

SECOND APPEAL DISPOSAL ORDER STATUS RECEIVED IN AUGUST-2021

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)	Result of Second Appeal Order
1	M/S GOPAL JEW PHARMACEUTICAL S, JAGATPUR, CUTTACK	CUTTACK II CIRCLE	AA/184/CUII/2007-08, DT.30.12.2010	9 OF 2011-12, DTD.27.07.2021	OST	2002-03	PARTY	810731	THE APPEAL FILED BY THE DEALER IS ALLOWED ON CONTEST. THE ORDER OF THE LEARNED FAA IS HEREBY SET ASIDE. THE MATTER IS REMANDED BACK TO THE LEARNED ASSESSING OFFICER TO RECOMPUTE THE TAX LIABILITY OF THE DEALER AS PER PROVISIONS OF LAW AFTER MAKING PROPER VERIFICATION OF THE DOCUMENTS OF THE DEALER WITHIN A PERIOD OF THREE MONTHS FROM THE DATE OF RECEIPT OF THIS ORDER AND THE DEALER SHOULD BE GIVEN A REASONABLE OPPORTUNITY OF BEING HEARD. THE DEALER IS ALSO DIRECTED TO PRODUCE HIS COMPLETE SET OF BOOKS OF ACCOUNTS WITH RELEVANT DOCUMENTS BEFORE THE LEARNED ASSESSING OFFICER
2	M/S JAY JAGANNATH STEELS & POWER LTD., ROURKELA	ROURKELA II CIRCLE	AA-10610151000055 4/2015-16 & AA-10810151000055 5/2015-16, DT.08.06.2016	145(V)/2016-17 & 69(ET)/2016-17, DT.25.08.2021	OVAT	01.04.2011 TO 31.08.2013	PARTY	REDUCED THE DEMAND OF RS.5,45,49,051/-	THE APPEALS STAND ALLOWED. AS A NECESSARY COROLLARY, THE IMPUGNED ORDERS DTD.08.06.2016 PASSED IN APPEAL NOS. AA-106101510000554/2015-16 & AA-108101510000555/2015-16 ARE HEREBY SET ASIDE. CONSEQUENTLY, THE MATTERS ARE SENT BACK TO THE LAO TO ISSUE FRESH RE-COMPUTATION ORDER WITH DEMAND NOTICE UNDER BOTH THE ACTS SEPARATELY IN THE LIGHT OF FINDINGS AND OBSERVATIONS OF THE TRIBUNAL NOTED SUPRA PREFERABLY WITHIN A MONTH FROM THE DATE OF RECEIPT OF THIS ORDER.
3	M/S BHARAT EARTH MOVERS LTD., SAMBALPUR	SAMBALPUR I CIRCLE	AA-38/SAI/ET/2014-15, DT.20.05.2015	88(ET)/2015-16, DT.23.08.2021	OET	01.04.2011 TO 31.03.2013	PARTY	7308018	THE APPEAL FILED BY THE APPELLANT IS ALLOWED. AS A NECESSARY COROLLARY, THE IMPUGNED ORDER DTD.20.05.2015 PASSED BY THE LD. FAA IN APPEAL CASE NO. AA-38/SA-I/ET/2014-15 IS HEREBY SET ASIDE. CONSEQUENTLY, THE MATTER IS REMITTED BACK TO THE LAO TO REASSESS THE APPELLANT IN THE LIGHT OF ABOVE FINDINGS AND OBSERVATIONS OF THE TRIBUNAL AND TO PASS APPROPRIATE ORDER AS PER AND ACCORDING TO LAW. PREFERABLY, WITHIN A PERIOD OF THREE MONTHS FROM THE DATE OF RECEIPT OF THE ORDER AFTER GIVING THE APPELLANT A REASONABLE OPPORTUNITY OF BEING HEARD.

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4	M/S MAA SAMALESWARI INDUSTRIES (P) LTD., SAMBALPUR	SAMBALPUR II CIRCLE	AA-66/SAII/ET/2009-10, DT.20.01.2012	192(ET) OF 2011-12, DT.23.08.2021	OET	01.04.2005 TO 30.06.2008	STATE	REDUCING THE TAX TO RS.565788.40 AGAINST TAX DEMAND RS.26,62,613/-	THE IMPUGNED ORDER OF THE FIRST APPELLATE AUTHORITY ALLOWING SET OFF U/R 19(5) OF THE OET RULES IN RESPECT OF COAL OF 39,401.22 MT WORTH RS.3,98,74,040.30 IS UNSUSTAINABLE IN THE EYE OF LAW AS THE SAME IS NOT THE RAW MATERIAL WHICH DIRECTLY GOES INTO THE COMPOSITION OF FINISHED PRODUCTS ENTITLING THE DEALER ASSESSEE TO GET SET OFF AS PROVIDED U/R 19(5) OF THE OET RULES. ACCORDINGLY, THE IMPUGNED ORDER OF THE FIRST APPELLATE AUTHORITY IS SET ASIDE AND THE MATTER IS REMITTED BACK TO THE ASSESSING AUTHORITY TO RECOMPUTE THE TAX LIABILITY OF THE DEALER-ASSESSEE IN THE LIGHT OF THE AFORESAID OBSERVATION OF THIS TRIBUNAL AFTER VERIFYING THE GENUINENESS OF THE ENTRY TAX PAID BY THE DEALER-ASSESSEE VIDE CHALAN NOS. D7 DT.10.08.2005 AND D9 DT.08.11.2005.
5	M/S CAPITAL MRKETING, BHUBANESWAR	BHUBANESWAR III CIRCLE	AA-(ET)25/2013-14, DT.30.07.2015	118(ET) OF 2015-16 & 147(ET) OF 2015-16, DT.12.08.2021	OET	04.07.2009 TO 30.11.2012	BOTH	1249740	THE FIRST APPELLATE AUTHORITY ON CONSIDERATION OF FACT AND LAW RIGHTLY INCLUDED THE FREIGHT CHARGES IN THE PURCHASE VALUE AND EXCLUDED INCIDENTAL EXPENSES FOR THE PURPOSE OF COMPUTATION OF ENTRY TAX. THERE IS NO ILLEGALITY OR IMPROPRIETY IN THE IMPUGNED ORDER WARRANTING INTERFERENCE OF THIS TRIBUNAL. ACCORDINGLY THE APPEALS FILED BOTH BY THE DEALER-ASSESSEE AS WELL AS STATE STAND DISMISSED BEING DEVOID OF MERIT.
6	M/S GRAFTEK PRIVATE LTD., BHUBANESWAR	BHUBANESWAR RANGE	AA.10611121100 0221/BH-I/12-13, DT.08.10.2014	322(V)/2014-15 & 389(V)/2014-15, DT.19.08.2021		01.01.2007 TO 30.06.2011	OVAT	4912590	THE APPEAL FILED BY THE DEALER IS ALLOWED ON CONTEST. THE ORDER OF THE LEARNED FAA ENDS WITH NULLITY AND ASSESSMENT ORDER PASSED BY THE LAO IS ANNULLED. THE APPEAL FILED BY THE STATE IS DISMISSED BEING DEVOID OF MERIT.

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SINGLE BENCH AND DIVISION BENCH

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1	M/S NEELACHALA CONSTRUCTION & LABOUR SUPPLIER, PARADEEPGARH, JAGATSINGHPUR	JAGATSINGHPUR CIRCLE	AA.16/OVAT/CUIIJ /2015-16, DT.22.10.2016	22(VAT) OF 2017=-18, DT.17.08.2021	OVAT	01.08.2011 TO 31.03.2013	PARTY	964260	<p>THE ORDER OF THE FIRST APPELLATE AUTHORITY IS CONFIRMED AND THE APPEAL IS DISMISSED. IT HAS BEEN CLAIMED BY THE APPELLANT THAT IT HAD DEPOSITED VAT OF RS.76,298/- ALONG WITH INTEREST OF RS.8,128/- FOR 2011-12 AND HAS DEPOSITED RS.1,12,759/- ALONG WITH INTEREST OF RS.18,025/- FOR 2012-13. THIS NEEDS TO BE VERIFIED FROM THE RECORDS AND ACCORDINGLY, THE TAX AND PENALTY ARE TO BE WORKED OUT BY GIVING ADJUSTMENT OF THE AFOREMENTIONED AMOUNT, IF THE CLAIMS SO MADE BY THE APPELLANT IS FOUND TO BE AS CORRECT AS PER RECORDS. AS A RESULT, THE MATTER IS REMANDED TO THE FIRST APPELLATE AUTHORITY FOR THE LIMITED PURPOSE OF RECOMPUTATION AS STATED ABOVE.</p>
2	M/S ANIL & SONS SOLUTIONS, ROURKELA	SUNDARGARH RANGE	AA.94(RL-I-C) OF 2017-18, DT.22.12.2017	56(C)/2018, DT.10.08.2021	CST(O)	01.04.2015 TO 31.03.2016	PARTY	82005	<p>THE APPEAL FILED BY THE DEALER IS ALLOWED ON CONTEST. THE ORDER OF LEARNED FIRST APPELLATE AUTHORITY IS HEREBY SET ASIDE. THE MATTER IS REMANDED BACK TO THE LEARNED ASSESSING OFFICER AND HE IS TO CONSIDER THE ADDITIONAL EVIDENCE FILED BY THE DELAER AFTER VERIFYING THE GENUINENESS OF THE DOCUMENTS THOROUGHLY AND ACCORDINGLY RE-COMPUTE THE TAX LIABILITY OF THE DEALER AS PER PROVISION OF LAW AFTER GIVING THE DEALER A REASONABLE OPPORTUNITY OF BEING HEARD WITHIN A PERIOD OF THREE MONTHS FROM THE DATE OF RECEIPT OF THIS ORDER.</p>