

Responding to the notice under rule 12(5) of the CST (O) Rules bearing No.16861 dtd.13.12.2005, the Executive Director of the Company appeared on 19.07.2006 and produced purchase bills, purchase register, sale invoice and sale register which were examined. During the year under assessment, the dealer has sold medicines worth Rs.2,40,01,078.00 in course of interstate trade and commerce. The purchasers are M/s.Panbross Pharmaceuticals (P) ltd., Mimek Pharma (P) Ltd., M/s.Asam Chemical and Pharmaceuticals (P) Ltd., M/s. R.P.G. Science Ltd, Lucknow and M/s.Amstring Pharma (P) Ltd. The dealer has sold medicines to these consignees regularly and has paid tax on a turnover of Rs.2,37,63,490.00 @1% amounting to Rs.2,37,588.00. In support of concessional rate of tax, the dealer produced 'C' forms to the extent of Rs.11,25,155.77 from M/s. Asam Chemicals and Pharmaceuticals Ltd., and M/s. Mimek Pharma (P) Ltd.. No 'C' forms could be produced for Rs.2,26,38,334.23 despite grant of time. Hence this amount is taxed @10%. The dealer has disclosed despatch of medicines worth Rs.26,42,495.00 to the above named customers as sample sales. No tax has been collected on it and no tax has been paid. The amount of sample sales appears to be very high in comparison to the amount of interstate sale. Keeping in view the past records and amount of sample allowed in the appeal for previous year, an amount of Rs.9,50,540.00 is allowed @4% of the net sale amount and balance amount of Rs.16,91,955.00 is taxed @10%. So the gross turnover under CST Act is determined at Rs.2,82,34,656.00. The dealer is allowed deductions such as export to Bhutan Rs.15,91,083.00. Sample sales of Rs.9,50,540.00 and CST collected Rs.2,37,588.00, total is Rs.27,79,211.00. Thus, the net turnover is determined at Rs.2,54,55,445.00. Tax due @1% on Rs.11,25,155.75 and @10% on Rs.2,43,30,289.23 calculates to Rs.24,44,280.47. The dealer having paid Rs.2,48,160.00 earlier, now required to pay the balance amount of Rs.21,96,120.47 as per the terms and conditions of the demand notice.

3. Being aggrieved with such assessment order, the dealer preferred first appeal before the learned ACST, Balasore Range, Balasore in which the assessment order was confirmed.

4. Again being dis-satisfied with the order of the learned First Appellate Authority, the dealer preferred the present second appeal as per the grounds mentioned in the grounds of appeal.

5. No cross objection is filed in this case by the revenue respondent.

6. In spite of due service of notice on dealer he neither preferred to appear nor engaged anyone on his behalf to take part in the hearing. Hence, having no alternative and this being a year old case was taken up for hearing *ex parte* on merit in presence of the Standing Counsel appearing for the Revenue.

7. Heard the contentions and submissions put forth by the learned Counsel for the Revenue. Perused the materials available on record *vis-à-vis* the grounds of appeal. On perusal, it becomes evident that vide order dated 31.07.2006, leaned assessing officer raised extra demand of Rs.21,96,120.00 for the assessment year 2004-05 disallowing some portion of interstate sale transaction against 'C' declaration form. It is quite obvious that the dealer is duty bound to furnish declaration form 'C' relating to interstate sale. But that has neither been furnished during the time of assessment nor during the hearing of first appeal for which the first appeal was also disposed of on *ex parte* basis. Before this forum also, the dealer could not be able to furnish the declaration form 'C' relating to interstate sale. So due to non-submission of declaration form 'C', both the fora below have rightly passed the order raising extra demand of Rs.21,96,120.00 and as such to our view the same needs no interference.

8. In the result, the appeal preferred by the dealer is dismissed and the orders of both the fora below are hereby confirmed.

Dictated and Corrected by me,

Sd/-
(Shri S.K.Rout)
Judicial Member-II

Sd/=
(Shri S.K.Rout)
Judicial Member-II

I agree,

Sd/-
(Shri A.K.Das)
Chairman

I agree,

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