IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16677 of 2026

CNR No.ODHC010359542026

And

W.P.(C) No.16800 of 2026

CNR No.ODHC010359382026

And

W.P.(C) No.17164 of 2026

CNR No.ODHC010344602026

M/s. SMV Beverages Private Ltd., Nagpur …. ***Petitioner***

Mr. Rudra Prasad Kar, Senior Advocate
assisted by Mr. Santosh Kumar Mishra, Advocate

-versus-

The State of Odisha, represented by the Principal Secretary to Govt., Finance Department, Bhubaneswar and others …. ***Opposite Parties***

Mr. Sunil Mishra, Standing Counsel

CORAM:
HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

Order No. **18.11.2026**

02. ***1.*** These matters are taken up through hybrid arrangement.

2. Challenge is laid in these batch of writ petitions to the order dated 07.01.2026 passed by the Commissioner of Sales Tax, Odisha, Cuttack ("CST", for brevity) in the appeals preferred

under Section 23(4)(c) of the Odisha Sales Tax Act, 1947 (for short, "OST Act") directed against the order dated 30.01.2024 in Revision Case No. SMR/02/ OST/CUIIC/2023-24, No.SMR/01/OST/CUIIC/2023-24,No.SMR/03/OST/CUIIC/2023-24 pertaining to the assessment years 1997-98, 1996-97, 1998-1999 respectively passed by the Additional Commissioner of Sales Tax, CT & GST Territorial Range, Cuttack-II, Cuttack (for convenience, "Revisional Authority").

3. The facts of the case as pleaded in the writ petitions reveals that the assessments for the assessment years 1996-97, 1997-98, and 1998-99 were undertaken under Section 12(4) of the OST Act and concluded on 30.03.2002 and orders thereon were passed by the Sales Tax Officer, Cuttack-II Circle, Cuttack, considering the eligibility certificates to claim exemption from payment of sales tax as per the Industrial Policy Resolution, 1996 and the exemption certificates which were issued by the Director of Industries. The assessments were framed by the Assessing Authority by allowing deductions as claimed in consonance with the certificates issued by the Director of Industries attune with the Industrial Policy Resolution, 1996.

3.1. However, after completion of assessments, notices were issued by the Assistant Commissioner of Sales Tax, Cuttack-II Range, Cuttack invoking powers under Section 23(4)(a) of the

OST Act read with Rule 80 of the Odisha Sales Tax Rules, 1947 (for short, "OST Rules"). The Additional Commissioner of Sales Tax, CT & GST Territorial Range, Cuttack-II, Cuttack has passed the order in the said *suo motu* Revision(s) by revising the assessment orders, disallowed the exemption as allowed in the original assessment under Section 12 (4) of the OST Act. Accordingly, determining the tax liability afresh, said Revisional Authority directed the Assessing Authority to issue of fresh demand notices.

3.2. Being aggrieved, the petitioner approached the CST by way of filing appeals under Section 23(4)(c) of the OST Act. The CST without considering the petition for adjournment on the date of hearing of appeals, *i.e.*, 20.12.2025 proceeded to decide the appeals and pass orders on 07.01.2026.

4. Referring to additional affidavit dated 16.11.2026, it is submitted by Sri Rudra Prasad Kar, learned Senior Advocate being assisted by Sri Santosh Kumar Mishra, learned Advocate that due to serious ill-health of the Chartered Accountant, who was entrusted with the matter to plead and argue before the CST, could not represent the petitioner-company in connection with hearing of the appeals. To countenance his submission, he has taken to this Court to medical prescriptions and documents forming part of said

additional affidavit and stated that on 19.12.2025, an application was sent by e-mail and on 20.12.2025, *i.e*. the date fixed for hearing, a petition was filed before the Commissionerate informing that the health condition of the Chartered Accountant prevented him from appearing in connection with the hearing. He, therefore, submits that there was sufficient reason which caused difficulty for the petitioner in appearing before the CST on 20.12.2025. The CST did not consider the fact that the circumstances were beyond the control of the petitioner. By merely referring to the adjournments granted on earlier occasions, proceeded to pass final orders. Such an action is in flagrant violation of principles of natural justice.

5. Mr. Sunil Mishra, learned Standing Counsel made valiant attempt to justify the order passed in appeals under Section 23(4)(c) of the OST Act on merit. He strenuously submitted that the orders of assessment were not in conformity with the nature of exemptions granted as per the Industrial Policy Resolution, 1996. With his usual vehemence, Sri Sunil Mishra, learned Standing Counsel vociferously submitted that the orders passed by the Revisional Authority cannot be faulted with, inasmuch as the wrongful exemptions allowed by the Assessing Authority could be revised in exercise of power under Section 23(4)(a) of the OST Act. Therefore, he submitted

that the CST, having confirmed the orders in *suo motu* revision, passed justified and rightful order which do not warrant interference.

6. Heard Mr. Rudra Prasad Kar, learned Senior Advocate assisted by Mr. Santosh Kumar Mishra, learned Advocate appearing for the petitioner-company and Mr. Sunil Mishra, learned Standing Counsel for the C.T. and G.S.T. Organisation.

7. Diligently considered the arguments advanced by learned counsel for the respective parties. Perusal of impugned order dated 07.01.2026 passed by the CST, it is evident that the date of hearing was fixed on 20.12.2025. The papers enclosed with the additional affidavit of the petitioner demonstrate that the application seeking for adjournment was sent on 19.12.2025 *via* e-mail and another the application was delivered at the Office of the Commissionerate on 20.12.2025, under acknowledgment. It is asserted by the petitioner that the health condition of the Chartered Accountant, who was acquainted and entrusted with the case record to appear and participate in the hearing of the appeals, was suffering from serious health issues. Though such fact was apprised in the application beseeching adjournment on 20.12.2025, the CST

did not consider such difficulty of the petitioner in conducting the hearing.

7.1. Perusal of the documents placed under Annexure-A/5 enclosed with the additional affidavit, it is evident that an application was sent *via* e-mail on 19.12.2025 and another application dated 20.12.2025 was received in the Commissionerate of CT and GST, Odisha, Cuttack. Such a fact could not be disputed by the learned Standing Counsel; nonetheless, he pointed out that the cause title of the impugned order reflects the date of hearing as 20.12.2025, which was fixed on the request of the petitioner on earlier occasion. Further accommodation as sought for on the said date could not have been considered by the CST and the circumstances does not give rise the necessity to adjourn the matter further. He supported the action of the CST in passing the order on 07.01.2026.

7.2. In the impugned order, it is reflected as follows:

> *"… the case was adjourned to 01.11.2025, against which the dealer-petitioner suggested a clear-cut date of 20.12.2025 for scheduling the revision hearing. Considering the specific date proposed by the dealer-petitioner, the hearing was fixed on 20.12.2025, and intimation was issued vide Letter No.17030/CT & GST dated 08.12.2025. Even on this occasion, the dealer-petitioner filed another one-time petition seeking extension of the hearing date."*

7.3. Though a specific date was fixed as stated in the order, on careful scrutiny of the documents enclosed with the additional affidavit it is apparent that on earlier occasions adjournments were granted on different exigencies. However, the Commissioner of Sales Tax was brought to the notice that the Chartered Accountant had undergone a major surgery. The CST failed to consider the reason ascribed in the petition for adjournment filed on 20.12.2025, but passed the order on 07.01.2025.

7.4. This Court appreciates the submission of learned Senior Advocate that since there is a gap between the scheduled date of hearing (20.12.2025) and the date of passing order (07.01.2026), considering the reason assigned in the petition of the petitioner, an opportunity ought to have been granted so as to enable it to furnish relevant notifications and apprised the CST with regard to legal position as set forth by the Courts. Having not considered the grievance of the petitioner, the pedantic approach of the CST caused serious prejudice.

7.5. A glance at the aforesaid reason as assigned by the CST it does not percolate that the petitioner was made aware about the rejection of the petition for adjournment. Had the adjournment petition been taken up for consideration on 20.12.2025, the reason for seeking adjournment could have

been noticed. Therefore, there has been gross violation of principles of natural justice.

7.6. This Court having perused the documents issued by the hospital noticed that the person authorised and entrusted to conduct the hearing of the appeals, did undergo surgery within proximate time, which of course was the cause for seeking adjournment.

7.7. It is felt expedient to have regard to the following observation of the Hon'ble Supreme Court of India rendered in the case of *Rais Ahmad Vrs. State of U.P., (1999) 6 SCC 391*:

> *"9. In the instant case, admittedly, the counsel for the appellant had applied to the Chief Justice for his cases being not listed on account of illness and that the application was allowed and, therefore, it was the duty of the Registry that the cases in which he was appearing as a counsel were not shown in the cause list before any court. This case, incidentally, was shown in the cause list on 24.04.1996 and was disposed of. It is stated in the application for recall of that order that the counsel had sent an "illness slip", but this plea has not been accepted by the Court on the ground that the illness slip was not brought to the notice of the Court. It is important to note that the fact that the "illness slip" was sent to the Court is not disputed. What is disputed is that this was not brought to the notice of the Court. The tradition in the Allahabad High Court is that an "illness slip" is usually given to the Court Master or the Bench Secretary of the Court and it is expected of the Bench Secretary that he would bring it to the notice of*

the Court either at the beginning of the day or at the time when the case is called out and taken up for hearing. Once the "illness slip" is brought to the notice of the Court, the case traditionally is adjourned.

10. *"Traditions" of a court are built upon the edifice of cooperation between Judges and lawyers over a period of years. "Traditions" are doctrines, customs, practices, beliefs and usages which are handed down from generation to generation. As pointed out earlier, one of the traditions of the Allahabad High Court, which is now more than 130 years old and has seen many generations of lawyers, is that a case would be adjourned on the "illness slip" of a counsel. This and other traditions of the Court bind the lawyers and Judges in a sacred relationship of mutual trust and understanding. The adjournment of a case on the "illness slip" reflects the court's respect for the counsel and its consciousness that a lawyer or counsel, though an officer of the court, is nevertheless a human being who can fall ill. It also reflects the faith and trust the lawyer has in the court that the court would, on his "illness slip", adjourn the case.*

11. *It is contended on behalf of the respondents that the facility of adjournment available to the counsel on the ground of "illness slip" is a facility which has been abused more often than not, so much so that interim orders once obtained have notoriously been found to have continued for a long time merely on the "illness slip" and, therefore, the facility of adjournment on this basis should be abolished so that the litigant whose counsel has fallen ill may make alternative arrangement and the hearing of the case may not be affected. That may be true in rare cases and in that situation the Judges would not act*

upon the "illness slip" if it is found, from a mere look at the running order sheet, that the facility has been misused or abused. But, isolated examples would not be destructive of the noble tradition. Moreover, litigants in this country are generally poor (agriculturists) coming from rural areas or they are government servants or workmen in an industrial establishment or the like and they cannot afford or manage the luxury of engaging another counsel. This privilege is available only to the Central or State Governments who not only have standing counsel but also standby counsel (panel lawyers) and, therefore, only the State counsel can dare plead for abolition of adjournment on "illness slip", which we hereby reject as absurd and inappropriate."

7.8 In the case of *Union of India Vrs. I.S. Singh, 1994 Supp (2) SCC 518* it has been observed thus:

"So far as the first ground is concerned, it stands negatived by the recent decision of this Court in Managing Director, ECIL, Hyderabad Vrs. B. Karunakar, (1993) 4 SCC 727, inasmuch as the order of punishment is of the year 1980. So far as the second ground is concerned, a few facts need be stated. An inquiry was held, in the first instance, which was not found to be in order by the disciplinary authority who directed a fresh inquiry. When notices were issued in the second inquiry, they could not be served on the respondent. On a later date, the respondent sent an application stating that he is suffering from unsoundness of mind and that the inquiry may be postponed till he regains his mental health. The respondent also states that he sent his medical certificate along with his application. (Indeed, according to him, he sent not one but three letters to the said effect.) The report of the Enquiry Officer, however, does not show that he paid any attention to these letters. If, indeed, the letters

were not accompanied by medical certificates, as is now asserted by Shri Mahajan, learned counsel for the appellants, the proper course for the Enquiry Officer was to have called upon the respondent either to produce a medical certificate or to direct him to be examined by a medical officer specified by him. The inquiry report does not even refer to the request contained in the said application nor does it mention why and for what reasons did he ignore the said plea of the respondent. The Enquiry Officer proceeded ex parte, in spite of the said letters and made his recommendation on the basis of which the aforesaid penalty was imposed. It is evident from the facts stated above that the Enquiry Officer has not only conducted the inquiry in a manner contrary to the procedure prescribed by Rule 14(2) of CCS (CCA) Rules but also in violation of the principles of natural justice."

7.9. Regard may be had to the case of *State Bank of India Vrs. Chandra Govindji, (2000) 8 SCC 532*, wherein it has been observed that:

> *"3. The appellant Bank resisted the said claim by contending that the premises in question was 70 years old and was in a dilapidated condition and its depreciated value would not exceed Rs 1 lakh. The respondent filed her own affidavit and that of Shri J.P. Aggarwal, the Valuer, in support of her case. On 29.10.1992 the appellant Bank sought for an adjournment by filing an application on the ground that the advocate had to go out of station for medical treatment and consequently the matter was adjourned on payment of costs. Next date fixed for hearing was 11.11.1992, when the Rent Controller did not hold the sittings and the matter was adjourned to 13.11.1992. On that date certain documents were produced along with photostat of the valuer's report dated 11.07.1988 showing the*

value of the building at Rs 1,76,000 and the matter was adjourned for further hearing to 24.11.1992. On 24.11.1992 the advocate for the appellant filed an application stating that on account of compelling personal reasons he had to go out of station and sought for an adjournment. However, the adjournment was not granted on that application and the same was dismissed on 24.11.1992. However, the matter was set down for orders on 30.11.1992. In the meanwhile, on 28.11.1992 the appellant Bank filed an application seeking to recall the order made on 24.11.1992 on the ground that the advocate having taken ill had gone to Gorakhpur for medical examination on 24.11.1992. However, this application was not taken note of by the Rent Controller. On 30.11.1992 the appellant Bank filed an application before the Rent Controller which was kept on file and the matter was set down for arguments on 01.12.1992. The applications filed earlier were not heard. By its order made on 21.01.1993 the Rent Controller allowed the application filed by the respondent and fixed the rent at Rs 13,750 per month. Against the said order an application was preferred to the District Judge who dismissed the same and affirmed the order of the Rent Controller. The matter was carried to the High Court. The High Court also dismissed the civil miscellaneous writ petition filed by the appellant Bank. Hence this appeal.

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6. *The High Court in the course of its order noticed that the application for adjournment on 24.11.1992 having been dismissed, fate of another application filed on 30.11.1992, need not be examined. It further noticed that the authority had given a clear finding that repeated opportunities had been*

given to the appellant but it had not availed of the same to adduce any evidence. In view of this, the contention to the contrary has no merit.

7. ***In ascertaining whether a party had reasonable opportunity to put forward his case or not, one should not ordinarily go beyond the date on which adjournment is sought for. The earlier adjournment, if any, granted would certainly be for reasonable grounds and that aspect need not be once again examined if on the date on which adjournment is sought for the party concerned has a reasonable ground. The mere fact that in the past adjournments had been sought for would not be of any materiality.*** *If the adjournment had been sought for on flimsy grounds the same would have been rejected. Therefore, in our view, the High Court as well as the learned District Judge and the Rent Controller have all missed the essence of the matter."*

7.10. It is not the number of adjournments granted on earlier occasion that is germane for consideration of the instant petition for adjournment, but the reasonableness of time granted which is determinative factor for consideration of grant of opportunity in adherence of principles of natural justice. In *Tribal Development Co-operative Corporation of Orissa Ltd. Vrs. Sales Tax Officer, (2003) 133 STC 620 (Ori)* it has been held that:

*"6. *** The Assistant Commissioner of Sales Tax has indicated three dates to substantiate his stand that prayer of*

adjournment was not to be accepted. The first date of appearance was January 5, 1996, second was January 15, 1996 and third was January 23, 1996. The last was declared as a public holiday. It is not number of adjournments granted, but reasonableness of time granted which is a determinative factor. Supposing in a case involving complex questions of fact or law, authority grants adjournment for a couple of days and goes on repeating it, it cannot be said to be grant of reasonable opportunity to a party who is likely to be affected by adjudication. In our considered opinion, the Assistant Commissioner of Sales Tax was not justified in holding that the petitioner did not deserve adjournment. However, that aspect can be considered by the Appellate Authority."

7.11. In the above circumstances, and being abreast of observation of the Hon'ble Courts in the context of dealing with the petition for adjournment, this Court is persuaded to believe that there existed sufficient and reasonable cause which prevented the petitioner from appearing before the CST on the date of hearing. It deserves to be stated that each petition for adjournment is required to be independently considered uninfluenced by the reason for which earlier adjournments were granted.

8. *Ergo*, this Court is satisfied on the factual aspects as pleaded and argued that the petitioner was not given fair treatment to present its case before the CST and was deprived of reasonable opportunity of being heard, which is one of the facets of the

principles of natural justice. Violation of one of the facets of principles of natural justice is demonstrably manifest in the instant matter. Hence, this Court has no other option than to intervene in the order passed in the appeals filed by the petitioner under Section 23(4)(c) of the OST Act. Accordingly, the order dated 07.01.2026 passed in appeals bearing Nos.CU-II-58, 59 and 60/OST/2023-24 by the Commissioner of Sales Tax, Odisha, Cuttack under Section 23(4)(c) of the Odisha Sales Tax Act, 1947 is set aside. The said appeals thus are restored to their original file. The Commissioner may proceed with the appeals afresh by granting reasonable opportunity of hearing to the petitioner and pass appropriate orders in accordance with law.

9. With the aforesaid observation and directions, the writ petitions are disposed of. Pending Interlocutory Application (s) if any, shall also stand disposed of.

(Dr.Sanjeeb K Panigrahi)
Judge

(M.S. Raman)
Judge

Bichi

Signature Not Verified
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Signed by: BICHITRANANDA SAHOO
Designation: Secretary
Reason: Authentication
Location: Orissa High Court, Cuttack
Date: 19-Nov-2026 19:32:47