



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 27148 of 2024
[CNR No. ODHC010794622024]

M/s. Krishna Traders, Cuttack ... Petitioner

Mr. Rudra Prasad Kar, Senior Advocate
along with

Ms. Itishree Tripathy, Advocate

-Versus-

Chief Commissioner of CT & GST, ... Opposite Parties
Cuttack & Others

Mr. Sujan Kumar Roy Choudhury,
Senior Standing Counsel (CGST)

Mr. Sunil Mishra,
Standing Counsel (CT & GST Organisation)

CORAM:

THE HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
AND
THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER
28.08.2026

Order No.
02.

1. Challenge is laid to show-cause notice dated 31st January, 2024 and the consequential order dated 23rd October, 2024 under Section 74 of the Central Goods and Services Tax Act, 2017/the Odisha Goods and Services Tax Act, 2017 (collectively, 'the CGST Act' in short) passed by State Tax Officer, CT & CST Officer, CT & GST Circle, Cuttack-II, Cuttack for the tax period(s) from April, 2019 to March, 2020, as the same is contrary to provisions contained in Section 6(2)(b) of the said Act.



2. This Court, appreciating the submissions and averments in the writ petition, passed the following order on 08.11.2024:-

"1. Mr. Kar, leaned senior advocate appears on behalf of petitioner and submits, impugned is notice dated 31st January, 2024 and adjudication order dated 23rd October, 2024. He points out from armexure-1 series, it is notice dated 14th January, 2022 issued by Central Revenue on subject, 'payment of inadmissible Input Tax Credit (ITC) taken in respect of non-existent business entity-reg.'. Period covered by the notice is from July, 2017 till 2019. Further periods till year 2022 were subsequently also noticed.

2. He then refers to notice dated 31st January, 2024 issued by State Revenue, pursuant to which impugned order was made. He demonstrates, the notice gives brief fact of the case to be availing of ITC for non-existent suppliers covering period 2019-20. Section 6(2)(b) in both Goods and Services Tax Act, 2017 as well as Odisha Goods and Services Tax Act, 2017 bar initiation of subsequent proceeding. He seeks interference, interim at this stage.

3. Mr. Roychoudhury, leaned advocate, Senior standing counsel and Mr. Mishra, leaned advocate, Standing Counsel respectively appear for Central and State Revenue. They have adjournment to obtain instructions.

4. Mr. Kar files additional affidavit on leave obtained, to disclose in the petition, inadvertently omitted omission of part of impugned order.



5. List on 10th December, 2024. Impugned order dated 23^d October, 2024 will remain stayed till next date of hearing."

3. By way of filing a memo Mr. Rudra Prasad Kar, learned Senior Counsel requested for permitting the petitioner to withdraw the writ petition in order to avail remedy under Section 107 of the GST Act before the appropriate authority.

4. The leave is granted.

5. Mr. Sunil Mishra, learned Standing Counsel for CT & GST Organisation and Mr. Sujan Kumar Roy Choudhury, learned Senior Standing Counsel for the CGST Department have no objection for such withdrawal of writ petition in order to approach the appropriate forum for availing alternative remedy.

6. Considered the submissions. The Memo is taken on record. Leave is granted to the petitioner to file appeal within a period of four weeks from today.

7. It is next submitted by Mr. Rudra Prasad Kar, learned Senior Counsel that the petitioner has not paid the statutory deposit required for filing the appeal. If allowed, the petitioner shall do so. It is, therefore, open for the petitioner, in order to avail the remedy available under the statute, to make the statutory deposit as stipulated in



Section 107(6) of the GST Act within the aforesaid time granted for filing the appeal.

8. In the event such deposit is made, the petitioner shall be entitled to the benefit of sub-section (7) of Section 107 of the GST Act. The petitioner is at liberty to raise all contentions and questions of law as well as fact. To establish its claim liberty is reserved to it to adduce before the appellate authority all evidence/documents, which shall be considered by the appellate authority at the time of consideration on merit of the appeal.

9. Accordingly, the Writ Petition is disposed of as withdrawn, with liberty to the Petitioner to pursue his remedy in accordance with law. As a consequence thereof, pending interlocutory application(s) shall stand disposed of.

(Manash Ranjan Pathak)
Judge

(Murahari Sri Raman)
Judge

Signature Not Verified

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Reason: Authentication
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