



the assessment year 2004-2005 u/s.12(4) of the Odisha Sales Tax Act, 1947 (in short, OST Act).

2. The brief facts of the case are that :

The dealer-appellant, M/s. Perfect Print & Graphics (P) Ltd. in the present case carries on business in trading and sale of books, periodicals, magazines, letter pads, envelops, leaflets, poster and other printing materials made out of paper at its place of business. The dealer has reflected the GTO and TTO of its business at Rs.85,80,491/- and Rs.Nil respectively. Despite the dealer availed number of opportunities to appear and produce his complete set of books of accounts including sales register, sale invoice etc., he neither made his appearance before the Assessing Officer nor could produce any evidence to substantiate his claim. Hence, the ld.STO rejected the claim of the dealer of tax-free goods sale in the absence of any corroborating evidence, and accordingly determined total tax of Rs.6,62,471/- payable by the dealer at the stage of assessment.

3. Being aggrieved by the order of assessment, the dealer preferred first appeal before the learned First Appellate Authority/Deputy Commissioner of Sales Tax (Appeal), Bhubaneswar Range, Bhubaneswar, who in turn, dismissed the appeal by his order on ex-parte and confirmed the order of assessment.

4. Being further aggrieved with the order of the learned FAA/DCST (Appeal), Bhubaneswar Range, Bhubaneswar, the dealer knocked the door of this Tribunal by way of filing of second appeal with the contention that, the

order passed by the ld.FAA/DCST is illegal, arbitrary and in contravention of law and hence needs to be quashed.

5. No cross objection has been filed by the State-respondent in this case.

6. Learned Advocate appearing on behalf of the dealer challenged the order passed by the learned FAA. He vehemently argued that, the dealer-appellant deals in printing and sale of books, journals and booklets which are exempted from payment of OST. In almost all cases, the printing paper required for the above works are supplied by the customers. Further, the learned Advocate for the dealer stated that the dealer was not given sufficient opportunity to produce the relevant books of accounts and sale invoices and other documents for availing exemption as per provisions of law. Thus, the learned DCST, Bhubaneswar Range, Bhubaneswar has blindly accepted the assessment order passed by the learned STO without applying judicious mind. So the learned Advocate for the dealer prayed to allow the appeal filed by the dealer and to set-aside the order of the learned FAA.

7. On the other hand, during the course of hearing, learned Standing Counsel, Mr. D. Behura for the State argued that, the grounds raised in the appeal petition are misconceived and liable to be dismissed in toto. The dealer-appellant was given sufficient opportunities to produce the documentary evidence in favour of his stand taken for disposal by the learned Assessing Officer and learned FAA but the dealer failed to produce the same. Hence, his plea is not acceptable. The order of the learned FAA appears to be just

and proper. There is no reasonable merit in the second appeal filed by the dealer-appellant which is not sustainable in the eyes of law. The demand raised by the learned FAA is as per the statute. So, he prayed to dismiss the appeal filed by the dealer-appellant and to confirm the order of the learned FAA.

8. Heard the learned Advocate Mr. N. Panda appearing on behalf of the dealer and learned Standing Counsel Mr. D. Behura appearing on behalf of the State. Gone through the grounds of appeal, impugned orders of appeal and assessment and arguments of both the sides at the time of hearing. In view of the facts and circumstances of the case and after analysing the points raised in this appeal, the Tribunal is of the considered opinion that this is a fit case where the matter should be remanded back to the learned Assessing Officer to re-compute the tax liability of the dealer after making proper verification of all the documents of the dealer. Before this Tribunal, the learned Counsel for the dealer-appellant produced books of accounts with necessary sale bills etc. for the material year and it is understood that the ld.FAA made an ex-parte order without giving reasonable opportunity to the dealer to derive a logical conclusion of his findings that vitiates the principles of natural justice. Accordingly, it is ordered.

9. The appeal filed by the dealer is allowed on contest. The order of the learned FAA is hereby set-aside. The matter is remanded back to the learned Assessing Officer to re-compute the tax liability of the dealer as per provisions of law after making proper verification of the documents of the dealer

within a period of three months from the date of receipt of this order after giving the dealer a reasonable opportunity of being heard. The dealer is also directed to produce his complete set of books of account with relevant documents before the learned Assessing Officer at the time of re-assessment.

Dictated and Corrected by me,

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

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

I agree,

Sd/-  
(A.K. Das)  
Chairman

I agree,

Sd/-  
(S. Mishra)  
Accounts Member-II