

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

FULL BENCH

SI 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)	Result of Second Appeal Order
1	M/S HINDUSTAN STEEL WORKS CONSTRUCTION LTD., ROURKELA		AA-107(RLI)/2005-06, DT. 25.11.2005	2131 OF 2005-06, DT.31.01. 2020	OST	1996-97	STATE	2725359 (REFUND)	The assessment was completed u/s 12(4) of the OST act with extra demand of Rs. 22,39,830.00 after allowing deduction of Rs. 6,44,80,973.10 towards labour and service charges and deduction of Rs. 73,50,666.84 towards purchase of taxable materials utilized in the works contract The dealer filed first appeal against the percentage of deduction towards labour and service charges. The FAA set aside the order with a direction to complete the reassessment on the basis of his observation that the percentage of deduction towards labour and services is to be allowed in terms of the decision of the Hon'ble Apex court. The reassessment was completed exparte and the earlier assessment was confirmed. The dealer filed first appeal against the exparte order. On considering the reassessment, the FAA allowed refund of Rs. 27,25,359.00 after allowing deductions of Rs. 22,40,872.00 towards payment received on account of labour escalation, Rs. 1,76,299.00 towards 100% labour job, Rs 9,42,46,135.71 towards labour and service charges, Rs. 1,28,76,628.00 towards tax paid materials supplied on cost recovery basis and Rs. 73,50,666.84 towards purchase of tax paid materials utilized in the execution of works contract. The state filed second appeal on the grounds that 100% deduction on sub-contract work is improper as per the provision of law. The deduction towards materials supplied on cost recovery basis is also erroneous. After considering the fact, the Tribunal reached on the decision that the nature of work and the extent of deduction towards labour and service charges are clearly mentioned by the FAA which is just and proper. Therefore the appeal is dismissed being devoid of merit.
2	M/S HINDUSTAN STEEL WORKS CONSTRUCTION LTD., ROURKELA	ROURKELA I CIRCLE	AA-104(RLI)/2005-06, DT.25.11.2005	2128 OF 2005-06, DT.31.01. 2020	OST	1993-94	STATE	REFUND	The assessment was completed u/s 12(4) of the OST act with extra demand of Rs. 20,95,078.00 after allowing deduction @ 100% towards execution of pure labour work and @30% and 20% towards labour and service charges respectively and deduction of Rs. 19,47,099.56 towards purchase of taxable materials utilized in the works contract. The dealer filed first appeal against the percentage of deduction towards labour and service charges. The FAA set aside the order with a direction to complete the reassessment on the basis of his observation that the percentage of deduction towards labour and services is to be allowed in terms of the decision of the Hon'ble Apex court. The reassessment was completed exparte and the earlier assessment was confirmed. The dealer filed first appeal against the exparte order. On considering the reassessment, the FAA reduced the assessment after allowing deductions of Rs. 22,40,872.00 towards payment received on account of labour escalation, Rs. 16,54,605.00 towards pure labour work, Rs 5,90,22,949.93 towards labour and service charges, Rs. 70,52,819.00 towards tax paid materials supplied on cost recovery basis and Rs. 32,01,376.56 towards purchase of tax paid materials utilized in the execution of works contract. The state filed second appeal on the grounds that 100% deduction on sub-contract work is improper as per the provision of law. The deduction towards materials supplied on cost recovery basis is also erroneous. After considering the fact, the Tribunal reached on the decision that the nature of work and the extent of deduction towards labour and service charges are clearly mentioned by the FAA which is just and proper. Therefore the appeal is dismissed being devoid of merit.

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3	M/S HINDUSTAN STEEL WORKS CONSTRUCTION LTD., ROURKELA	ROURKELA I CIRCLE	AA-103(RLI)/2005-06, DT.25.11.2005	2127 OF 2005-06, DT.31.01.2020	OST	1992-93	STATE	9527 (REFUND)	The assessment was completed u/s 12(4) of the OST act with extra demand of Rs.21,66,383.00 after allowance of deduction of Rs. 25,87,659.95 towards labour escalation, Rs. 3,98,01,900.13 and Rs. 19,41,458.90 towards labour and service charges respectively. The dealer filed first appeal against the percentage of deduction towards labour and service charges. The FAA set aside the order with a direction to complete the reassessment on the basis of his observation that the percentage of deduction towards labour and services is to be allowed in terms of the decision of the Hon'ble Apex court. The reassessment was completed exparte and the earlier assessment was confirmed. The dealer filed first appeal against the exparte order. On considering the reassessment, the FAA allowed refund of Rs. 9527.00 after allowing deductions of Rs. 25,87,659.95 towards payment received on account of labour escalation, Rs. 1,44,49,491.18 towards execution of pure labour work, Rs 3,97,14,226.84 towards labour and service charges, Rs. 47,39,489.55 towards purchase of first point tax paid materials utilized in the execution of works contract and Rs. 1,13,23,872.38 towards payment received on execution of sub-contract works. The state filed second appeal on the grounds of excess payment of labour and service charges allowed by the FAA. After considering the facts, the Tribunal reached on the decision that the nature of work and the extent of deduction towards labour and service charges are clearly mentioned by the FAA which is just and proper. The dispute raised by the state in this regard without assigning any reason for the same is unwarranted. Therefore the appeal is dismissed being devoid of merit.
4	M/S UTKAL AGRO ORGANIC LTD., BALASORE	BALASORE CIRCLE	AA-21 & 22 /BA OF 2004-05, DTD.22.06.2004	1951 & 1952 OF 2004 -05, DT.27.01.2020	OST	2001-02 & 2002-03	PARTY	263145 & 1946920	The assessment was completed u/s - 12(4) of the OST Act. with extra demand of Rs 263145.00 and Rs 1946920.00 for the tax periods 2001-02 and 2002-03 respectively . The dealer filed first appeal before the FAA who detected following points. (i) The court fee stamps worth Rs 1.25 has not been paid. (ii) The appeal was found barred by limitation. (iii) The admitted tax was not paid before filing the appeal. The FAA rejected the appeal as the dealer did not appear before him through his authorised agent or advocate on the date fixed for hearing. No petition was filed on its behalf to seek time for appearing before the FAA. The dealer filed second appeal on the grounds that no notice was served on it for removal of defects. Rejection of the assessment order as well as first appeal order was not just and proper as his advocate was sick and was not able to appear the orders in time. its appeal was illegal. The state filed CO to mention that show cause notice was not complied by the dealer despite receiving the same. NO admitted tax was deposited for the two period. After considering the facts, the forum concluded that the dealer was never inclined to appear all these forums to explain its stan properly. Hence the orders of assessment as well as the impugned orders seems to be correct as per the provisions of law. As a result, the appeals are dismissed and the order of the FAA is hereby confirmed.
5	M/S SIDHIVINAY AK FERRO ISPAT LTD., SUNDARGARH	SUNDARGARH RANGE	AA-3(RL-I)ET OF 2010-11, DT. 30.01.2013	224(ET) OF 2012-13, DT.06.02.2020	OET	2004-05	STATE	2835396	The assessment was completed u/s - 7(4) of the OET Act. with tax and penalty of Rs. 28,35,396.00. Being desatisfied with the order, the dealer filed first appeal before the FAA who set aside the assessment order and directed for the assessment under OET Act to be done afresh following the result of reassessment under OST Act. The state brought this appeal before the Tribunal on the grounds that the original assessment did not reveal any anomaly and the mismatch of the closing stock for the period was construed as out of account sale. After elaborate discussion, the forum affirmed the opinion of the FAA that the conclusion drawn by the AA in respect of bank transaction as out of account sale of goods was purely based on presumption and assumption for which the first appeal order was set aside. In the result, the appeal preferred by the state was dismissed and the order of the FAA was confirmed by giving time limit of three months for reassessment.

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6	M/S SIDHIVINAY AK FERRO ISPAT LTD., SUNDARGA RH	SUNDARGAR H RANGE	AA-55(RL-I-C) OF 2010-11, DT. 30.01.2013	126(C) OF 2012-13, DT.06.02.2020	CST	2004-05	STATE	2891787	The assessment was completed u/r. 12(4) of the CST Rules, 1957 with tax liability of Rs. 28,91,787.00. as an amount of Rs1,15,67,151.00 was treated as sale suppression after verification..Being aggrieved by the order of assessment, the dealer preferred first appeal on the grounds that the evidence produced regarding advance payment were not considered both by the investigating officer as well as the assessing officer which was against the natural justice. The FAA remitted back th matter to the AA for examination of books of account on the disputed advance payment and to complete the reassessment within three months, on the grounds that the statutory conditions as laid down u/s 3(a) of the CST Act. to tax a sale of goods in course of inter -state trade and commerce , was absent in the order of assessment as there was no verification on such balance amount of advance from the books of account in order to prove the occurrence of sale during the year. The state filed second appeal on the grounds that the FAA had deleted the huge demand of Rs 2891787.00 in absence of proof which was clearly ascertained by the reporting authority. The Tribunal concluded that the reassessment was done without establishing the fact whether the goods were actually moved to other state against such advance payment and the same should have been done after verification of the books of account to prove the occurrence of sale during the relevant period. In the result, the appeal preferred by the state was dismissed and the order of the FAA was confirmed.
7	M/S AGARWAL BROTHERS, ANGUL	ANGUL CIRCLE	AA-76/VAT/AL/13-14, DT.12.08.2013	259(VAT) OF 2013-14, DT.14.02.2020	OVA T	01.04.2006 TO 31.03.2011	PARTY	2862019	The assessment was completed u/s 42 of the OVAT Act. with tax and penalty of Rs. 2,44,767.00. Being desatisfied with the order, the dealer filed first appeal before the FAA on the grounds that the closing stock of the dealer was taken arbitrarily and the tax liability was enhanced erroneously. The payment of output tax of Rs 10000.00 had not been considered. After going through the order, the FAA enhanced the demand to Rs.28,62,019.00. The dealer filed second appeal on the grounds that the enhancement of tax liability and calculation of GTO and TTO are based on the erroneous figure. After considering the fact, the Tribunal concluded that the FAA had enhanced the assessment without following the statutory provisions as envisaged U/R 89(3) of the OVAT Rules. No opportunity was given to the dealer to be heard in the matter before enhancement of the asesment against it. In the result, the appeal preferred by the dealer was partly allowed and the case was remitted back to the FAA for reconsideration.
8	M/S PAPER HOUSE, BHUBANES WAR	BHUBANES WAR I CIRCLE	AA 266/BH-I/02-03, DT.11.09.2003	2231 OF 2003-04 & 2365 OF 2003-04, DT.28.02.2020	OST	1990-91	BOTH	20000	The assessment completed exparte by the assessing authority u/s 12(8) of the OST Act with tax and penalty of Rs 1070751.24. The dealer preferred first appeal against the order of assessment before the FAA on the grounds that he was not given opportunity for cross objection of tahe matter. The FAA reduced the demand to Rs. 90,602.00 along with imposed penalty of Rs. 20000.00 The dealer filed second appeal against the penalty imposed by the FAA. The state preferred second appeal against the demand reduced by the FAA. After going through the assessment order and the appeal order, the Tribunal reached on the decision that the dealer was given sufficient opportunity to appear but it had a secondary role for which penalty of Rs. 20000.00 was imposed. So the appeal filed by the dealer is here by dismissed. The ground preferred by the state is also dismissed being devoid of merit.
9	M/S ORISSA CONSTRUCTION CORPORATION LTD., BHUBANES WAR	BHUBANES WAR I CIRCLE	AA-42/BH.I/1997-98, DT.05.10.1999	1241 OF 1999-2000, DT.19.02.2020	OST	1995-96	PARTY	897119	The assessment was completed u/s 12(4) of the OST Act. with demand of Rs. 8,97,119.00 Being desatisfied with the order,the dealer filed first appeal on the grounds that the assessment completed on the basis of some error in determination of GTO and TTO and only 32% deduction was allowed towards labour and service charges. The FAA confirmed the assessment order as the dealer had not produced any documentary evidence in support of his claim. The dealer filed second appeal on the grounds that the GTO and TTO determined by the AO was erroneous and no deduction was allowed towards advance payment as well as materials purchased for execution of works contract. After considering the facts the Tribunal concluded that the percentage of deduction towards labour and service charges should be allowed by examining the exact nature of works. In the result, the appeal was allowed and the impugned order was set aside for reassessment as per the provision of law.

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10	M/S VISHNU CEMENT LTD., BHUBANES WAR	BHUBANES WAR II CIRCLE	AA-279(ET)/BHII/2006-07, DT.28.09.2007	241 (ET) OF 2007-08, DT.10.02.2020	OET	2005-06	PARTY	1193616	The assessment was completed u/s 10 of the OET Act. with tax and penalty of Rs 1193616.00 including penalty as twice of the tax at Rs. 7,95,744.00 on the grounds of escapement of turnover resulted in less payment of entry tax.The dealer preferred first appeal on the grounds that the GTO and TTO in course of reassessment proceeding held u/s 10 of the OET Act was illegal. The FAA confirmed the assessment.The dealer filed second appeal on the grounds of wrong determination of GTO and TTO and wrong interpretation of sec - 2(j) of the OET Act. None appeared on behalf of the dealer to participate in the proceeding before the Tribunal. Hence the matter was disposed of exparte as per Rule 60(1) of the OST Rule. The Tribunal concluded that the dealer did not furnish any document to dispel this allegation either before the AA or before the FAA for which the AO was compelled to determine the market value of the goods as per the provision of section 2(j) of the OET Act for determination of purchase price of cement. In the result, the appeal was dismissed being devoid of merit.
11	M/S PRITI BRICKS, BHUBANES WAR	BHUBANES WAR I CIRCLE	AA-81/BH.I/2003-04, DT.27.03.2004	503 OF 2004-05, DT.17.02.2020	OST	2000-01	PARTY	1095930	The assessment was completed exparte u/s 12(5) of the OST Act. with tax and penalty of Rs 10,95,930.00 on the basis of the AG order as the dealer neither responded the notice nor produced the books of account before the AO. The dealer filed first appeal on the grounds that the assessment u/s - 12(5) of the OST act is illegal. The FAA set aside the case for reassessment to make necessary enquiry in order to bring material evidence to the record for establishing whether there was manufacturing or sale of bricks by the dealer for the relevant year on which tax could have been levied. The dealer filed second appeal on the grounds that as the assessing officer had failed to establish whether it was sale or manufacturing of bricks for the relevant period, the assessment against it should have been reduced to nil. After thorough scrutiny, the Tribunal concluded that the FAA had assigned enough reasons as to why the matter needs to be enquired further to establish actual sale effected by the dealer during the relevant period. Hence there is no reason to disturb the impugned order. In the result, the appeal was dismissed and the order of the FAA was confirmed with a direction to complete the reassessment within a period of three months from the date of receipt of this order.
12	M/S OM TELE SERVICES, BHUBANES WAR	BHUBANES WAR II CIRCLE	AA-10611111000004/BHII/10-11, DT.07.03.2013	282 (V) OF 2013-14 DT.17.02.2020	OVA T	01.04.2005-28.02.2009	PARTY	ENHANCED TO 1912939 FROM 621582	The assessment was completed u/s 43 of the OVAT Act. with tax and penalty of Rs 6,21,582.00 including penalty twice of the tax. The dealer filed first appeal on the grounds of disallowance of ITC of Rs 195644.16. The FAA enhanced the tax liability to Rs 19,12,939.00 after thorough analysis. The dealer filed second appeal on the grounds that the FAA enhanced the turnover without any concrete proof of sale suppression. After considering the facts, the Tribunal concluded that the enhancement of turnover by the FAA was due to the mismatch of purchase, sale, and stock of goods which indicating sale suppression that resulted in levy of twice penalty and disallowance of ITC. The dealer could not produce any concrete evidence against the findings of the learned FAA. In the result, the appeal was dismissed and the order of the FAA was confirmed.
13	M/S TESTS, INSPECTION & SERVICES, BHUBANES WAR	BHUBANES WAR I CIRCLE	AA-16/BH-I/2003-04, DT.14.08.2003	2174 OF 2003-04, DT.13.02.2020	OST	1998-99	PARTY	786324	The assessment was completed u/s 12(4) of the OST Act, with extra demand of Rs.7,86,324.00. The dealer preferred first appeal on the grounds of rejection of some form - IV by the AO and treating them as defective and also taxing the transactions effected by him as transit sales. The FAA confirmed the order of assessment as the dealer failed to submit books of account before him inspite of several notices served to him. The dealer filed second appeal on the same grounds as were raised before the FAA. In course of hearing of appeal, none appeared on behalf of the dealer before the Tribunal for which the matter was heard exparte as per Rule 60(1) of the OST Rules. The assessment was based on the material available on record and further the concession as claimed by the dealer before the AO neither being supported nor substantiated with any evidence for which it was disallowed by the AO. Hence there is no infirmity noticed in the impugned order. In the result, the appeal was dismissed by confirming the order.

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14	M/S FIRST LEASING COMPANY OF INDIA LTD., BHUBANES WAR	BHUBANES WAR I CIRCLE	AA-73/BH-I/2002-03, DT.29.03.2003	942/2003-04, DT.18.02.2020	OST	1998-99	PARTY	1656000	The assessment was completed u/s 12(4) of the OST Act, with extra demand of Rs16,56,000.00. The dealer preferred first appeal on the grounds that the assessment was not just and proper. The FAA confirmed the order of assessment after careful consideration. The dealer preferred second appeal on the same ground raised as before the FAA. During the hearing of appeal, none appeared on behalf of the dealer to appear before the Tribunal for which the appeal was disposed on exparte as per Rule 60(1) of the OST Act. The dealer did not produce any documentary evidence against the determination of GTO and TTO by the AO and tax levied @ 12%. There was no evidence to show whether the equipment was used or not by the lessee for which it was not maintainable by the dealer. The levy of tax being firm and legal, the levy of surcharge thereon @ 15% is also legal to raise demand. As the dealer failed to substantiate the grounds raised by it in the grounds of appeal, there is no reason on part of the Tribunal to interfere with the findings of the learned FAA. which is just and proper. In the result, the appeal was dismissed and the order of FAA was confirmed.
16	M/S ADITYA UDYOG, BHUBANES WAR	BHUBANES WAR II CIRCLE	AAC-12/BH-II/2004-05, DT.19.03.2005	42(C) OF 2005-06, DT.12.02.2020	CST	2000-01	PARTY	1380992	The assessment completed u/s 12(5) of the CST Act, with the tax liability of Rs 13,80,992.00. The dealer preferred first appeal on the grounds that there was no justification of lavying tax on sales effected outside of the state. The FAA confirmed the order of assessment as the dealer failed to produce any such evidence in support of it's claim. The dealer filed second appeal on the grounds that it was not given opportunity to submit declaration form 'Ç' to avail concessional rate of tax and levy of tax on sales effected outside of the state was illegal. During the hearing of appeal, none appeared on behalf of the dealer before the Tribunal for which the appeal was disposed on exparte as per Rule 60(1) of the OST Act. After considering the facts, the Tribunal concluded that the dealer failed to produce necessary evidences before the AO and the FAA as well as before the forum to establish that questionable sales effected by it were not actually inter-state sales. Therefore, there is no cogent reason to interfere with the impugned order. In the result, the appeal preferred by the dealer was dismissed being devioid of merit.
17	M/S SUN BIOTECHNO LOGY LTD., BHUBANES WAR	BHUBANES WAR I CIRCLE	AA 247/BH I/05-06, DT.18.08.2006	1327 OF 2006-07, DT.28.02.2020	OST	2003-04	PARTY	660,000.00	The assesement was completed u/s 12(4) of the OST Act, with a demand of Rs 660000.00. The dealer filed first appeal before the FAA who just confirmed the order of assessment as the reason given by the dealer was disatisfactory. The dealer filed second appeal on the grounds that the transportation of rejected materials supplied supplied by someone had not been properly verified and the determination of purchase price of rejected material is no genuine. The enhancement of turnover due to sale supression is also not genuine. it was During hearing of appeal, none appeared on behalf of the dealer and as such it was disposed on exparte. After verifying the facts , the Tribunal concluded that the LAO had given proper reason as to why the books of account maintained by the dealer could not be accepted as true and genuine. The dealer on confrontation could not give any satisfactory reason to that effect. Hence the grounds taken by the dealer was baseless and not convincing. In the result, the appeal was dismissed and the order of the FAA was confirmed.
18		BHUBANES WAR RANGE	AA 111 /BH-I/05-06, DT.02.06.2006	1044 OF 2006-07, DT.17.02.2020	OST	2001-02	STATE	4385	The assessment was completed u/s 12(4) of the OST Act, with a demand of Rs 9,35,508.00. The dealer filed first appeal in which the FAA reduced the demand to 4385.00 after allowing deduction of Rs. 1,50,45,646.00 on account of payment made to the sub-contractor and further deduction of Rs. 17,49,515.00 towards supervision charges and Rs. 4383.60 towards collection of sales tax The state filed second appeal on the grounds that as the works contract involveed supply and installation of electronic machine, the involvement of labour was very less and therefore higher rate of deduction towards labour charges was unjust. After considering the facts, the Tribunal concluded that the works has been sub-contracted to another contractor who had actually contracted the works. The dealer was only responsible for supervision of the works. Therefore there was hardly any requirement of utilization of materials by it for which the Ld. FAA after allowing deduction towards payments made to the sub-contractors and supervision charges incurred by it, the TTO reduced to nominal amount. Hence there was no scope for allowance of any labour charges. So the grounds of appeal that involves more labour charges is bereift of merit. In the result, the appeal filed by the state was dismissed and the order of the FAA was confirmed.

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19	M/S EUREKA FORBES LTD., BHUBANES WAR	BHUBANES WAR I CIRCLE	AA 201/BH I/05-06, DT.05.07.2006	1134 OF 2006-07, DT.10.02.2020	OST	2004-05	PARTY	EXTRA DEMAND TO RS.876340 FROM RS.1217339	The assessememt was completed u/s 12(4) of the OST Act. with extra demand of Rs 12,17,339.00. The dealer filed first appeal on the grounds that the AO reduced the deduction towards service charges from 32% to 22% taxed @ 8% and the remaining 78% taxed @ 12%. The FAA reduced the demand to Rs. 8,76,340.00 by allowing deduction towards service charges @ 32% and the remaining 68% taxed @ 12% towards maintainance charges as sale of goods in stead of works contract. The dealer filed second appeal on the grounds that the collection of sales tax and surcharges amounting Rs 12,25,463.00 on the annual maintainance contract amount should be allowed. The appeal was disposed of exparte as none appeared on behalf of the dealer during the proceeding. After considering the facts, the Tribunal concluded that the goods involved in the maintainance are sale of goods. The dealer replaced the defective spare parts of water purifiers with the new ones at the time of servicing. So maintainance charges constitutes receipt against service charges as well as cost of the spare parts. Hence the transaction is not a works contract but a sale and service for whcih the claim of deduction was disallowed. In the result, the appeal was dismissed and the order of the FAA was confirmed.
20	M/S PADMAJA TRADERS, BALUGAON	JATNI CIRCLE	AA 34/35(PUII) OF 2003-2004, DT.27.09.2003	2211 & 2212 OF 2003-04, DT.17.03.2020	OST	1999-2000	PARTY	477261	The assessment was completed with a demand of Rs. 5,66,357.00 for 1999-2000 and the demand of Rs 4,77,261.00 for 2000-01 after rejecting 'D' forms submitted by the dealer and disallowing the deductions. The FAA allowed the appeal in part for 1999-2000 by allowing deduction of Rs 19500.00 as the purchase of goods were found first point tax goods.The appeal was dismissed for 2000-01 as the 'D' forms in question found to be obsolete by virtue of the notification of the CCT, Odisha.The dealer filed second appeal on the grounds that the deduction denied by the AA was erroneous. After considering the facts, the Tribunal reached on the decision that the dealer failed to establish that the alleged 'D' forms were genuine for which deduction could not be allowed u/s 5(2)(A)(a)(ii) of the OST Act. In the result, the Tribunal found no error in the impugned order passed by the FAA and thus to be confirmed. The appeal filed by the dealer stood dismissed.
21	M/S PADMAJA TRADERS, BALUGAON	JATNI CIRCLE	AA 159/160/161(P UII)/ 02-03, DT.28.01.2003	1087 TO 1089 OF 2003-04, DT.18.03.2020	OST	1995-96, 1996-97 & 1997-98	PARTY		The assessment was completed u/s 12(4) of the OST Act, for the year 1995-96, 1996-97 and and 1997-98 on the grounds of realising invalid D - forms for the first two years and the adverse report received from different circles vis-s-vis the appellant for the year1997-98. The escapement of assessment was considered to be the course of action for the proceedings u/s 12(8) of the act. The FAA confirmed the order of the assessment after considering the facts. The dealer filed second appeal on the grounds that the notice served to him u/s - 12(8) of the act did not assign any reason. The Tribunal arrived at a logical conclusion that on such a ground, the reassessment proceedings u/s 12(8) of the act could not be challanged and therefore the appeal was dismissed and the order of the FAA was confirmed.
22	M/S AAR-AM, BHUBANES WAR	BHUBANES WAR I CIRCLE	AA-34/BHI/07-08, DT.30.01.2010	101 OF 2010-11, DT.31.01.2020	OST	2003-04	PARTY	803295	The assessment was completed u/s 12(4) of the OST Act, with extra demand of Rs. 8,03,295.00.The dealer filed the first appeal on the grounds that the exemption of Rs 60,86,137.00 should be allowed and the sale of voltage stabilizer should not be taxed @ 12%. The FAA confirmed the assessment order on the grounds that the dealer failed to produce the exemption certificate and the stabilizer could not be considered as electronic goods.The dealer filed second appeal on the grounds that he was not given reasonable opportunity to produce the wanting certificates in support of the exemption. After considering the facts, the Tribunal concluded that, voltage stabilizer was included in a specific entry in list-C of the rate chart vide sl. no. 181 making it exigible to tax @ 12% under the OST Act. No certificate was produced by the dealer to get exemption. In the result, the appeal preferred by the dealer was dismissed.

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23	M/S SIDHIVINAY AK FERRO ISPAT LTD., SUNDARGA RH	ROURKELA I CIRCLE	AA-7(RL-I) OF 2010-11, DT. 30.01.2013	98 OF 2012-13, DT.06.02. 2020	OST	2004-05	STATE	8458050 SET ASIDE	The assessment was completed u/s 12(4) of the OST Act, with extra demand of Rs. 84,58,050.00. The dealer filed the first appeal on the grounds that there was allegation regarding bank transaction as out of account sale of goods and suppression of production against it. The FAA did not agree with the findings of the AO in respect of the allegation and set aside the order for reassessment. The state filed second appeal challenging the order of the FAA on the grounds that the original assessment did not reveal any anomaly. In course of hearing of the appeal, it was found that none appeared on behalf of the dealer to participate in the proceeding for which the appeal was disposed of exparte. After considering the facts, the Tribunal concluded that there was no evidence on record to establish the bank transaction as out of account sale of goods and suppression of production for which the FAA set aside the order. In the result, the appeal was dismissed and the order of the FAA was confirmed.
24	M/S SHREE SALASAR CASTING PVT. LTD., ROURKELA	ROURKELA I CIRCLE	AA 416 (RL-I) OF 2003-04, DT.22.03.2005	888 OF 2005-06, DT.19.02. 2020	OST	2002-03	PARTY	534180	The assessment was completed u/s 12(4) of the OST Act, with extra demand of Rs. 534180.00. The dealer filed first appeal on the grounds that the claim of exemption was limited on purchase of consumables. The FAA confirmed the order of assessment after verifying the documents available in the assessment record. The dealer filed second appeal on the grounds that he had utilized the raw materials as first point tax paid goods and all the purchases effected by him are the goods declared u/s - 14 of the CST Act on which imposition of tax @ more than 4% was not permissible.. The appeal was disposed of exparte as per the provisions u/r 60(1) of the OST Rules. After considering the facts, the Tribunal concluded that the dealer failed to comply the provisions under the law and failed to produce the relevant purchase bills as a proof that the selling dealers have charged OST separately on the bills raised by them. The forum did not find any defect in the order passed by the Ld. FAA. In the result, the appeal was dismissed being devoid of merit. and the order of the FAA was confirmed.
25	M/S ORIND STEELS LIMITED, SUNDARGA RH	ROURKELA - I CIRCLE	AA 15(RL-I-C) OF 2011-2012, DT.16.08.2013	109(C) OF 2013-14, DTD.28.0 2.2020	CST		STATE		The second appeal filed by the state by challenging the order of the FAA who remitted back the matter to the AO for reassessment. in spite of the dealer failed to produce E - I form in support of his claim of sale of goods u/s - 6(2) of the CST Act. After considering the facts, the Tribunal concluded that the FAA remanded the case back to the AO for fresh assessment as it was not possible to examine the genuineness of the transaction in absence of the supporting documents and books of account. None appeared on behalf of the dealer to participate in the proceeding. In the result, the appeal was dismissed being infructuous.
26	M/S VEDVYAS ISPAT LIMITED, SUNDARGA RH	ROURKELA II CIRCLE	AA 2(RL II) /2007-08, DT.29.10.2007	146(C) OF 2007-08, DT.12.02. 2020	CST	2004-05	PARTY	1108547	The assessment was completed u/s 12(4) of the CST Act, with extra demand of Rs. 11,08,547.00. The dealer filed the first appeal on the grounds that the was not given reasonable opportunity to submit the wanting C-forms and to rectify certain "F" form. The FAA confirmed the order of assessment after considering the materials available on record. The dealer filed second appeal on the same ground raised as before the FAA. In course of hearing, none appeared on behalf of the dealer to participate in the proceeding for which the matter was heard exparte to be disposed of on merit as per Rule 60(1) of the OST Rule.. After considering the facts, the Tribunal concluded that sufficient time was given to the dealer to produce the wanting C' forms as well as rectification of 'F' forms before the forum and also remained absent without any reason. Hence the impugned order virtually remained unchallenged. In the result, the appeal was dismissed being devoid of merit.

SI 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)	Result of Second Appeal Order
27	M/S BRAITH WAITE BORN & JESSOP, JHARSUGUDA	JHARSUGUDA A CIRCLE	AA-10(SA-III) OF 2004-05, DT.30.10.2004	2630 OF 2004-05, DT.12.02.2020	OST	2002-03	STATE	842165	The assessment was completed u/s 12(4) of the OST Act, with the demand of Rs. 8,42,165.00. The dealer filed the first appeal on the grounds that the advanced receipt of Rs 6700000.00 had not been included in its GTO and TTO and he should be allowed deduction @ 32% towards labour and service charges. The FAA reduced the demand to Rs 32283.00 after examining the facts and documents. The state filed second appeal on the grounds that the deduction allowed @ 45% towards labour and service charges is excessive. After considering the facts, the Tribunal concluded that the AO had not assign any reason to why he allowed percentage of deduction @ 32% towards labour and service charges. Therefore there is no reason to interfere with the impugned order which is based on sound reasons. In the result, the appeal was dismissed and the order of the FAA was confirmed.
28	M/S ACC LIMITED, BARGARH CEMENT WORKS, BARGARH	BARGARH CIRCLE	AA-34/BGH/ET/08-09, DT.30.08.2010	135(ET) OF 2010-11, DT.28.02.2020	OET	2004-05	PARTY	476265 THE TAX REDUCED BY 673657	The assessment was completed under OET Act with a demand of Rs 476265.00. The dealer filed first appeal on the grounds that the claim of set off in respect of coal had been disallowed considering coal as not a raw material for manufacturing cement. The FAA reduced the order of assessment by Rs 673657.00 by allowing the set off on coal. The dealer filed second appeal on the grounds that entry tax should not be levied on such goods which were imported from outside the state and not manufactured within the state of Odisha. On considering the facts, the Tribunal concluded that coal in form of coal ash is used as raw material in manufacturing of cement and Therefore set off is to be allowed. Again the state has no jurisdiction to impose tax on such goods which are imported from outside and not manufactured within the state. In the result, the appeal was dismissed and the order of the FAA was confirmed.
29	M/S BABA BAIDYANATH STORE, CUTTACK	CUTTACK I CENTRAL CIRCLE	AA-(CST)8 / CUCIC/ 2009-10, DT.18.12.2009	8(C) OF 2010-11, DT.10.02.2020	CST	2003-04	STATE	4113	The assessment was completed u/r - 12(5) of the CST Rules 1957, with a demand of Rs.18,09,107.00. The dealer preferred first appeal on the grounds that he had submitted 17 numbers of C - forms in original amounting Rs 2,84,96,278.00 out of which only Rs 61,72,759.00 was allowed. The FAA reduced the amount to Rs 4113.00. The state filed second appeal on the grounds that the FAA levied tax @ 4% instead of @ 8% on the sale of goods worth Rs 1,02,817.00 which was not supported by 'C' forms. On considering the facts, the Tribunal concluded that the case is to be remitted back to the AO for recomputation of tax liability of the dealer afresh by taking in account of the only point that the sale turnover of Rs. 1,02,817.00 which was not supported with Form 'C' should be taxed @ 8% only without disturbing the rest of the observations made by the FAA. In the result, the appeal was partly allowed and the case was remitted back to the AO for reassessment.
30	M/S AUTOMOTIVE INDIA (P) LTD., BHUBANESWAR	BHUBANESWAR I CIRCLE	AA-102/BH-I /2002-03, DTD.10.01.2003	3 OF 2003-04, DT.18.03.2020	OST	1996-97	PARTY	965891	The assessment was completed u/s 12(4) of the OST Act, with extra demand of Rs 9,65,891.00. The dealer filed first appeal on the grounds that the claim of exemption was not allowed. The FAA confirmed the order of the assessment on the grounds that in absence of a notification u/s - 6 of the Act, such exemption could not be claimed. The certificate regarding the exemption was not produced. The dealer filed second appeal on the same grounds as raised before the FAA. On considering the facts, the Tribunal concluded that there is absolutely no ground existing to extend any such exemption benefit in favour of the dealer in absence of a notification under section 6 or 7 of the act. In the result, the appeal was dismissed and the order of the FAA was confirmed.

SI 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)	Result of Second Appeal Order
31	M/S DACUTECH SALES CORPORATION, BHUBANESWAR	BHUBANESWAR I CIRCLE	AA-106111311000044, DTD.30.04.2013	138(V)/2013-14, DT.19.02.2020	OVA T	01.04.2006 TO 30.09.2011	STATE	REDUCED RS.41,976/- FROM RS.45,40,422 /-	The assessment was completed u/s - 42(4) of the OVAT Act. with a demand of Rs 4540422.00. The dealer filed first appeal on the grounds that the AO erred in inferring MFD and MFP as separate product other than IT product and levied tax @ 12.5%. The FAA reduced the tax and penalty to Rs 41976.00 by charging tax @ 4% on such goods. The state filed second appeal on the grounds that consideration of MFP and MFD as IT products was erroneous. Determination of escaped turnover was also not correct. After considering the facts, the Tribunal concluded that the items are covered under the category "Computer Systems and Peripherals" which is at (C) in entry 69. Thus there is no incongruity in the appeal order passed by the FAA. Again the dealer has effected sale of 4% taxable goods exigible to tax @ 12.5% and 13.5% which is justified by the FAA in making proportional distribution while re-determining the escaped turnover. Hence the order of FAA is just and proper. In the result, the appeal filed by the state was dismissed and the order of the FAA was confirmed.
32	M/S UNITED METAL & STEELS(P) LTD., CUTTACK	CUTTACK II CIRCLE	AA-461/CU-II/1999-2000, DT.21.06.2004	1098/2007-08, DT.19.02.2020	OST	1994-95	PARTY	.7,00,000/-	The assessment was completed u/s 12(8) of the OST Act, with extra demand of Rs 7,00,000.00. The dealer filed first appeal before the FAA who confirmed the order of the assessment due to the non cooperation of the dealer in participating in the proceeding of the appeal. The dealer filed second appeal on the grounds that he was not given sufficient opportunity to produce his books of accounts. He was not allowed exemption in spite of submitting the exemption certificate and form - I - D. After considering the facts, the Tribunal concluded that the end cutting finished products are not exempted goods due to the fact that the finished products and end cuttings are two separate commodities . The later is to be taxed @ 4% as per the observation of the Ld. AO and it can't be exempted. Therefore no substantial error committed by the FAA to dispose the appeal order. In the result, the appeal was dismissed and the order of the FAA was confirmed.
33	M/S UNITED METAL & STEELS(P) LTD., CUTTACK	CUTTACK II CIRCLE	AA-462/CU-II/1999-2000, DT.21.06.2004	1099/2007-08, DT.19.02.2020	OST	1996-97	PARTY	98276	The assessment was completed u/s 12(4) of the OST Act, with extra demand of Rs 981276.00. The dealer filed first appeal before the FAA who confirmed the order of the assessment due to the non cooperation of the dealer in participating in the proceeding of the appeal. The dealer filed second appeal on the grounds that he was not given sufficient opportunity to produce his books of accounts. He was not allowed exemption in spite of exemption certificate and form - I - D. After considering the facts, the Tribunal concluded that when the dealer has effected purchases from him certainly the goods have not suffered tax. When the goods have not suffered tax the appellant has to pay the appropriate sales tax on this transaction. Hence the action taken by the learned A.O. in this regard is justified. In the result, the appeal was dismissed and the order of the FAA was confirmed.
34	M/S PALASH UDYOG, CUTTACK	CUTTACK II RANGE	AA.06(V)/ACST/CUII/08-09, DT.03.09.2009	8(V) OF 2010-11, DT.17.02.2020	OVA T	01.04.2005 TO 31.01.2007	PARTY	1653540	The assessment was completed u/s - 42 of the OVAT Act, with the demand of Rs. 16,53,540.00 on the grounds that the dealer had paid less tax of Rs. 551180.16 than the admitted tax in the returns filed for the aforesaid tax period with penalty of Rs. 11,02,360.32 which was twice the tax due u/s - 12(5) of the OVAT Act. The dealer filed first appeal on the grounds that he had paid all the admitted tax at the time of filing return. After verification of the documents produced by the dealer, the FAA directed to reduce the penalty if the payment are found made as as per the claim of the dealer. The dealer filed second appeal on the grounds that the penalty imposed u/s 42(5) by the FAA was wrong as all the amount due has been paid before the completion of assessment. After considering the facts, the Tribunal concluded that as the appeal involves verification of adjustment of payment dade by the dealer against the return filed, there is no need to interfere in this matter. In the result, the appeal filed by the dealer was dismissed being deviod of merit and directed to recompute the tax and penalty as per the order of the FAA.

SI 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)	Result of Second Appeal Order
35	M/S AJEYENDRA SINGH, JHARSUGUDA	SAMBALPUR - II CIRCLE	AA-15(SAIII)/2002-03, DT.17.09.2002	1487 OF 2002-03, DT.05.02.2020	OST	1998-99	STATE	1188696	The assessment was originally completed u/s 12(4) of the OST Act, after allowing deduction @ 57.56% towards labour and service charges but it was detected by A.G. as higher percentage of deduction after considering the nature of work. Hence the assessment was reopened u/s 12(8) of the OST act. with the demand of Rs 11,88,696.00 The dealer preferred first appeal on the grounds that the objection raised by the AG Audit was baseless.The FAA restored the assessment u/s - 12(4) of the OST Act after verification of documents. The state filed second appeal on the grounds that the assesment u/s - 12(4) of the OST Act allowed by the FAA was unjust and wrong. After considering the facts, the Tribunal concluded that the assessment u/s - 12(4) of the OST Act. does not suffer any sort of infirmity and the Rule 4-B of the OST act was also not in vogue. Hence there is no reason to interfere with the impugned order passed by the FAA. In the result, the appeal filed by the state was dismissed.
36	M/S ORISSA FLOUR MILLS LTD., SAMBALPUR	SAMBALPUR I CIRCLE	AA.5(SA-I-C) OF 2000-2001, DT.07.03.2002	158(C) OF 2002-03, DT.28.02.2020	GST	1996-97	PARTY	751506.25	The assessment was completed U/R - 12(5) of the CST Rules 1957, with a demand of Rs. 7,51,506.00. The dealer did not produce the books of account before the AO despite repeated notices served to him.The assessment was completed by the AO exparte. The dealer also did not produce his books of account before the FAA for which he confirmed the order of the assessment.The dealer filed the second appeal which was also disposed of exparte as no one appeared on behalf of the dealer appellant. After considering the facts, the Tribunal conclded that the dealer did not cooperate the AO as well as the FAA to prove its stand for which there is no need to interfere in the order of the Ld. FAA. In the result, the appeal is dismissed and the order of the FAA was confirmed.
37	M/S KAYAL STEEL UDYOG, SUNDARGARH	ASSESSMENT UNIT, RAJGANGPUR	AA-79-80(RL-II)2000-2001, DT.24.11.2003	2915 OF 2003-04 & 2916 OF 2003-04, DT.17.02.2020	OST	09/95 TO 03/96 AND 1996-97	PARTY	19944 AND 500320	The assessment was completed u/s - 12(5) of the OST Act exparte, with demand of Rs 19,944.00 and Rs 5,00,320.00 for the periods 9/95 to 03/96 and 1996-97.respectively. On verification it was found that the registration of the dealer had been cancelled and there was no manufacturing unit.The FAA confirmed the order of assessment on the same grounds. The dealer filed second appeal on the grounds that it was not allowed reasonable time to produce book of account. The appeal was disposed exparte as no one on behalf of the dealer was appeared before the forum. After considering the facts, the Tribunal concluded that the validity of assessment proceeding is not a matter of dispute. Again the dealer could not furnish any evidence to justify itself before the forum. Hence there is no reason to interfere in the order of the FAA. In the result, the appeal was dismissed on devoid of merit and the order of the FAA was confirmed.
38	M/S MERIDIAN STEELS, SUNDARGARH	ASSESSMENT UNIT, RAJGANGPUR	AA-83 & 84(RLII)2000-2001, DT.24.11.2003	2917 OF 2003-04 & 2918 OF 2003-04, DT.17.02.2020	OST	09/95 TO 03/96 AND 1996-97	PARTY	46472 AND 736600	The assessment was completed u/s - 12(5) of the OST Act exparty, with demand of Rs 46,472.00 and Rs 7,36,600.00 for the periods 9/95 to 03/96 and 1996-97 respectively. On verification, it was found that the registration of the dealer had been cancelled and there was no manufacturing unit. The dealer filed first appeal before the FAA on the grounds that the deregistration of the dealer was under challenge before the Hon'ble High Court of Orissa for which the assessment proceeding was to be kept in abeyance till the out come of the writ petition. The FAA confirmed the order of assessment as the dealer did not produce any evidence despite availing opportunities. The dealer filed second appeal on the grounds that the dealer was not allowed reasonable time to produce book of account. After considering the facts, the Tribunal concluded that the validity of assessment proceeding is not a matter of dispute. Again the dealer could not furnish any evidence to justify itself before the forum. Hence there is no reason to interfere in the order of the FAA.In the result, the appeal was dismissed on devoid of merit and the order of the FAA was confirmed.

SI 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)	Result of Second Appeal Order
39	M/S NAGARJUNA CONSTRUCTION CO. LTD., SUNABEDA	KORAPUT RANGE	AAV(KOR)27/10-11, DT.23.11.2010	293(V) OF 2010-11, DT.17.02.2020	OVA T	01.04.2008 TO 31.03.2009	STATE	REFUNDABLE OF RS.705131.00	The assessment was completed u/s 43 of the OVAT Act, with refundable amount of Rs 5,66,811.00. The dealer filed first appeal on the grounds of expecting more refund. The FAA enhanced the refund to Rs 7,05,131.00 by allowing deduction @ 30% on labour and service charges following Rule 6 of the OVAT Rules and deduction of payment made to the sub contractor was also allowed as labour charges. The state filed second appeal on the grounds that deduction towards sub-contractor payment was not correct and the initiation of proceeding u/s 43 of the OVAT Act was not justified. After considering the facts, the Tribunal concluded that the percentage of deduction allowed by the FAA towards labour and service charges which does not confirm the rate prescribed in the appendix. Again there is no justification in deducting the sub-contractor's payment from the gross receipts as the work remaining with the main contractor will be more material intensive and less labour intensive. In the result, the appeal filed by the state was partly allowed and the order of the FAA was set aside for reassessment within a period of four months.
40	M/S ENGINEERING PROJECT(IN DIA) LTD., BALANGIR	BALANGIR -II CIRCLE	AA-102(BPII) OF 1992-93, DT.13.02.2003	241 OF 2003-04, DT.13.02.2020	OST	1991-92	STATE	REFUND OF 3269085.02	The assessment was completed u/s 12(4) of the OST Act, with a demand. The dealer filed the first appeal on the grounds that the assessment was proceeded on two aspects i.e. for sales and supply of materials and other for execution of works contract respectively. The FAA confirmed the order of assessment as the dealer did not produce any evidence before him. The dealer filed second appeal on the grounds that he was not given adequate opportunity to produce its books of account which were with the Head office and as such remitted back the case to the FAA for fresh hearing. The FAA examined the documents and allowed deduction @ 42% towards labour and service charges against the deduction @ 32% given by the AO in which the dealer was eligible to get refund of Rs. 32,69,085.00. The state filed second appeal on the grounds that the deduction allowed by the FAA was too huge and violate the Rule-4B of the OST Rules. The appeal was disposed of exparte as no one on behalf of the dealer was appeared before the forum. After considering the facts, the Tribunal concluded that the percentage of deduction allowed by the FAA on the basis of nature of work and works contract agreement was found just and proper. In the result, the appeal was dismissed and the order of the FAA was confirmed.
41	M/S MUKUND CEMENT INDUSTRIES (P) LTD., SUNDARGARH	ASSESSMENT UNIT, RAJGANGPUR	AA-136 & 137 (RL-II)2002-03, DT.13.08.2003	1532 OF 2003-04, 1533 OF 2003-04, DT.20.02.2020	OST	1998-1999 & 1999-2000	PARTY	1620340 & 657710	The assessment was completed u/s 12(4) of the OST Act, with the tax demand of Rs. 1620340.00 for the period 1998-99 and Rs. 657710.00 for 1999-2000. The dealer filed first appeal on the grounds that the entire sale of cement during both the years were produced in the expanded unit which was eligible to be exempted from sales tax. The FAA confirmed the order of the assessment on the grounds that the finished goods produced upto the extent of the original installed capacity should be subjected to sales tax. The dealer filed second appeal on the grounds that he was not given reasonable opportunity to produce the books of account. The levy of tax was illegal as there was no production of original unit. After considering the facts, the Tribunal concluded that for availing the benefit of exemption from the expanded unit, production level of the existing unit must be achieved. Sufficient opportunity was afforded to the dealer to participate in the assessment proceedings. In the result, the result, the appeal was dismissed as of no merit and the order of the FAA was confirmed.

SI 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)	Result of Second Appeal Order
42	M/S ORISSA CONSTRUCTION CORPORATION LTD., BHUBANESWAR	BHUBANESWAR I CIRCLE	AA-128/BH.I/1997-98, DT.30.03.2000	490/2000-01, DT.19.02.2020	OST	1990-91	PARTY	3293015	The assessment was completed u/s 12(4) of the OST Act, with extra demand of Rs. 5,78,891.00. The dealer filed appeal which remained pending with the Tribunal for disposal. In the mean time, a notice u/s 12(8) of the OST Act. was issued for the said period. The assessment was completed by the AO u/s 12(8) of the OST Act. raising extra demand of Rs. 32,93,015.00 on the allegation contained in the Fraud case report. The FAA confirmed the order of the assessment after considering the facts that the payment of Rs. 1,13,11,119.00 towards CCS received by the dealer was not exempted from tax. The dealer filed second appeal on the grounds that the issue of notice u/s 12(8) of the OST Act, was without the authority of law. The tax should be levied @ 4% on the entire receipts in stead of 12%. After considering the facts, the Tribunal concluded that it is not clear whether the amount claimed by the dealer towards receipt of CCS is cover within the reported figure of Rs. 2,49,47,081.00 given by the Sales Tax Authorities of Vigilance Wing in their report. In the result, the appeal was allowed in part and the order of the ACST was set aside for reassessment within a period of three months.
43	M/S BIRLA GLOBAL ASSETS FINANCE CO. LTD., BHUBANESWAR	BHUBANESWAR II CIRCLE	AA.60/BH-II/05-06, DT.20.10.2005	1723 OF 2005-06, DT.17.02.2020	OST	2001-2002	PARTY	REDUCED TO RS.8,54,714 /- FROM RS.39,58,632/-	The assessment was completed exparte u/s 12(4) of the OST Act, with a demand of Rs. 39,58,632.00 as the dealer did not participate in the assessment proceeding in spite of serving several notices. The dealer filed first appeal on the against the assessment order.grounds that his entire sales were exempted from tax and the hire purchase effected by him, not being sale, was not exigible to tax under the sales tax law. The FAA verified his books of account and reduced the demand to Rs. 8,54,715.00. The dealer filed second appeal on the grounds that his entire sales should be exempted from tax and the hire purchase effected by him, not being sale, was not exigible to tax under the sales tax law. After considering the facts, the Tribunal concluded that sale has been defined under OST Act. as transfer of property in goods for cash or deferred payment which includes delivery of goods on hire purchase or in system of payment by instalments. Hence the contention taken on behalf of the dealer has no conformity with the provision of law. In the result, the appeal was dismissed and the order of the FAA was confirmed.
44	M/S AVTAR TRADING SUPPLIERS AND LIASIONERS, BHUBANESWAR	BHUBANESWAR II CIRCLE	AA.244/BH-II/05-06, DT.20.04.2006	1811 OF 2006-07, DT.16.03.2020	OST	2003-2004	PARTY	15,55,675.00	The assessment was completed u/s 12(4) of the OST act with tax demand of Rs. 15,55,675.00. The dealer filed first appeal on the grounds that the enhancement of taxable turnover without any material evidence, was wrong, illegal and arbitrary. The FAA confirmed the order of the assessment after verification of the documents produced by the dealer on the grounds that the AA had judiciously computed TTO and completed the order of assessment which needs no interference. The dealer filed second appeal on the grounds that the enhancement of sale turnover by ten times was not correct. After considering the facts, the Tribunal concluded that the FAA completely lost sight of the aforesaid principles on best judgement assessment and erroneously confirmed the enhancement ordered by the AO in absence of any materials to consider and determine the encancement of sales turnover. In the result, the appeal was allowed and the cae was remitted back to the AA for fresh assessment within a period of three months.

SI 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)	Result of Second Appeal Order
DIVISION & SINGLE BENCH									
1	M/S OCL IRON AND STEEL LTD,	SUNDARGA RH RANGE	AA16(RL-II-C) OF 2017-18, DT.04.08.201	86 (C) OF 2017-18, DT.03.03	CST	20.12.2007-31.03.2010	PARTY	REDUCED FROM 3363904 TO 1717902	THE APPEAL IS ALLOWED IN PART AND THE MATTER IS REMITTED BACK TO THE LEARNED DCST TO VERIFY THE ORIGINAL "C" FORM PRODUCED BY THE APPELLANT DEALER AND CALCULATE THE TAX DUES ALONG WITH INTEREST AS PER LAW WITHIN THREE MONTHS FROM THE DATE OF RECEIPT OF THIS ORDER.
2	M/S RAMESH PRASAD SAO	JAJPUR RANGE	AA-JCST/JR(V)/113/2014-15, DT.28.06.2017	252(V) OF 2017-18, DT.03.03.	OVA T	01.04.2011-31.03.2013	PARTY	ENHANCED FROM 184540 TO 193693	THE APPEAL IS DISMISSED AND THE IMPUGNED ORDER IS HEREBY CONFIRMED
3	M/S INDIAN OIL CORPORATION LTD,	BHUBANES WAR RANGE	AA(ET) 108221822000045 DT 27.05.2008	124(ET) /2018 DT 28.02.2020	OET	01.04.2014 - 30.09.2015	PARTY	11951874	THE APPEAL IS ALLOWED. THE ORDER OF THE ID FAA IS SET ASIDE.
4	M/S EMAMI PAPER MILLS LTD, BALASORE	BALASORE RANGE	AA/JCST/BA/23/2014-15 DT 31.03.2008	172(V) 2018 DT 18.02.2020	OVA T	01.04.2010-31.03.2011	PARTY	2547872	THE APPEAL FILED BY THE DEALER IS ALLOWED ON CONTEST AND THE ORDER OF THE LEARNED FAA IS HEREBY SET ASIDE
5	M/S RELIANCE COMMUNICATIONS	BHUBANES WAR-III CIRCLE	AA-ET 108111110000102/BH-III/11-12 DT	156(ET)/2013-14, DT. 06.03.202	OET	17.10.2006-31.03.2009	PARTY	677382	THE APPEAL IS DISMISSED BEING DEVOID OF MERIT.THE ORDER OF THE LD. DCST IS CONFIRMED.
6	TELEONE CONSUMER PRODUCTS	BHUBANES WAR IV CIRCLE	AA-1082216222000176 (OET), DT.23.10.2017	165(ET) OF 2017-18 DT 19.02.202	OET	2012-2014	STATE	REDUCED FROM 2651598 TO RETURN	THE APPEAL IS ALLOWED AND THE IMPUGNED ORDER IS HEREBY SET ASIDE. ACCORDINGLY, THE ORDER OF ASSESSMENT OF THE LEARNED STO IS UPHELD
7	M/S HITACHI HOME & LIFE SOLUTION	BHUBANES WAR RANGE	AA(CST)19/2015-16 DT 21.12.2006	115(C)2016-17 DT 04.03.2020	CST	2012-2014	STATE	154383	THE APPEAL FILED BY THE STATE IS ALLOWED AND THE ORDER OF THE LEARNED FAA IS HEREBY SET ASIDE
8	M/S SHANKAR SWAN, BALASORE	BALASORE CIRCLE	AA-14/BA-2017-18(VAT) DT 26.12.2007	66(V) 2018 DT 27.02.2020	OVA T	2013-15	STATE	60414	THE APPEAL FILED BY THE STATE IS ALLOWED AND THE ORDER OF THE LEARNED FAA IS HEREBY SET ASIDE
9	M/S SUBHRA CHEMICALS CUTTACK	CUTTACK-II CIRCLE	AA/01/CST/CUIC/2015-16/10731513000025 DT	124(C) OF 2016-17 DT 19.02.202	CST	2009-2010	PARTY	19742	THE APPEAL IS DISMISSED AND THE IMPUGNED ORDER IS HEREBY CONFIRMED
10	M/S SUNRISE GRANITES, BALANGIR	BALANGIR RANGE	AA-22(BPII)2007-08 DT 21.09.2007	199(ET)2007-08, DT 28.02.202	OET	2004-05	PARTY	26456	THE APPEAL FILED BY THE DEALER IS DISMISSED AND THE ORDER OF THE LEARNED FAA IS HEREBY CONFIRMED
11	M/S BATTERY SOLUTION BHUBANES	BHUBANES WAR-II CIRCLE	AA-106221722000125 DT 30.12.2017	65(V) /2018 DT 17.03.2020	OVA T	12.02.2013 TO 30.06.2013	STATE	370872.81	THE APPEAL FILED BY THE STATE IS ALLOWED ON CONTEST AND THE ORDER OF THE LEARNED FAA IS HEREBY SET ASIDE

SI 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)	Result of Second Appeal Order
12	GANAPATI STEEL, KEONJHAR	BARIBIL CIRCLE	AA-686KJB 16-17 OVAT DT 23.06.2017	237(V) OF 2017-18 DT18.02.	OVA T	2013-2015	STATE	REDUCED FROM RS.105862 TO RS.46/-	THE APPEAL IS DISMISSED AND THE IMPUGNED ORDER IS HERHBY CONFIRMED
13	M/S G.S. ENGINEERING, KEONJHAR	BARIBIL CIRCLE	AA-664 KJB 16-17 (OVAT) DT 23.06.2017	236(V) OF 2017-18 DT18.02.	OVA T	2013-2015	STATE	101091	THE APPEAL IS DISMISSED AND THE IMPUGNED ORDER IS HERHBY CONFIRMED
14	M/S RELIANCE INFRA TEL LTD,	BHUBANESWAR-III CIRCLE	AA-10711111000 0105/BH-III/11-12 DT	80(C) OF 2013-14 DT 06.03.20	CST	2007-2009	PARTY	REDUCED FROM 394058 TO 591087	THE APPEAL IS ALLOWED IN PART.THE ORDER OF THE ID.DCST IS SET ASIDE.
15	M/S OCL IRON AND STEEL LTD SUNDARGA	ROURKELA-II circle	AA-17(RL-II-C) OF 2017-18 DT 04.08.2017	87(C) OF 2017-18 DT 03.03.202	CST	2013-14	PARTY	REDUCED FROM RS.764567/- TO	THE APPEAL IS DISMISSED AND THE IMPUGNED ORDER IS HERHBY CONFIRMED
16	M/S LAFARGE INDIA PVT LTD	BHUBANESWA-II CIRCLE	106221722000 245 DT 21.04.2018	128(V)20 18 DT 28.02.2020	OVA T	2013-14	PARTY	1899399	THE APPEAL FILED BY THE DEALER IS ALLOWED ON CONTEST AND THE ORDER OF THE LEARNED FIRST APPELLATE AUTHORITY IS HEREBY SET-ASIDE.
17	M/S CHABINDRA KUMAR PRADHAN	BHUBANESWAR RANGE	AA-106221622000 083 DT 19.01.2017	27(V) 2017-18 DT 26.02.202	OVA T	2009-2014	STATE	REDUCED TO RS.220347/-	THE APPEAL FILED BY THE STATE IS ALLOWED ON CONTEST AND THE ORDER OF THE LEARNED FAA IS HEREBY SET ASIDE
18	M/S RELIANCE BIG TV LIMITED,	BHUBANESWAR III CIRCLE	AA-(ET)10822132 2000077 DT-24.06.2014	121(ET)/2 014-15 DT 28.02.202	OET	10.09.2007-30.09.2012	PARTY	759539	THE APPEAL FILED BY THE DEALER IS DISMISSED AND THE ORDER OF THE LEARNED FAA IS HERE BY CONFIRMED
19	M/S ACTION ISPAT ANDPOWE	JHARSUGUDA CIRCLE	AA-109/JSG/CST /2014-15 DT 28.07.2017	77(C) 2017-18 DT 06.03.20	CST	01.07.2008-31.03.2012	STATE	2039252	THE APPEAL FILED BY THE STATE IS ALLOWED AND THE ORDER OF THE LEARNED FAA IS HEREBY SET ASIDE
20	M/S PRABHU SPONGE P LTD,	ROURKELA-II CIRCLE	AA-25(RL-II-C) OF 2017-18, DT 30.08.2017	82(C)OF 2017-18 DT 25.02.20	CST	01.04.2008-30.06.2010	STATE	REDUCED FROM RS.1932431 /- TO	THE APPEAL IS ALLOWED AND THE IMPUGNED ORDER OF THE LEARNED JCST IS SET ASIDE
21	M/S ORISSA CONSTRUCTION	ASSESSMENT UNIT, RAJGANGPUR	AA-91(RL-II-R) 2008-09 DT 06.08.2015	50 OF 2015-16 DT 28.02.20	OST	2004-05	STATE	159912	THE APPEAL IS ALLOWED AND THE IMPUGNED ORDERS ARE SET ASIDE.
22	M/S SUBAS NUTRITION PVT LTD, CUTTACK	CUTTACK-II CIRCLE	AA/22/OET/ CUII/2016-17 / 108131730000 86, DT	131 (ET) OF 2017-18 DT 25.02.202	OET	2010-2012	PARTY	8153534	THE APPEAL FILED BY THE APPELLANT DEALER IS DISMISSED AND THE IMPUGNED ORDER IS HEREBY CONFIRMED
23	M/S SUBAS NUTRITION PVT LTD CUTTACK	CUTTACK-II CIRCLE	AA/48/OVAT/ CUII/2016-17/10613171 3000059 DT	300(V)O F 2017-18 DT 25.02.20	OVA T	01.04.2010-30.04.2012	PARTY	8153534	THE APPEAL IS DISMISSED BEING DEVOID OF ANY MERIT.

SI 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)	Result of Second Appeal Order
24	M/S TARINI PACKAGING INDUSTRY, JAJPUR	JAJPUR CIRCLE	AA-539 CUIII 14-15(OVAT) DT 28.03.2017	117(V) OF 2017-18 DT 29.02.202	OVA T	2010-13	STATE	REDUCED FROM RS.50,493/- TO RS.9,429/-	THE APPEAL IS ALLOWED AND THE IMPUGNED ORDER IS HEREBY SET ASIDE
25	M/S TARINI PACKAGING INDUSTRY, JAJPUR	JAJPUR CIRCLE	AA-540 CUIII (ET) 14-15 DT 28.03.2017	54(ET) OF 2017-18 DT 29.02.202	OET	2010-2013	STATE	REDUCED FROM RS.49353/- TO	THE APPEAL IS ALLOWED AND THE IMPUGNED ORDER IS HEREBY SET ASIDE
26	M/S NABADUR GA MINERALS,	MAYURBHANJ CIRCLE	AA-73/MB-2013-14 (ET) DT 31.03.2016	185(ET)/2016-17 DT 28.02.20	OET	01.01.2007-31.12.2011	PARTY	704967	THE APPEAL IS ALLOWED IN PART. THE ORDER OF THE ID. JCST IS SET ASIDE
27	M/S SHIOM MINERALS, RAJGANGPUR	SUNDARGARH RANGE	AA-7(RL-II-C) OF 2016-17 DT 24.11.2016	100(C) 2016-17 DT 29.02.202	CST	01.04.2014-30.09.2015	STATE	47884	THE APPEAL IS ALLOWED IN PART ON CONTEST.
28	M/S INDIAN RARE EARTH LTD, GANJAM	GANJAM II CIRCLE	AA(ET)20/2017-18 DT 08.06.2018	120(ET) 2018 DT 29.02.2020	OET	01.04.2014-30.09.2015	PARTY	282972	THE APPEAL FILED BY THE DEALER IS DISMISSED ON CONTEST. THE ORDER OF THE LEARNED FAA IS HEREBY CONFIRMED
29	M/S VOLTAS LTD, KHURDA	CUTTACK-I CITY CIRCLE	AA-107101610000051 DT 30.01.2018	23(C) OF 2018 DT 29.02.20	CST	2009-2010	STATE	1086666	THE APPEAL IS ALLOWED AND THE MATTER IS REMITTED BACK TO THE LEARNED JCST TO IMPOSE INTEREST ON THE TAX DUES AS PER LAW WITHIN THREE MONTHS FROM THE DATE OF RECEIPT OF THIS ORDER
30	M/S SHRI SHYAMJI AGRO TECH,	NUAPADA CIRCLE	AA-02(NUA) OF 2013-14 DT 14.01.2015	297(V) OF 2015-16 DT 02.03.20	OVA T	01.04.2011-10.04.2013	PARTY	REDUCED FROM RS.115247/- TO	THE APPEAL IS DIMSSED AND THE IMPUGNED ORDER IS HEREBY CONFIRMED.
31	M/S MARUTI INDUSTRIES,	BALANGIR RANGE	AA-05 (NUA) OF 2016-17 DT 19.07.2017	235(V) 2017-18 DT 07.03.20	OVA T	01.04.2010-09.09.2012	STATE	233917	THE APPEAL FILED BY THE STATE IS ALLOWED AND THE ORDER OF THE LEARNED FAA IS HEREBY SET ASIDE
32	M/S HOTEL BHUBANESWRI, PARLAKHE	GAJAPATI CIRCLE	AA-(V)78/2012-13 DT 20.03.2014	90(V) OF 2014-15 DT 02.03.202	OVA T	18.12.2008-31.03.2011	STATE	REDUCED FROM RS.125282/- TO	THE APPEAL IS DISMISSED AND THE IMPUGNED ORDER IS HERHBY CONFIRMED
33	M/S SHREERAM STEEL, CUTTACK	CUTTACK-I CENTRAL CUTTACK	AA-107121612000032 DT 30.03.2017	37(C) OF 2017-18 DT 16.03.202	CST	2009-2012	STATE	REDUCED FROM RS.167864/- TO NIL	THE APPEAL IS DISMISSED AND THE IMPUGNED ORDER IS HERHBY CONFIRMED