



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.11297 of 2026

Janardan Panda ***Petitioner***

Mr. Sidharth Shankar Padhy, Advocate
-versus-

The Commissioner, Commercial Tax & GST, Odisha and others ***Opposite Parties***

Mr. S. Das, Addl. Standing Counsel
for CT & GST Organization

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

ORDER
14.05.2026

Order No.

01. ***I.*** Challenging the Order-in-Original dated 26th December, 2025 *vide* Annexure-1 passed under Section 73 of the Central Goods and Services Tax Act, 2017/Odisha Goods and Services Tax Act, 2017 (collectively, “the GST Act”) for the tax periods from April, 2021 to March, 2022 and rectification order dated 6th January, 2026 *vide* Annexure-2 passed under Section 161 of the said Act by the Assistant Commissioner of State Tax, Kalahandi Circle, Bhawanipatna-opposite party no.2, whereby and whereunder demand of tax, interest and penalty amounting to Rs.57,30,708/- has been raised against the petitioner, this writ petition beseeching invocation of provisions under Articles 226 and 227 of the Constitution of India has been filed.
2. Learned counsel appearing for the petitioner submitted that show-cause notice in Form GST DRC-01, dated 18th August, 2025 was issued under Section 73(1) of the GST Act alleging



that no tax has been paid by the petitioner towards royalty, DMF, EMF, dead rent and surface rent, which constitute taxable supply, as the said aspects of supply are subject to tax under the reverse charge mechanism. It is submitted that the petitioner furnished reply to show-cause notice on 17th September, 2025 by exercising his option to avail personal hearing in the matter. In the reply, categorical stand is taken that no taxable event had occurred during the relevant period as mining operation did not commence at that juncture; as a result of which tax could not have been saddled on the petitioner.

- 2.1. He drew attention of this Court to Order-in-Original dated 26th December, 2025, wherein at paragraph-10, the adjudicating authority has proceeded as if the petitioner “*has neither replied to the SCN nor appeared for personal hearing*”.
- 2.2. The matter did not rest thereat, but on a later date, the adjudicating officer *suo motu* took up the matter invoking Section 161 of the GST Act and rectified the Order-in-Original order dated 26th December, 2025 by passing an order dated 6th January, 2026 without affording any opportunity of hearing to the petitioner.
- 2.3. He, therefore, submitted that since both the orders have been passed in gross violation of the principles of natural justice, the same are liable to be set aside and, accordingly, prayed for grant of relief by allowing the writ petition.
3. At this stage, learned Standing Counsel appearing for the CT & GST Organization in his usual vehemence opposed the



contentions so advanced by the learned counsel for the petitioner for setting aside the orders. He vociferously argued that tax levied on royalty on the basis of reverse charge mechanism under the GST Act is legitimate due to the Revenue. Since the petitioner has not discharged his liability having extracted minerals and failed to corroborate by furnishing supporting documents, the supply in question did not come within the purview of the GST Act, the writ petition is not to be entertained as disputed questions of fact are involved.

- 3.1. Having submitted that the order of the adjudicating authority could not be faulted with, the learned Standing Counsel for the Revenue essentially submitted that the petitioner, if so advised, can lead evidence before the appellate authority to justify his claim for non-liability. He thus urged that alternative remedy being provided under GST Act and Rules framed thereunder, the petitioner cannot circumvent the statutory remedial measure. Hence, he fervently prayed to relegate him to avail such opportunity.
4. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the CT & GST Organization.
5. Perused the record.
6. Having gone through the document containing Form GST DRC-06 dated 17th September, 2025, copy of which is enclosed with the writ petition and marked as Annexure-4, it is revealed that in the reply to show-cause notice, the petitioner has put “” (tick mark) at serial no.7 of the format indicating his



intention for availing opportunity of personal hearing. The adjudication order at Annexure-1 reveals as follows:

*“10. The Taxpayer was issued with Show cause Notice in form DRC-01 vide Ref No-ZD2108250207900, Dated-18/08/2025. The tax payer was also issued Reminder and was also given opportunity for personal hearing but the Tax payer has neither replied to the SCN nor appeared for personal hearing.****

- 6.1. It is thus manifestly erroneous approach of the adjudicating authority that he has proceeded as if no reply was furnished by the taxpayer (petitioner), nor does the said order disclose any opportunity of hearing being offered.
- 6.2. Having gone through the rectification order dated 6th January, 2026 passed by opposite party no.2 under Section 161 of the GST Act, the adjudicating authority apparently proceeded *suo motu* and rectified aforesaid paragraph indicating presence of reply to show-cause notice and non-appearance before the authority concerned for personal hearing. Though in the said order, the authority concerned has acknowledged the reply being received at his end, he merely stated that *“the reply was thoroughly studied and response from the proper office has been stated below”*. Nonetheless, said order does not reveal any opportunity of personal hearing being afforded to the petitioner notwithstanding the fact of choosing “option for personal hearing” is explicit from the reply dated 17th September, 2025 to show cause notice.



6.3. This Court hence perceives that the action of the authority is in flagrant violation of principles of natural justice and on perusal of documents enclosed with the writ petition it is *ex facie* clear that the Assistant Commissioner of State Tax, Kalahandi Circle, Bhawanipatna-opposite party no.2 has mechanically proceeded to adjudicate the transactions under Section 73 of the GST Act. *Ergo*, the order dated 26th December, 2025 and 6th January, 2026 cannot be held to be tenable in the eye of law for want of affording an opportunity of hearing to the petitioner and non-consideration of reply to show cause notice. Reply to show cause notice cannot be said to be empty formality or useless lumber. The points raised by way of reply to show cause notice does not find place in the order impugned; as such the orders of the adjudicating authority smacks arbitrariness. It does not require any authority to cite to say that the adjudicating authority even in the absence of petitioner need to ascribe reason for discarding or varying with the explanation proffered in the reply to show cause notice. In absence of independent application mind, this Court cannot sustain the impugned order. Accordingly, the order dated 26th December, 2025 passed under Section 73 (Annexure-1) and the order dated 6th January, 2026 passed under Section 161 of the GST Act (Annexure-2) by the Deputy Commissioner of State Tax, Kalahandi Circle, Bolangir are quashed and set aside. The matter deserves to be remanded to the said authority for adjudication on merit after affording reasonable opportunity of hearing to the petitioner. It is open for the petitioner to adduce evidence to justify his claim.



7. In the result, the writ petition stands disposed of with the above observation and direction. Pending Interlocutory Application(s), if any, shall stand disposed of.

(Harish Tandon)
Chief Justice



(M.S. Raman)
Judge

S.K. Jena/Sr. Secy.