

**BEFORE THE DIVISION BENCH: ODISHA SALES TAX TRIBUNAL,
CUTTACK.**

S.A.No. 15(C)/2013-14

(From the order of the Id. JCST, Sundargarh Range, Rourkela, in
Appeal No. AA.121 (RL-II-C) of 2009-2010, dtd.22.11.2012,
confirming the order of Assessing Officer)

Present: Sri S. Mohanty & Sri P.C. Pathy
2nd Judicial Member Accounts Member-I

M/s. J.M. Steel Traders,
Vedvyas, Rourkela,
Dist. Sundargarh. ... Appellant

-Versus-

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

For the Appellant : Mr. D. Pati, Advocate
For the Respondent : Mr. M.L. Agarwal, Standing Counsel

(Assessment Period : 2005-2006)

Date of Hearing: 08.03.2019 *** Date of Order: 08.03.2019

ORDER

This appeal is directed against a confirming order of the Assessing Authority/Sales Tax Officer, Rourkela-I Circle, Panposh (in short, AA/STO) in an assessment u/s. 12(4) of the Central Sales Tax Rules (Orissa), 1957 (in short, CST(O) Rules for the assessment year 2005-06 relating to the dealer-appellant.

2. The fact giving rise to this appeal are: the dealer-appellant carries on business of inter-state trade and commerce. The dealer was subjected to assessment for the period of assessment 2005-06 by the AA. The AA found the dealer has disclosed gross and net inter-state sale of goods at Rs.80,80,952/-

and Rs.65,52,837/- respectively. The dealer could furnish declaration in Form 'C' covering an amount of Rs.43,30,094/-. As a result, the AA declined the concession on the rest amount on inter-state sale of Rs.22,22,743/-. The dealer had claimed tax exemption in sale to the tune of Rs.12,66,000/-, but it was not supported by any documentary evidence in support of the claim of tax exempted sale. Hence, this prayer of the dealer was also denied by the AA. Further, the claim of set off by the dealer was disallowed, as it was not admissible under CST Act. Ultimately, the AA determined the GTO of the dealer at Rs.80,80,952/-. Deduction to the extent of Rs.2,62,115/- towards STC collected was given, thereby the Net Taxable Turnover was calculated at Rs.78,18,837/-. Total tax payable by the dealer was determined at Rs.4,15,993.20 and raised against the dealer accordingly.

3. Being aggrieved with such assessment, the dealer carried the matter before the learned First Appellate Authority/Joint Commissioner of Sales Tax, Sundargarh Range, Rourkela (in short, FAA/JCST), who in turn, confirmed the order of the AA by reiterating the self-same view taken by the AA.

4. On the above backdrop, the dealer preferred this second appeal. The contention of the dealer is, the AA or the FAA both have not allowed sufficient time to the dealer to procure the declaration Form 'C' and further, the FAA has committed wrong in confirming the denial of tax exemption sale of Rs.12,66,000/-.

5. The appeal is heard without cross objection from the side of the Revenue.

6. In this appeal, it is to be seen that, whether the dealer is entitled to any further concession in rate of tax against the inter-state sale as claimed? The dealer is found to have furnished

declaration in Form 'C' against the inter-state sale to the tune of Rs.43,30,094/- and to that extent, he was allowed the concession in rate of tax. On the contrary, the dealer has failed to produce any declaration Form as against the claim of any inter-state sale to the tune of Rs.22,22,743/-. In that event, it is held that, both the fora below are not at wrong in imposing tax at full rate on the dealer over that amount of intra-state sale. The further claim of the dealer is, tax exempted sale to M/s. Nilachal Ispat Ltd., Jajpur. This claim of the dealer is not supported by any of the document. Here, again it is held that, the view taken by both the fora below calls for no interference.

The claim of set off is not pressed by the dealer-appellant in the hearing. Thus, to sum up, it is believed that, the dealer has failed to establish any of the ground taken in this appeal and in consequence thereof, the impugned order cannot be said to be suffering from any illegality both in law and facts. Accordingly, it is ordered.

The appeal is dismissed as of no merit.

Dictated and Corrected by me,

Sd/-
(S. Mohanty)
2nd Judicial Member

I agree,

Sd/-
(S. Mohanty)
2nd Judicial Member

Sd/-
(P.C. Pathy)
Accounts Member-I

