BEFORE THE CHAIRMAN, ODISHA SALES TAX TRIBUNAL: KATAKA

S.A. No. 208 (ET) of 2015-16

(Arising out of order of the learned JCST (Appeal), Ganjam Range, Berhampur in Appeal No. AAE- 21/2013-14, disposed of on 22.12.2015)

Present: **Shri G. Sharma, Chairman**

State of Odisha, represented by the Commissioner of Sales Tax, Odisha, Kataka ... Appellant

-Versus-

M/s. Suraj Traders, New Bus Stand Road, Brahmapur, Dist. Ganjam ... Respondent

For the Appellant : Sri D. Behura, S.C. (CT)
For the Respondent : N o n e

Date of hearing: 08.09.2026 *** Date of order : 07.10.2026

O R D E R

Challenging the legality and propriety of order dated 22.12.2015 passed by the Joint Commissioner of Sales Tax (Appeal), Ganjam Range, Berhampur (hereinafter referred to as 'First Appellate Authority') in Appeal No. AAE- 21/2013-14, this appeal has been filed by the State.

2. The brief facts relevant for disposal of this appeal run thus–

M/s. Suraj Traders (hereinafter referred to as 'Dealer') is engaged in trading of ceramic tiles, glazed tiles, sanitary ware and fittings etc. on wholesale-cum-retail sale basis. Basing on the Fraud Case Report (FCR), the Sales Tax Officer, Ganjam I Circle, Berhampur, (in short, 'Assessing Authority') initiated the assessment

proceeding u/s. 10 of the Odisha Entry Tax Act, 1999 (for brevity, 'OET Act') for the period 01.04.2011 to 31.03.2013. On examination, the Assessing Authority found the Dealer to have failed to produce documentary evidence towards payment of freight charges while transporting the goods from outside the State, accordingly determined the transportation cost at ₹47,25,000.00, thereby computed the ET liability of ₹2,62,239.00 including penalty for the period under assessment. Being aggrieved with the order of assessment, the Dealer preferred first appeal before the learned First Appellate Authority. The First Appellate Authority calculated the freight charges at ₹29,37,637.00, which resulted in reduction of demand to ₹1,72,883.00 and allowed the appeal in part, hence this appeal.

3. The Dealer filed no cross-objection.

4. None appeared on the behalf of the Dealer despite service of notice. Learned Standing Counsel (CT) for the State was present. Hence, the matter is taken up for disposal *ex parte* on merits basing on the materials on record.

5. The learned Standing Counsel (CT) appearing for the State submitted that the impugned order of the First Appellate Authority to be unjust and improper on the grounds that determination of freight charges without conducting any enquiry in the market is wrong and that the ratio of tax rate fixed on the purchase value of goods by the First Appellate authority is without any justification. Accordingly, he prayed for setting aside the order of the First Appellate Authority by restoring the order of assessment as lawful.

6. On perusal of record, it transpires that the Assessing Authority completed the assessment by adding transportation cost of ₹47,25,000.00 (@ ₹3,500.00 per MT x 15 MT of vehicle x 90 instances) as suggested in the AVR, which the Dealer did not include on the purchase effected from outside the State. The First Appellate

Authority in the impugned order observed that the investigating official could have gathered more authentic evidence about the actual cost of transportation incurred by the Dealer per MT without resorting to reliable sources, and thus, held the estimation of transportation charges to be imaginary. At the same time, the First Appellate Authority did not accept the argument of the Dealer for inclusion of 15% purchase turnover towards freight charges. The First Appellate Authority taking into consideration the turnover of different tax rate groups added an amount of ₹29,37,637.00 towards freight, which is 20% of the total purchase of scheduled goods effected from outside the State. Thereafter, the First Appellate Authority included an amount of ₹28,29,125.00 to the tax rate category of 2% and ₹1,08,512.00 in the tax rate category of 1%, accordingly, recalculated the tax liability of the Dealer in the impugned order. Moreover, the Assessing Authority has observed in the assessment order that it is quite impossible at this forum to assess the exact cost of transportation charges actually paid by the Dealer as the Dealer failed to produce documentary evidence to find out the actual freight charges. In such premises, this forum is of the humble opinion that in absence of any rebuttal material on record, the determination of freight charges and the amount included in different tax rate groups by the First Appellate Authority cannot be called as capricious inasmuch as the same is based on the reasonable nexus with the purchase turnover disclosed by the Dealer, therefore, warrants no interference in appeal.

7. In the result, the appeal filed by the State stands dismissed and the impugned order of the First Appellate Authority is hereby confirmed.

Dictated & Corrected by me

Sd/-
(G. Sharma)
Chairman

Sd/-
(G. Sharma)
Chairman