IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.31974 of 2026

CNR No. ODHC010753902026

M/s.Arun Kumar Sunani **…** ***Petitioner(s)***

Mr. Chitta Ranjan Das, Advocate

Versus-

Commissioner (Appeal), GST, Central Excise & Customs and others **…** ***Opposite party(s)***

Mr. Sujan Kumar Roy Choudhury,
Senior Standing Counsel
for GST, Central Excise & Customs

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

ORDER

18.11.2026

Order No.

03.

1. This matter is taken up through hybrid arrangement.

2. In this writ petition, the petitioner challenges Order-in-Appeal No.86/ST/RKL-GST/2025 dated 15.09.2025 passed by the Commissioner (Appeal), GST, Central Excise & Customs, Bhubaneswar (opposite party no.1) at Annexure-7, whereby the appeal was dismissed on the ground of non-payment of pre-deposit, although the requisite amount had in fact been made on 13.08.2024. Therefore, this writ petition is filed to set aside the impugned order.

2.1. Mr. Chitta Ranjan Das, learned counsel for the petitioner submitted that the petitioner is engaged in execution of 'works contract service' under different Departments of Government of Odisha and local authorities. Such services were exempted from payment of Service Tax under Chapter V of the erstwhile Finance Act, 1994 (for short, "the Act") read with Mega Exemption Notification 25/2012-ST dated 20.06.2012 (hereinafter "the exemption notification"). As the services were exempted from levy of Service Tax, the petitioner was under no obligation to obtain registration under Section 69 of Chapter-V of the Finance Act. It is further submitted that in the financial year 2016-17, the petitioner received Rs.43,08,693/- from the Executive Engineer, MI Division, Sundargarh and Rs.21,53,848/- from the Municipal Commissioner, Rourkela Municipal Corporation for which tax was deducted at source under Section 194C of the Income Tax Act, 1961. The petitioner deposited 7.5% of the tax in dispute, amounting to Rs.85,000/- on 12.08.2024 and intimated to the opposite party no.1 *vide* letter dated 13.08.2024. Therefore, the rejection of the appeal petition on the ground of non-payment of pre-deposit under Section 35F of the Central Excise Act read with Section 83 of the Act is found on a misconception. Moreover, the appeal was filed within the condonable period of limitation under the proviso to Sub-

section(3A) of Section 85 and no deficiency, if any, was ever intimated to the petitioner. Hence, the rejection of the appeal on the ground of limitation is, *prima facie*, illegal. Therefore, the impugned order is therefore liable to be set aside and the appeal be restored to its original number.

3. Mr. Sujan Kumar Roy Choudhury, learned Senior Standing Counsel vehemently opposing the contentions of the learned counsel for the petitioner submitted that there is no illegality in the order dated 15.09.2025 passed by the authority concerned. He further submitted that if the petitioner deposited the pre-deposit amount, the authority concerned may be directed to consider the same and pass appropriate order.

4. Heard learned counsel for the parties.

5. Considered the submissions made by the learned counsel for the parties and after going through the record, this Court feels it to apposite to set aside the order dated 15.09.2025 passed by the Commissioner (Appeal), GST, Central Excise & Customs, Bhubaneswar (opposite party no.1) at Annexure-7. As sequel to such order setting aside the impugned order, the matter is remitted to the appellate authority concerned to consider and verify the amount deposited towards pre-deposit. If the same is found to be correct, the appeal subject to satisfaction of other statutory

requirements, be heard and dispose of in accordance with law.

6. With the aforesaid observations, the writ petition stands disposed of. As a result of disposal of the writ petition, all pending Interlocutory Application(s), if any, shall stand disposed of.

7. Interim order passed in I.A. No.18820 of 2026 shall stand vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

(M.S. Raman)
Judge

Aswini

Signature Not Verified
Digitally Signed
Signed by: ASWINI KUMAR SETHY
Designation: Personal Assistant (Secretary in-charge)
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 19-Nov-2026 17:52:29