



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.24393 of 2025

M/s. Amit Metalics Company ***Petitioner***

Mr. Avijit Patnaik, Advocate

-versus-

Joint Commissioner of State Tax, ***Opposite Party***
CT & GST Circle, Rourkela-II,
Rourkela

Mr. Sunil Mishra, Standing Counsel
for CT & GST Department

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

18.09.2025

Order No.

02. 1. Challenging the order dated 1st July, 2025 *vide* Annexure-1 passed under Section 74 of the Central Goods and Services Tax Act, 2017/the Odisha Goods and Services Tax Act, 2017 (collectively, “the GST Act”) by the Joint Commissioner of State Tax, Rourkela-II Circle, Sundergarh, wherein and whereby the petitioner was directed to pay Rs.72,63,912/- (including tax of Rs.34,49,536/-, Interest of Rs.3,64,840/- and Penalty of Rs.34,49,536/-) for the tax periods from December, 2023 to March, 2024, the Petitioner has approached this Court by way of filing this writ petition invoking extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India.
- 1.1. Alleging wrongful availment or utilization of Input Tax Credit during the tax periods from December, 2023 to March, 2024 as against transactions with M/s. Swastik Trade Ventures and M/s. MG Trade and Services on the strength of fake invoices, a proceeding under Section 74 was initiated.



2. Learned counsel appearing for the petitioner submitted that it has filed reply to the show-cause notice dated 29th October, 2024 and furnished documents to establish its claim with respect to Input Tax Credit *vis-à-vis* transactions effected with aforesaid suppliers.

2.1. He contended that it is the Revenue, which is required to prove that the transactions were effected with non-existent suppliers. He vehemently contended that the authority concerned has not evaluated evidence adduced before him with proper perspective, rather the finding of fact by the authority is erroneous insofar as the authority held the transactions fraudulent.

3. Learned Standing Counsel appearing for the Department-opposite parties, during the course of hearing, furnished an instruction received from the Commissionerate of CT & GST, Odisha. He submitted that the transactions with each of the alleged non-existent entities have been clearly explained in such instruction. It is factually demonstrated that in fact the petitioner has shown receipt of supplies from suppliers who are found to be non-existent on enquiry by the department. He submitted that the factual detail given in such instruction warrants no interference in the assessment order as the alleged transactions have been thoroughly examined with reference to material available on record and such factual aspect cannot be disturbed in exercise of writ jurisdiction.

4. On perusal of the material available on record and on perusal of the assessment order, it is transpired that the authority concerned has recorded finding that the transactions with the alleged non-existent entity have been effected to avail benefits of Input Tax Credit. The alleged transactions being based on fake invoices, the



authority has come to rightful conclusion that the petitioner was not eligible for availing benefit of Input Tax Credit and utilize the same.

4.1. On scrutiny of instruction as received by the learned Standing Counsel and placed before this Court, it is apparent that the owner of land which is place of business of M/s. MG Trade and Co. was stated to be dead since last ten years. In the similar tone, as regards the rent agreement of supplier M/s. Swastik Trade Ventures is concerned, Smt. Sabitri Mohanty has denied to have executed in the rent agreement.

5. Thus, this Court is afraid to enter into such factual disputed questions. Writ Court needs to restrain itself from entering into disputed questions of fact. Thus, without entering into the controversial aspects, which are subject to threadbare analysis of evidence on record by fact-finding authorities vested with such power under the relevant statute, this Court is not inclined to exercise discretion by exercising extraordinary jurisdiction under Articles 226 & 227 of the Constitution of India.

5.1. Since this Court accedes to the contention of the learned Standing Counsel for the Department that the petitioner has alternative remedy to lay evidence to justify its claim *qua* Input Tax Credit availed in the returns before the appropriate authority, showing indulgence in the assessment order at this stage would be inappropriate.

6. Without expressing any opinion on the merit of the matter with respect to factual finding returned by the assessing authority in the impugned order, this Court relegates the Petitioner to avail the alternative remedy. Liberty is reserved to the Petitioner to approach



the appropriate authority within four weeks from today to avail remedy as provided under the GST Act. Needless to observe that if the Petitioner approaches the authority within the time stipulated, the authority concerned shall consider the same pragmatically as expeditiously as possible.

7. With the aforesaid observation and direction, the writ petition stands disposed of. As a result of the disposal of the writ petition, all pending Interlocutory Applications, if any, shall stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Laxmikant