



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.7800 of 2026

*M/s. SKM Infraventure
Private Limited*

....

Petitioner

Mr. Biplab P.B. Bahali,
Advocate

-versus-

*The CT & GST Office,
Keonjhar Circle and others*

....

Opposite Parties

Mr. Sunil Mishra,
Standing Counsel
(CT & GST Organization)

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

25.06.2026

Order No.

01.

- I.* Assailed in this writ petition are the summary of order dated 5th September, 2022 issued in Form GST DRC-07 (Annexure-1) issued by the CT and GST Officer, Keonjhar Circle, Jajpur-opposite party No.1 and the order dated 10th August, 2023 in Form GST DRC-07 (Annexure-2) issued by the Additional State Tax Officer, Keonjhar Circle, Jajpur-opposite party No.2 purported to recover the amount of demands found mentioned therein pertaining to tax periods from 1st July, 2017 to 31st March, 2018 assessed/determined under Section 74 of the Central Goods and Services Tax Act, 2017/Odisha Goods and Services Tax Act, 2017 (Collectively, "the GST Act").



2. It is submitted by Sri Biplab P.B. Bahali, the learned counsel that the impugned orders in Annexures-1 and 2 have never been served on the petitioner, works contractor assigned with GSTIN: 21AAUCS3303F1ZM. It is contended that the petitioner-Private Limited Company, had no knowledge about the fact of notice(s) and/or order(s) in connection with proceeding under Section 74 of the GST Act in the GST portal. As a result, there was non-participation of the petitioner in the said proceeding for determination of the tax liability.

2.1. Valiant attempt is made by Sri Biplab P.B. Bahali, learned advocate to canvass before this Court that the authority of the CT & GST Organisation should have been more cautious and careful before determining the tax liability based on third party data (Works and Management Information System) and ought to have attempted to serve notice(s) and order(s) issued under Section 74 of the GST Act by adhering to other modes prescribed under Section 169 in addition to the mode specified for service of notice/order by electronic mode. In essence what is urged by the learned counsel is that since alternative modes are provided for service of notices/orders, on perceiving non-appearance of the petitioner in course of the proceeding under Section 74, the authority could have sent the notice(s) and the final order(s) by taking other recourse available under the statute.

2.2. It is further asserted that the petitioner could come to know about the impugned order(s) being passed raising huge demand comprising tax, interest and penalty, when its bank account was



attached. Sri Biplab P.B. Bahali, learned Advocate vehemently contested the very sustenance of the demand determined in absence of the petitioner based on untested materials without following settled principles of natural justice and thereby the alternative remedy would be futile exercise.

- 2.3. It is also apprehended under the above circumstances that since the limitation specified in sub-section (1) read with sub-section (4) of Section 107 of the GST Act has already set in, the petitioner is deprived of approaching the forum available under the said provision to ventilate its grievance by taking recourse of alternative remedy.
- 2.4. Therefore, he fervently insisted for showing indulgence in the impugned orders/demands by exercising discretionary extraordinary power under Article 226 of the Constitution of India.
3. Sri Sunil Mishra, learned Standing Counsel appearing for the CT & GST Organization would submit that no extraordinary circumstance is placed on record for exercise power to intervene in the matter particularly when the petitioner consciously avoided to avail the alternative remedy. The nature of plea taken in the writ petition involves factual adjudication and the petitioner can demonstrate before the appellate authority with respect to date of knowledge of the orders under challenge. In the event the statement of fact is corroborated by adducing evidence before the appellate authority, the said authority may consider the starting point of limitation in order



to record finding of fact *vis-à-vis* limitation specified under Section 107. The service of notice/order is a matter of factual consideration. Such service or otherwise is subject matter of appreciation of evidence to be placed by the petitioner before the competent authority for appraisal. The statute in Section 169 of the GST Act unambiguously recognizes one of such modes to be treated as service of notice/order by making it available on the common portal. Therefore, there cannot be any allegation of non-service. The plea of non-receipt of such orders can be demonstrated by placing proper evidence by the petitioner before the authority concerned. The petitioner, a Private Limited Company, being assigned with registration under the GST Act and indulged in execution of works contract, is supposed to have knowledge about uploading of such notices/orders in the web portal of the CT & GST Organisation. Therefore, the blame cannot be put on the opposite parties.

- 3.1. In his usual vehemence, the learned Standing Counsel drew attention to Section 107 of the GST Act to show that period of three months has been provided within which an appeal is to be filed and discretion to condone the delay is vested in the appellate authority, if the appeal is filed within a further period of thirty days.
- 3.2. It is argued that the GST Act embodies a comprehensive framework with specific limitation provisions tailored to expedite the determination of liability or otherwise and recovery of demand thereby. It is, therefore, the provisions in Section 107 of the GST Act provided for outer condonable



period. Said statute operates as a complete code in itself, thereby delineating period of limitation for filing appeal and implicitly excluding the application of provisions, such as Section 5 of the Limitation Act, 1963.

- 3.3. It is undisputed that the notice(s)/order(s) was uploaded in web portal. Mere making statement that it was not served with the orders in physical mode or through postal process would not be conclusive that the fact of passing of the order(s) could not be known to it. It is, hence, submitted that disputed facts are to be adjudicated upon by the authority. The petitioner cannot be allowed to by-pass alternative forum by entertaining this writ petition.
4. Heard learned counsel for the petitioner and learned Standing Counsel appearing for the CT & GST Organization.
5. It is manifest from the averments taken in the writ petition that:

“3.3. That the petitioner could not able to know about the notice since the notice was uploaded in GST portal and the petitioner was also not verifying the portal properly and had no knowledge about such notice as there was no of personal or postal communication with the petitioner so he has no knowledge about the fact.

- 3.6. *That since petitioner had no knowledge about the fact, he also could not preferred appeal within the period of limitation. Now the time of preferring the appeal has already been lapsed.*



3.7. *That the opposite party No.1 being aggrieved by this attached the bank account of the petitioner for which the petitioner is facing a lot of problems.”*

5.1. It is to be noted that the petitioner is a private limited company. It is inconceivable that the petitioner has not verified the portal. However, the date of knowledge with material particulars are conspicuously absent in the pleading. From the above pleading it is manifest that it is not the case that the notice/order was not uploaded; but it is non-verification of portal which led to non-appearance of the petitioner before the authority to comply with the requirements under the notice in course of proceeding under Section 74 of the GST Act.

5.2. What is harped at by the counsel for the petitioner is that notice/order should have been served through alternative modes provided in the statutory provision, viz., Section 169 of the GST Act.

5.3. At this juncture, it is to be taken note of a decision rendered by this Court in *M/s. Rahul Spares Pvt. Ltd. Vrs. Chief Commissioner of CT & GST and others, WP(C) No.9373 of 2025 vide order dated 8th April, 2025*, heavy reliance on which is placed by Sri Sunil Mishra, the learned Standing Counsel to buttress his contention that if the authority has adopted any one of the modes specified under Section 169 for communication of notice or order, the same would be sufficient compliance of statutory mandate. The question as to whether any one of the modes adhered to by the authority to comply with the statutory requirement of service of notice/order would be sufficient fell



for consideration of this Court in the said case, being *M/s. Rahul Spare Pvt. Ltd. (supra)*. This Court expressed the following view:

“4. Section 146 of OGST Act, 2017 postulates that the Government on the recommendations of the Council may notify the Common Goods and Services Tax Electronic Portal to facilitate the registration, payment of tax, furnishing of returns, computation and the settlement of the integrated tax and to carry out such other functions as may be prescribed. Thus, the creation of common portal as envisaged under Section 146 of the said Act, is to facilitate not only uploading of the returns or registration, but also the payment of tax including the adjudication made by the competent authority and uploading of the order which would be passed. The aforesaid notion can further be corroborated by Section 169 of said Act providing the mode of communication of any decision, order, summons, notice or other communication under said Act. **The language used in the section leaves no ambiguity in our mind that the modes contemplated therein for communication of the decision/order or the notice can be resorted to by the authorities.**

The expressions ‘any one of the following method’ has to be understood in a pragmatic manner in the sense that the several methods imbibed within the folds of the said section, any one of them if exhausted by the authority would be construed as compliance under the aforesaid provision. Any other meaning assigned and/or ascribed to the expression ‘any one of the following method’ would be against the legislative intent. One of the methods contemplated under Section 169 for communication of a decision or notice or order is by making it available on the common portal. It is not in



dispute that the decision of the authority was uploaded on the common portal and therefore, it cannot be said that the authorities have not communicated said order to the Petitioner.

6. ***The moment the order is uploaded in the common portal and the returns are statutorily required to be uploaded on such portal on periodical intervals, it is inconceivable that there was lack of knowledge of said order to the Petitioner. The order was passed as far back as in the year 2023 and the challenges made to the same in the instant writ petition, filed in the year 2025, is without any explanation except that said order was not within the knowledge of the Petitioner.***”

5.4. This Court in the case of *M/s. Bikash Panigrahi Vrs. The Commissioner of Commercial Tax CT and Goods and Services Tax and others, WP(C) No.12755 of 2025* vide judgment dated 15th July, 2025, having applied the ratio of judgments of the Hon’ble Supreme Court of India in *Tata Steel Ltd. Vrs. Raj Kumar Banerjee, (2025) 5 SCR 814* and *Assistant Commissioner (CT) LTU, Kakinada Vrs. Glaxo Smith Kline Consumer Health Care Ltd., (2020) 4 SCR 602*, held as follows:

“6.6. *Such being perception, which assists this Court to arrive at a conclusion that if notice/order is uploaded on common GST portal, the same shall be considered as service on the assessee (petitioner) in view of unambiguous provisions contained in Section 169 of the GST Act and the writ petition is not maintainable being filed beyond the condonable period provided under Section 107 of the GST Act.*”



- 5.5. There being admission that “the notice was uploaded in GST portal” in paragraph 3.3 of the writ petition as extracted hitherto the assertion as to the petitioner having not verified “the portal properly” and the fact of existence of notice/order came to its knowledge as its bank account was attached are required to be demonstrated to the satisfaction of the statutory authority empowered to appraise evidence. The pleading in the writ petition also lacks such material fact to discern the date of knowledge. Such fact is necessary in view of decision in *Orissa Mineral Development Company Ltd. Vrs. Commissioner of Sales Tax, Orissa (1960) 11 STC 12 (Ori)=AIR 1960 Ori 79* wherefrom it can be culled out that in order to approach this Court by invoking extraordinary jurisdiction to circumvent alternative remedy the petitioner is required to demonstrate clearly that it has approached this Court within the period specified for the statutory remedy. It is admitted by the petitioner at paragraph 3.6 that the period for preferring appeal as stipulated in Section 107 of the GST Act had lapsed. There being no plausible explanation as to why delay occurred in approaching this Court, the writ petition is not liable to be entertained.
6. The specious plea that the authority should have taken steps to serve such notice/order on the company physically or through postal process is contrary to the provisions contained in Section 169 of the GST Act and holding so in favour of the petitioner would run counter to the legal position enunciated in *Rahul Spare Pvt. Ltd. (supra)*.



6.1. On meticulous reading of Annexure to DRC-07 forming part of the Summary of Order *vide* Annexure-2 to the writ petition, this Court finds the following fact being recorded by the statutory authority and such fact remained uncontroverted:

*“*** On the basis of fact and figure as mentioned above you were issued with a show cause notice in GST Form ASMT-10 vide electronically generated reference No.ZA210320001411. Further, after non-compliance to the above mentioned notice, a reminder notice in Form GST DRC-02A was sent to you through your registered mail id vide this Office Letter No.5098, dated 13.07.2020 for submission of reason of discrepancy by 19.09.2020. In this context you have submitted a written submission that you have received total amount of payment to the tune of Rs.21298822/- during 2017-18 from different work divisions but disclosed Rs.136092910.00 for the discussed period. ***”*

6.2. Such being the categorical observation of the adjudicating authority, it would evince that the petitioner had appeared before the said authority and furnished its reply in connection with allegation of suppression of turnover. Feigning ignorance of any proceeding being initiated by the authority concerned by the petitioner is, thus, dispelled.

7. The assertions by way of the pleading without material particulars cannot be taken as ground/reason to proceed with the matter by conducting roving enquiry. Unless the petitioner brings on record the particulars of event(s)/circumstance(s) and date(s) on which the impugned orders being passed by the adjudicating authority came to its knowledge, even as it is stated to have participated in the proceeding, as emanated from



the detailed order of the adjudicating authority forming part of DRC-07 (Annexure-2), this Court does not feel it expedient to exercise power under Article 226 of the Constitution of India.

- 7.1. It is also not forthcoming from record that upon coming to know about the fact of order(s) being passed, the petitioner had taken steps or made attempts to file appeal under Section 107. Glance at the contents available on record would therefore depict that the petitioner in order to avoid pre-deposit as required to be deposited to file appeal under Section 107 and to cover up delay and laches on its part in seeking to file appeal under said provisions.
- 7.2. Strong reliance has been placed by the learned counsel for the petitioner on the decision of this Court in *Khani Khyatigrasta Gramya Committee Vrs. The Commissioner of Commercial Tax & GST and others, 2023 (III) ILR-CUT 670*, to contend that in the circumstance when the adjudicating authority had raised demand under Section 73 by issuing notice under Section 61 of the GST Act, this Court not only set aside the impugned orders therein, but also remanded the matter to the authority concerned to proceed *de novo*.
- 7.3. In this connection this Court finds force in the submission of the learned Standing Counsel, Sri Sunil Mishra, who submitted that the context in the said case was completely different from the present one and the promptness shown by the petitioner in filing the writ petition within proximity of passing order(s) warranted this Court to show indulgence. This Court finds no



support can be lent to the case of the petitioner by taking into consideration the fact obtained in *Khani Khyatigrasta Gramya Committee (supra)*.

8. Under the aforesaid premises, the petitioner, while challenging the summary of order dated 5th September, 2022 and the summary of order dated 10th August, 2023, *vide* Annexures-1 and 2 respectively, has not assigned any reason to persuade this Court to interfere with the orders by exercising power under Article 226 of the Constitution of India.
9. In view of facts adumbrated and the legal position as discussed hereinabove, this Court finds no merit in the writ petition and, accordingly, the writ petition along with pending Interlocutory Application(s), if any, stands disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Laxmikant