IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.41961 of 2021

Jyoti Ranjan Panda	....	***Petitioner***
		Mr. Rudra Prasad Kar, Advocate

-versus-

Additional Commissioner of State Tax (Appeal), Balasore and another	....	***Opposite Parties***
		Mr. Sunil Mishra, ASC

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

<u>Order No.</u>

<u>ORDER</u>
29.11.2022

02. 1. The challenge in the present petition is to an order dated 31st December, 2020 passed by the Additional Commissioner of State Tax (Appeal), Balasore (First Appellate Authority) dismissing the appeal filed by the Petitioner under Section 107 of the Odisha Goods and Service Tax Act, 2017.

2. At the outset Mr. Rudra Prasad Kar, learned counsel for the Petitioner, informs the Court that although the impugned order is an appealable one, there is no Tribunal in place. It is seen that in the impugned order, the Appellate Authority has dismissed the appeal only on the ground that the appeal was filed on 27th November, 2020 whereas the last date for filing was 23rd April, 2020.

3. Learned counsel for the Petitioner points out that this was during the period of the COVID-19 pandemic and in terms of order passed by the Supreme Court of India in ***Re: Cognizance of Extension of Limitation 2022 LiveLaw (SC) 31*** as further explained by the Supreme Court in its order dated 9th May, 2022 in Civil Appeal No. of 2022 (Special Leave Petition (C) No.2522 of 2022) (***Babasaheb Raosaheb Kobarne v. Pyrotek India Private Limited, 2022 LiveLaw (SC) 520*****),** the Assessee had to be given the benefit of the extended period of limitation.

4. The above position is not able to be denied by learned counsel for the Department. Indeed, the Supreme Court had extended the time periods for various kinds of cases where the limitation was going to expire during the period when COVID-19 was active. As explained in ***Babasaheb Raosaheb Kobarne*** *(supra)*, the extended period of limitation in terms of the above Supreme Court's orders was binding on all authorities.

5. Going by the above orders of the Supreme Court, the delay in the Petitioner filing its appeal ought to have been condoned by the First Appellate Authority. Consequently, the impugned order dated 31st December, 2020 of the Additional Commissioner of State Tax (Appeal), Balasore is hereby set aside and the Petitioner's First Appeal Case No.AD211120007078X is restored to the file of the First Appellate Authority where it will be listed on 3rd January, 2023. On that date the Petitioner will appear through its authorized representative. It is clarified that the delay in filing the appeal will

be treated as condoned by virtue of the present order. The First Appellate Authority will then proceed with the appeal on merits and endeavour to dispose it of as expeditiously as possible.

6. The petition is disposed of in the above terms. Issue urgent certified copy of this order as per Rules.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

M. Panda