

SECOND APPEAL ORDER DISPOSAL STATUS FOR ORDERS RECEIVED IN DECEMBER-2020

FULL BENCH

Sl No.	Name of Dealer R.C. No.	Range/Circle /AU	First Appeal No. & Date	Second Appeal Number & Date of Order	Act	Period	Second Appeal filed by State/ Party	Amount Demanded /Refunded (BY 1ST Appellate Authority)	Grounds of Appeal	Result of Second Appeal Order
1	M/S JINDAL STEEL & POWER LTD., SUNDARGARH	ROURKELAI CIRCLE	AA-201(C)/2012-13, DTD.31.03.2014	61(C)OF 2014-15 & 85(C) OF 2014-15, DT.19.11.2020	OVAT & OET	01.04.2007 TO 31.03.2011	BOTH	2933448666	The assessment was completed u/s 12(1) of the CST Act. The state challenged non- clarity of FA order and acceptance of export sales without valid documents. The dealer challenged the levy of penalty for failure to furnish "C " forms.	The OSTT dismissed the the state appeal. The penalty was deleted by the OSTT and remanded the case for re- computation of tax. In the result, the order is disposed of in favour of both.
2	M/S JINDAL STEEL & POWER LTD., SUNDARGARH	ROURKELAI CIRCLE	AA-05 (C)/2009-10 DTD 28.08.2014	60(C)OF 2014-15 & 84(C)OF 2014-15 DT19.11.2020	CST	01.04.2006 TO 31.03.2007	BOTH		The assessment was completed under CST Act. The state challenged the order of the FAA against allowing the deduction towards export sale u/s 5(1) of CST Act without documentary evidence. It is also claimed that the exemption allowed u/s 5(3) of CST Act by the FAA is not clear.	In the result, the appeal filed by the state is dismissed and disposed in favour of the dealer. The LAO is directed to recompute the tax liability in the lite of findings and observation of the tribunal.
3	M/S JINDAL STEEL & POWER LTD., SUNDARGARH	ROURKELAI CIRCLE	AA-210/2011-12&AA-211/2011-12 DTD 03.01.2013	39(VAT)&33 ETOF 2013-14 &141(VAT)&99 ET OF 2013-14 Dt. 12.11.2021	VAT ET	01.04.2007 TO 31.03.2008	BOTH	Demand of Rs. 6000000 reduced to Rs. 29,73,264.00	The assessment was completed u/s 43 of the OVAT Act. With demand of Rs. 6,00,000.00 which was reduced by the FAA to Rs. 29,73,264.00. The dealer challenged the validity of initiation of proceeding u/s 43 of the act and non providing sufficient opportunity after arriving at alleged suppression. The state challenged the FAA order for reducing demand.	3.The OSTT upheld initiation of proceeding U/s 43. 4. Regarding opportunity the dealer set asidethe order of LAO for re-examination after affording opportunity . 5. There is no informity in the order.
-4	M/S NTPC LIMITED,ANGUL	ANGUL	AA-487/ET/DL/2004-05 DT 28.09.2005	309(ET)OF 2005-06 DT 15.12.2020	OET	2003-04	PARTY	27324009	The assessment was completed u/s 7(4) of the4 OET Act with demand of Rs.3,23,24,009.00 which was reduced by the FAA to 2,73,24,009.00 by levying tax @1% instead of 2%. The dealer filed second appeal on the grounds that the coal is used by him as raw material for generation of electricity but not fuel as determined by LAO. The OSTT remanded the case back to the LAO for fresh consideration by examining the relevant documents.	1.The dealer has paid ET @ 0.05% on coal used in generation of electricity as raw material. 2. The LAO levied ET @ 1% on coal. 3.The FAA confirmed the assessment order. 4. The OSTT basing on OPGC case of HC held "that "Coal" is raw material for Govt. of Electricity Board liable to ET @0.5%.
5	THAKUR PRASAD SAO& SONS P LTD KEONJHAR	KEONJHAR	AA-267/KJB(ET)/08-09&AA-268/KJB(ET)/08-09 DT 08.09.2010	119(ET)&120(ET) OF 2010-11 ,140(ET)&141(ET) OF 2010-11 DT 20.11.2020	OET	2005-06&2006-07	BOTH		The assessment was completed U/s 9(C) of the OET ACT. The dealer challanged against the calculation of freight and incidental charges levied by the LAO was erroneous. The state challanged against the deletion of penalty by the FAA.	The Tribunal concluded that the dealer in not saddle with penalty. It must have to pay the interest the admitted tax due with respect to the scheduled goods in order to make goods the loss suffered by the state. In the result the appeal filed by the state allowed in part and the appeal filed by the dealer is dismissed.
6	VIS INDUSTRIES LIMITED JAJPUR	JAJPUR	AA-231-CU III-ET-08-09 DT 28.05.2020	78(ET)/2010-11 DT 14.12.2020	OET	2004-05	PARTY	634,186.00	The assessment completed U/s 7(5) of the OET Act with demand of RS.28,40,222.00 which was reduced by the FAA to Rs.6,34,186.00. The dealer filed 2nd appeal the goods imported from outside the country is not liable for taxation.Consideraring the fact the tribunal	Consideraring the fact the tribunal concluded that the appeal filed by the dealer is allowed in part and order of the FAA is hear by modify to extent tath the dealer is entitled for concessional rate 50% rate to which such goods are exigible for payment of ET on lime and coal amounting Rs. 12,71,69,446.00.
7	M/s EmamiPaper Mills Ltd, Baleswara Vs State	Balesore Range		23 (C)/2002-03 DT-01-12-2020	CST	1992-93	Party		The dealer challenged the order of the FAA who set aside the case for reassessment.	Since the LAO has already passed the set aside order , OSTT dismissed the dealer's appeal.

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8	State Vs M/s R. P.G. Transaction Ltd.	Balesore Range		S. A. NO. 1658/2003-04	OST	2003-04	State	755,566.00	The dealer is a work contractor. The LAO raised demand of Rs. 7,55,566.00. The FAA confirmed the order. The State challenged the order of the FAA who allowed is higher side.	The OSTT dismissed the state appeal on the grounds that fresh assessment has already been completed as per direction of full bench. S. A. No. 1727/ 2003-04 in case of instant dealer.

DIVISION & SINGLE BENCH

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1	M/S GLAMOUR CUTTACK	CUTTACK I RANGE	108121512001 58 DT 24.01.2018	125(ET)OF 2018 DT 09.12.2020	OET	01.04.2012 TO 31.03.2014	PART Y	215746655	The assessment was completed u/s 9(C) of the OET Act. with demand of Rs. 36,35,667.00 including penalty of Rs. 24,33,778.00 imposed u/s 9C(5) of the	The OSTT dismissed the appeal filed by the dealer and confirmed the order of the FAA. In the result, the appeal is disposed in favour of the state.
2	M/s ROYAL TOUCH GARNITE PVT LTD GANJAM	GANJAM II CIRCLE	AAC 02/2014-15 DT 29.06.2017	74 (C) OF 2017-18 DT 17.12.2020	CST	01.04.2012 TO 31.03.2014	PART Y	20857427	The assessment was completed u/s 9(C) of the OET Act. with demand of Rs. 36,35,667.00 including penalty of Rs. 24,33,778.00 imposed u/s 9C(5) of the	The dealer produced wanting "C" Forms. Hence OSTT allowed appeal and remanded the case to the LAO for fresh order.
3	M/S GOA CARBON LTD JAGATSINGHPUR	CUTTACK II RANGE	AA/CUII/383/JC ST/2011-12 DT 16.08.2018	242(V) OF 2018 DT 26.11.2020	OVA T	01.11.2008 TO 30.09.2010	PART Y	407573	The amendment was completed u/s 42(4) of the OVAT Act with demand of Rs. 4,07,537.00 including tax of Rs. 1,35,845.81 and penalty of Rs. 2,71,691.62 u/s 42(5) of the Act. The dealer filed appeal	After going through the facts, the Tribunal concluded that the dealer could not give any plausible or clgent reason about the allowance of ITC on other goods. Hence the LAO has rightly held that other goods are not
4	M/S BRAJA SUNDAR TOOLS JAGATSINGHPUR	JAGATSI NGHHPUR CIRCLE PARADE	AA/04/OET/CUII/2015-16/ 108131513000 047 DT	24(ET) OF 2017-18 DT 26.11.2020	OET	01.04.2005 TO 30.06.2011	PART Y	94406	The assessment was completed u/s 9(C) of the OET Act with demand of Rs. 94,406.00 including tax of Rs. 31,802.00 and penalty of Rs. 63,604.00 on the	Afer considering the facts, the Tribunal concluded that the imposition of penalty twice the tax is justified as per the provision u/s 9C(5) of the OET Act. The assessment under OET Act is necessarily consequential to
5	M/S BRAJA SUNDAR TOOLS JAGATSINGHPUR	JAGATSI NGHHPUR CIRCLE PARADE	AA/09/OVAT/C UIIJ/2015-16/1081315130 00046 DT	68(V) OF 2017-18 DT 26.11.2020	OVA T	01.04.2005 TO 30.06.2011	PART Y	168282	The assessment was completed u/s 42 of the OVAT Act.with demand of Rs. 1,68,282.00 including tax of Rs. 56,094.00 and penalty of Rs. 1,12,188.00 u/s 42(5) of	After considering the facts, the Tribunal concluded that the LAO is justified in invoking section 42(5) of the OVAT Act. If there had been no audit and no further enquiry, the dealer would have evaded payment of
6	M/S GEODESIC TECHNIQUES PVT. LTD., BHUBANESWA	BHUBANESWAR RANGE		49(V)/2018, DTD.17.05.2019 & 12.11.2020	OVA T	01.03.2013 TO 31.03.2014	STATE	11788036	The assessment was completed u/s 42 of the OVAT Act.with demand of Rs. 1,17,88,036.00 including tax of Rs. 39,28,969.00, interest of Rs. 1129.00 and penalty of Rs. 78.57.938.00. 1. The	1. Interest has not been paid by the dealer on defered amount. 2. The LAO had not changed the interest of differential amount. 3.
7	M/s Shree Arnapurna cendiaiores Ltd.			126(ET)/2010-2011 DT.12.11.2020	OET	2004-05			1.LAO levied ET @2% as per part 2 of Schedule II on electrical Aluminium Cables. 2. FAA confirmed the assessment order.	3. The OSTT held that Aluminium Electrical cable is liable to ET @1% under entry - II of Schedule I on the wires including Aluminium.

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8	M/S Jindal Steel & Products Ltd. Tensa Vs State			S.A No. 33(ET)/2013-14 (Dealer) S.A. No. 99(ET) /2013-14 (State)	ET	01.04.2007 to 31.03.2008	Both		1.Dealer challenged validity of initiation of proceeding U/s 43and non-providing sufficient opportunity for arriving at alleged suppression .	1. The OSTT upheld initiation of proceeding U/s 43. 2. Regarding opportunity the dealer set aside the order of LAO for re-examination