

**BEFORE THE FULL BENCH, ODISHA SALES TAX TRIBUNAL,  
CUTTACK.**

**S.A. No.1907 of 1999-2000**

(Arising out of the order of the learned ACST,  
Cuttack-I Range, Cuttack in Appeal Case No. AA-  
283/CUIW-97-98 disposed of on 04.12.99)

Present: **Shri G.C. Behera, Chairman**  
**Shri S.K. Rout, 2nd Judicial Member &**  
**Shri B. Bhoi, Accounts Member-I**

M/s. Shree Commercial Services,  
Kathagoda Sahi, Cuttack. .... Appellant.

**-Versus -**

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

For the Appellant : : None  
For the Respondent : : Mr. D. Behura, S.C. (C.T.)  
: Mr. N.K. Rout, Addl.S.C.(C.T.)

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**Date of Hearing : 07.11.2023 \*\*\* Date of Order: 06.12.2023**  
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**O R D E R**

The dealer is in appeal against the order dated 04.12.1999  
of the Assistant Commissioner of Sales Tax, Cuttack-I Range,  
Cuttack (in short, 'ld. FAA') passed in Appeal Case No. AA-  
283/CUIW/97-98 confirming the order of assessment passed by the  
Sales Tax Officer, Cuttack-I West Circle, Cuttack, (in brevity,

referred to as Id.STO) under Section 12(4) of the Orissa Sales Act, 1947 (in short, 'OST Act').

2. The gist of the case is that M/s. Shree Commercial Services, Kathagoda Sahi, Cuttack, CUIW-3698 carries in business in grocery, stationery, cosmetics, household articles etc. on wholesale basis. The dealer-appellant was assessed under Section 12(4) of the OST Act for the year, 1994-95 raising demand of ₹7,84,709.00. The Id.FAA confirmed the order of assessment in the first appeal as preferred by the dealer-appellant. Aggrieved, the dealer-appellant preferred this second appeal for relief. Hence, this second appeal.

3. The dealer-appellant has filed grounds of appeal holding that the Id. FAA without considering upon the difficulties in not submitting the wanting Declaration in Form XXXIV amounting to ₹51,11,431.78 has affirmed the orders of assessment ensuing thereby violation of the principle of natural justice.

There is no cross objection filed by the State.

4. For hearing of this second appeal, the dealer-appellant was noticed to appear. Neither the dealer-appellant nor the learned counsel representing him appeared despite several intimations. There is no alternative but to adjudicate the case ex-parte on the basis of the materials available on record.

5. The orders of the forums below along with the materials on records are gone through. The stand taken in the grounds of appeal is also looked into. On perusal of the order of assessment, it is observed that during the year under appeal the dealer-assessee has disclosed GTO for ₹94,56,992.40 comprising sale of first point tax paid goods for ₹5,71,758.01 and sales to a registered dealer namely M/s Rawani Dals Flour of Malgodawn, Cuttack amounting to ₹88,85,234.39 at concessional rate of tax against declaration in Form XXXIV. The dealer-assessee could furnish declaration in Form XXXIV for ₹37,73,802.61 only in assessment leaving thereby a balance of ₹51,11,431.78. As the dealer-assessee failed to produce the wanting declarations within the deadline as promised, the ld. STO on levy of tax @16% on ₹26,11,431.78 and 12% on ₹25,00,000.00 worked out tax due of ₹7,13,371.84. With surcharge of 10% on tax due, the tax payable calculated to ₹7,84,709.00 with the dealer-assessee having not paid any tax earlier. The dealer-assessee is found to have not also furnished the required wanting declarations either in the first appellate stage or in the second appellate stage except stating that the difficulties faced by the dealer-appellant in not furnishing the said wanting declarations have not been considered. Nonetheless, the details of the difficulties

have not also been put forth in black and white. Accordingly, the contention of the dealer-appellant justifies no consideration.

6. Resultantly, the appeal filed by the dealer-appellant is dismissed and the order of the ld. FAA is upheld.

Dictated & Corrected by me

**Sd/-**  
**Bibekananda Bhoi)**  
**Accounts Member-I**

**I agree,**

**Sd/-**  
**(Bibekananda Bhoi)**  
**Accounts Member-I**

**I agree,**

**Sd/-**  
**(G.C. Behera)**  
**Chairman**

**Sd/-**  
**(S.K. Rout)**  
**2<sup>nd</sup> Judicial Member**