sIN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.17349 of 2022

M/s. Panda Enterprises .... *Petitioner*

Mr. Umesh Chandra Behura, Advocate

-versus-

CT & GST Officer, Cuttack-II Circle, Cuttack & Another .... *Opposite Parties*

Mr. Sunil Mishra, Addl. Standing Counsel for CT & GST Organisation

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER

Order No.	**29.07.2022**
01.	**1.** This matter is taken up by virtual/physical mode.

2. Challenging the order of cancellation of Registration Certificate dated 9th September, 2021 on account of non-filing of returns covering tax periods from 1st January, 2021 to 31st July, 2021 and non-deposit of due taxes, the Petitioner-M/s. Panda Enterprises represented through its proprietor of Sri Premanjan Panda approached the appellate authority, namely, Joint Commissioner of CT & GST on 4th January, 2022 under Section 107 of the Odisha Goods & Services Tax, 2017.

3. It is contended by Sri Umesh Chandra Behura, counsel for the Petitioner that without affording any opportunity of removing the defect, if any, in the appeal so filed, the appellate authority rejected the appeal summarily vide order dated 21st May, 2022 on the ground that he has not enclosed certified copy of the order appealed against. Sri Behura, counsel for the Petitioner submitted that even though a certified copy of the order appeal against was required to be submitted within seven days of filing of the appeal in view of sub-rule (3) of Rule 108 of the OGST Rules, a copy of the order of cancellation of registration certificate as downloaded, which was communicated via electronic mode to the taxpayer concerned, was enclosed to the appeal memo; therefore, the appellate authority should not have rejected the appeal on hyper-technical approach. The appellate authority should have been more pragmatic rather than pedantic in his approach who has within his knowledge the fact that the appellant-taxpayer would be rendered remediless as no Appellate Tribunal has yet been constituted in terms of Section 109 of the OGST Act.

Counsel for the Petitioner cited the judgment rendered by this Court in M/s. ATLAS PVC PIPES LIMITED VS. STATE OF ODISHA & OTHERS (W.P.(C) NO. 14163 of 2022) to contend that if an opportunity is given, the Petitioner would furnish certified copy of the order appealed against before the appellate authority and prays for direction to the appellate authority to restore the appeal to be heard on merit.

4. Mr. Sunil Mishra, Addl. Standing Counsel appearing for the CT & GST Organisation does not dispute the aforesaid proposition.

5. Considering the aforesaid conceded position, interest of justice would be best served by affording an opportunity to the Petitioner to furnish certified copy of the order No. ZA210921012311E dated 9th September, 2021 on or before 10th August, 2022 before the appellate authority namely, Joint Commissioner of CT & GST, Cuttack-II Circle, Cuttack. On furnishing the said copy, the appellate authority shall restore the appeal to file and proceed with the matter in accordance with law and decide the appeal on its own merit.

6. With the above observation and direction, the writ petition stands disposed of.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Aks July 29, 2022 Cuttack