00 towards its tax dues including surcharge for that relevant period.

Being aggrieved by the order of assessment the dealer preferred an appeal before the first appellate authority challenging the same on the grounds that the said order was bad in law and facts and further the dealer was assessed most arbitrarily in the instant case. The dealer which has been registered both under OST and CST Act carries on business in purchase of iron ore lumps which it converts to sized iron ore and iron ore fines in its crusher Unit. Further it (the dealer) had paid Odisha Sales Tax while purchasing the raw material i.e. iron lumps. The Sales Tax Officer considering its activities as manufacturing process as per Section 2(ddddd) of the OST Act held the dealer to have manufactured iron ore sizes and iron ore fines out of iron lumps and then levied tax on the pretext of those being distinct commercial items. Since iron ore comes under the category of 'minerals' as per Entry 181 of List-D of the Rate Chart under the OST Act and is a first point tax paid item w.e.f. 01.03.2002 no further sales tax should have been levied on dealer's subsequent sale.

The first appellate authority considering all the above grounds of appeal vis-à-vis the order of assessment concluded that the

goods such as iron ore fines and size irons sold by the dealer cannot be treated as products of iron ore lumps through the process of 'manufacture' and further ores being nothing but minerals coming under 1<sup>st</sup> point tax paid goods claim of the dealer towards sale of size iron and iron ore fines as 1<sup>st</sup> point tax paid goods was justified. In the aforesaid circumstances he held that the dealer was not liable to pay further tax as determined by the assessing officer. Accordingly he reduced the assessment to the returned figures submitted by the dealer with further direction to refund the excess amount, if any, paid by the dealer.

3. The State then carried this appeal before the Tribunal on the grounds that conversion of size iron ores or fines from iron ore lumps is a process of manufacture since the goods acquire a specific marketable size as well as buyers for the same as those buyers would have never purchased iron lumps. Therefore, the first appellate authority has wrongly held that no new taxable event occurred in converting the raw material i.e. iron ore lumps into size iron ores and fines which so to say are finished products only acquiring the character of distinct commercial commodity. The State also challenged the impugned order as illegal being contrary to the provisions of law.

No cross-objection has been filed on behalf of the dealer-assessee in this appeal.

4. In course of hearing it was found that the dealer-respondent despite being informed by way of affixture service of notice

through Rourkela-I Circle, Uditnagar to appear before this forum for hearing of the appeal remained absent. As this is a pretty year old matter the appeal was heard from the side of the State only to be disposed of exparte on merit as per Rule 60(2) of the OST Rules.

5. On perusal of the order of assessment as well as the impugned order passed by the first appellate authority alongwith the case record we could gather that in the instant case the dealer had purchased iron ore lumps on payment of tax at first point. The size iron ores and iron ore fines were obtained by the dealer through the process of crushing iron ore lumps in its business establishment. Whether this process of crushing iron ore lumps can be treated as a manufacturing process and as such attracts tax liability of the dealer for production and sale of size iron ores and iron ore fines is to be determined in the present case. Since law is well settled as decided by the Hon'ble Apex Court in the cases of Commissioner of Sales Tax Vs. Lal Kunwa Stone Crusher Pvt. Ltd., reported in [2000] 118 STC 287 (SC) and Divisional Deputy Commissioner of Sales Tax and another Vs. Beheraghat Minerals Industries, reported in [2000] 120 STC 205 (SC) it can be safely concluded that iron ore fines and size iron ores are not liable to tax on account of the same being not different commodities than iron ore which was already subjected to tax at the first point of purchase. Therefore, it has to be held that there is absolutely no infirmity in the order of the first appellate authority in deletion of tax on the sales turnover of size

iron ores and iron ore fines. In this circumstance, we have no hesitation in confirming the impugned order passed by the first appellate authority.

6. In the result, the appeal is dismissed.

Dictated & Corrected by me,

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

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

I agree,

**Sd/-**  
**(Smt. Sweta Mishra)**  
**2<sup>nd</sup> Judicial Member**

I agree,

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