



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12366 of 2025

Arjun Nayak

....

Petitioner

Ms. Itishree Tripathy, Advocate

-versus-

***Chief Commissioner of
Commercial Taxes (C.T.) and
Goods and Service Tax (G.S.T.)
and others***

....

Opposite Parties

Mr. Sunil Mishra, Standing Counsel for GST
Department

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

07.05.2025

Order No.

01. This matter is taken up through Hybrid mode.
2. Assailing the rejection order dated 25.03.2025 passed by the Joint Commissioner of State Tax (Appeal), Territorial Range, Koraput, Jeypore, (hereinafter, "the Appellate Authority", for short), the Petitioner has approached this Court by way of filing this writ petition invoking extraordinary jurisdiction under Article 226/227 of the Constitution of India with a prayer to set aside the said rejection order so as to enable him to furnish explanation with regard to show-cause notice dated 04.01.2025.
3. Ms. Itishree Tripathy, learned counsel appearing for the Petitioner submitted that the Petitioner, registered person, suffered a demand of Rs.14,86,164/- on account of an assessment framed under Section 74 of the Odisha Goods and Services Tax Act, 2017 for the period 2019-20 vide order dated 13.08.2024 against which an appeal was preferred on



11.12.2024 under Section 107 before the Appellate Authority aforementioned.

3.1. Learned counsel for the Petitioner further submitted that though appeal should have been filed within three months, i.e., on or before 12.11.2024, the same could be filed on 11.12.2024 due to circumstances beyond control. The Appellate Authority should have considered such delay liberally invoking discretion in terms of sub-section (4) of Section 106 as the appeal has been filed within condonable period. It is explained that though notice was issued by the Appellate Authority inviting reply, the same could not be complied with as the Petitioner was under medical treatment during relevant period of time.

3.2. She submitted that given a chance, the Petitioner would be able to furnish reply with respect to delay in filing the appeal before the Appellate Authority.

4. Mr. Sunil Mishra, learned Standing Counsel appearing for the CT & GST Department-Opposite Parties vehemently objected to such plea.

5. Considered the rival contentions made by the learned counsel for the respective parties. On perusal of the impugned order dated 25.03.2025, it is revealed that since notice in Letter No.52, dated 04.01.2025 could not be responded by the Petitioner, the appeal got rejected. There is no evidence put forth by the learned Standing Counsel appearing for the Opposite Parties to establish that the contentions of the learned counsel for the Petitioner are not genuine and germane.

5.1. In such view of the matter, this Court is of the considered view that the Petitioner is required to be given one opportunity to justify that the delay occurred due to circumstance beyond his control. There appears sufficient cause for the petitioner to file appeal beyond the period stipulated under sub-section (1) of Section 107 of the GST Act.



Therefore, this Court is inclined to set aside the rejection order dated 25.03.2025 passed by the Joint Commissioner of State Tax (Appeal), Territorial Range, Koraput, Jeypore and direct the Petitioner to appear before the Appellate Authority on or before 17.05.2025 and file response to the notice in Letter No.52, dated 04.01.2025. In the event the Petitioner approaches the Appellate Authority with such explanation, the authority concerned shall consider the same by affording opportunity of hearing to the Petitioner/representative of the Petitioner.

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

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

MRS/Laxmikant