BEFORE THE 1ST JUDICIAL MEMBER,
ODISHA SALES TAX TRIBUNAL: CUTTACK

S.A. No. 20(V) of 2019
(Arising out of order of the learned Addl. Commissioner of Sales Tax (Appeal), Balasore,
in Appeal Case No. AA-64/BA-2012-13 (OVAT),
disposed of on dated 26.10.2018)

Present: **Shri Sanjeeb Dubey,**
1st Judicial Member

M/s. Acumen Associates,
Vivekananda Marg,
Balasore. ... Appellant

- V e r s u s -

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

For the Appellant : N o n e
For the Respondent : Mr. N.K. Rout, A.S.C.

Date of hearing: 03.08.2024 *** Date of order: 23.08.2024

O R D E R

The appellant-dealer has preferred this appeal challenging the order dtd.26.10.2018 passed by the learned Addl. Commissioner of Sales Tax (Appeal), Balasore-first appellate authority in Appeal Case No. AA-64/BA-2012-13 (OVAT) confirming the assessment order dated 3.12.2011 passed by the Deputy Commissioner of Sales Tax, Balasore Circle, Balasore-assessing authority.

2. The appellant being a registered proprietorship concern was engaged in the business of furniture, fixtures, almirah, air conditioner etc. on retail and wholesale basis. On 05.05.2009, the Vigilance Squad of Balasore Division visited the business premises of the appellant and could detect suppression of sales amounting to ₹6,81,381.00 which was made to the DRDO, Chandipur during the assessment period 01.04.2008 to 31.05.2009. Since the said sales were not accounted for in the books of account, the Vigilance team submitted tax evasion report to the assessing authority basing upon which the assessing authority carried out the escaped assessment u/s.43 of the OVAT Act and raised an extra demand of ₹2,62,500.00 including penalty of ₹1,75,000.00. The appellant challenged the said assessment before the first appellate authority which was pleased to dismiss the appeal.

3. Despite due service of notice, none appeared for the appellant. As such, the matter was heard on merit.

4. The appellant has challenged both the impugned orders on the ground of violation of principle of natural justice. The appellant has taken the stand that it was not given sufficient opportunities in both the forum below to produce the books of account and both the orders have been passed behind his back.

5. The learned Addl. Standing Counsel for the Revenue supported both the impugned orders by

submitting that sufficient opportunities had been given to the appellant but the appellant intentionally did not appear before the assessing authority as well as the first appellate authority with an ulterior motive.

6. On perusal of both the orders of the fora below, it is quite evident that the appellant was noticed several times on different dates at the time of hearing of the matter. The appellant did appear before both the forums after receipt of the notices and took several adjournments on those dates. The appellant was given sufficient opportunities to put forth its case against the allegation of suppression of sales. But, the appellant failed to grab such opportunities before both the forums to dislodge the allegation of suppression of sales and instead prolonged the matter. Ultimately, the forums below were compelled to dispose the matter in absence of the appellant. Here also, the appellant did not appear before this forum to pursue the appeal. This shows ulterior intention of the appellant adopting lackadaisical approach. Under such backdrop and factual aspect, this forum does not find any ground to interfere with the impugned order.

7. Resultantly, this appeal stands dismissed and the cross objection is disposed of accordingly.

Dictated & corrected by me,

Sd/-	Sd/-
(S. Dubey)	(S. Dubey)
1st Judicial Member	1st Judicial Member