



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.19501 of 2025

M/s. Sai Sitaram Construction
a proprietorship concern
represented by its Proprietor Badri
Narayan Mishra, Berhampur
Sadar, Ganjam

.... ***Petitioner***
Ms. Kajal Sahoo, Advocate

-versus-

Joint Commissioner of CT & GST,
Ganjam-I Circle, Berhampur,
Ganjam and others

.... ***Opposite Parties***
Mr. Sunil Mishra, Standing Counsel
(CT & GST)

CORAM:
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR.JUSTICE MURAHARI SRI RAMAN

ORDER
11.08.2025

Order No.

02.

This matter is taken up through hybrid mode.

2. Challenge is laid to an order dated 11th April, 2025 passed by the Additional State Tax Officer, CT & GST Ganjam-I Circle, Berhampur under Section 73 of the Central Goods and Services Tax Act, 2017/Odisha Goods and Service Tax Act, 2017 (collectively, "GST Act") with respect to the tax periods covered under the financial year 2021-22 by way of filing this writ petition invoking provisions of Articles 226 and 227 of the Constitution of India.



3. On scrutiny of returns filed in GSTR-3B, a notice for adjudication under Section 73 of the GST Act alleging mismatch in the claim of the input tax credit (ITC) *vis-à-vis* the statement of inward supply in GSTR-2B was initiated which culminated in raising of demand of Rs.21,38,338/- by the Joint Commissioner of State Tax, CT & GST, Ganjam-I Circle pertaining to tax periods from April, 2021 to September, 2021 *vide* order dated 1st December, 2022 (Annexure-3). Challenging the said order dated 1st December, 2022, an appeal under Section 107 of the GST Act was preferred and the entire demanded amount is said to have been deducted from the cash ledger of the petitioner.

4. While the matter stood thus, notice under Section 61 of the GST Act was issued with the self-same allegation of mismatch with regard to claim of input tax credit for the tax periods from April, 2021 to March, 2022 by the Additional CT and GST Officer, Ganjam-I Circle, Ganjam. Exercising powers to adjudicate under Section 73 of the GST Act, an order dated 11th April, 2025 was framed by raising a demand of Rs.51,39,498/-.

5. Ms. Kajal Sahoo, learned Advocate appearing for the petitioner contended that the order dated 11th April, 2025 invoking the provisions of Section 73 of the GST Act is without jurisdiction inasmuch as the demand of Rs.51,39,498/- has been raised for the tax periods from April, 2021 to March, 2022 comprehends demand of Rs.21,38,338/- as had already been raised in the order dated 1st December, 2022 pertaining to tax periods April, 2021 to September, 2021. Therefore, she essentially argued before this Court that the authority concerned



could not have included the demand for the tax periods from April, 2021 to September, 2021 *vide* order dated 1st December, 2022, which stood recovered during the pendency of appeal while passing an order dated 11th April, 2025 for the tax periods from April, 2021 to March, 2022.

6. When the matter was taken up on 18th July, 2025, taking note of such submissions, this Court adjourned the matter on the request of the learned Additional Standing Counsel for CT and GST Organization for seeking instructions in this regard.

6.1. When the matter is taken up today, Mr. Sunil Mishra, learned Standing Counsel for CT and GST, on instructions, fairly conceded that the fact as demonstrated by the learned counsel for the petitioner that the demand raised in respect of the tax periods from April, 2021 to September, 2021 *vide* order dated 1st December, 2022 has again been included in the demand raised for the tax periods from April, 2021 to March, 2022 by virtue of order dated 11th April, 2025 (Annexure-8).

7. Considered the submissions of learned counsel for respective parties and perused the record.

8. On the conceded position as aforesaid, this Court cannot, therefore, sustain the order dated 11th April, 2025 as tenable in the eye of law as such a recourse would tantamount to double taxation. Hence, said order is, hereby, set aside. However, this Court feels it expedient to direct as follows:-

(i) The Additional State Tax Officer, Ganjam-I Circle, Ganjam shall, on receipt of copy of this order, issue intimation to the petitioner within a week therefrom.



(ii) The petitioner shall produce books of account, tax invoice(s) with reference to claims made in its return(s) and any other document(s) in support of its claim for the tax periods from October, 2021 to March, 2022 before the said authority.

(iii) The authority concerned shall afford opportunity of hearing to the petitioner; and the petitioner shall cooperate with the authority and it shall not be granted any unnecessary adjournments;

(iv) The said authority shall pass appropriate order taking into consideration the evidence produced and submissions made before him by the petitioner;

(v) The entire exercise from the date of issue of intimation till passing of order under Section 73 of the GST Act shall be concluded within a period of six weeks.

9. With the aforesaid observations and direction, the writ petition stands disposed of. All pending Interlocutory Application (s), if any, shall stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

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