IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.16755 of 2026

Susanta Kumar Lenka .... ***Petitioner***

Mr. Sangram Keshari Burma, Advocate

-versus-

Joint Commissioner, State Tax (Appeal) and others .... ***Opposite parties***

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

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

ORDER
02.07.2026

Order No.

01. 1**.** The petitioner has challenged the order dated 21st February, 2022 passed by the CT & GST Officer, CT & GST Circle, Rourkela-II, Sundargarh for the tax periods from April, 2018 to March, 2019 under Section 73 of the Central Goods and Services Tax Act, 2017/the Odisha Goods and Services Tax Act, 2017 (hereinafter referred to as "GST Act"), which was affirmed in an appeal by the Appellate Authority on 30th January, 2026.

2. According to the learned counsel appearing for the petitioner, the appellate authority has failed to appreciate the grounds challenging the adjudication order and considered merit of appeal inappropriately and without due application of conscientious mind.

3. Learned Standing Counsel appearing for the CT & GST Organization submitted that the petitioner has remedy by way of approaching the GST Appellate Tribunal under Section 112, sub-section(8) of the GST Act, reads as follows:-

> *"(8) No appeal shall be filed under sub-section (1), unless the appellant has paid—*

(a) *in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and*

(b) *a sum, equal to ten per cent of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of Section 107, arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed."*

3.1. He submitted that the petitioner is required to discharge statutory obligation as envisaged under aforesaid section for filing appeal before the GST Appellate Tribunal. He submitted that at present the GST Appellate Tribunal has been constituted and started functioning.

4. It is brought to the notice of this Court that the Ministry of Finance (Department of Revenue) has issued Notification bearing F.No.A-50/7/2025-GSTAT-DoR (S.O.3502(E)), dated 30th June, 2026 published in the Gazette of India, Extraordinary No.3367, dated 30th June, 2026, which reads as follows:-

"In exercise of the powers conferred by sub-section (1) read with sub-section (3) of section 112 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue number S.O. 4220(E), dated the 17 September, 2025, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), except as respects things done or omitted to be done before such supersession, the Government, on the recommendations of the Council, hereby notifies the 31st day of July, 2026, as the date upto which appeal or application, as the case may be, may be filed before the Appellate Tribunal under this

Act in respect of all cases where the order sought to be appealed against, —

(i) is communicated to the person preferring the appeal before the 1st day of May, 2026, and all appeals in respect of order communicated on or after 1st May, 2026, may be filed before the Appellate Tribunal as provided in sub-section (1) of section 112 within three months from the date on which such order is communicated;

(ii) is passed before the 1st day of February, 2026, and all applications in respect of orders passed on or after 1st February, 2026 may be filed before the Appellate Tribunal as provided in sub-section (3) of section 112 within six months from the date on which the said order has been passed."

5. It is no longer *res integra* that the Writ Court can be approached assailing an order for which the forum of appeal is provided and the same is entertainable in the event the forum is not made functional or constituted as the person cannot be rendered remediless. Equally it is true that if conditions are attached to filing an appeal before such forum, the Writ Court shall ensure strict compliance thereof as a person cannot steal a march taking a shelter that there is no inhibition in the writ Court in entertaining the writ petition and passing an order taking departure from the said statutory provision. However, since the GST Appellate Tribunal has been constituted and it is made functional and the Notification dated 30th June, 2026 has been issued stipulating period for the purpose of filing the appeal under Section 112, it would not be proper for this Court to keep the writ petition pending. The dispute raised by the petitioner in the instant writ petition can be adjudicated by the said Appellate Tribunal.

6. This Court without expressing any opinion on merit of the first appellate order, disposes of the writ petition with direction that the petitioner shall adhere to the statutory provisions contained in Section 112 read with terms stipulated in Notification dated 30th June, 2026 issued by the Ministry of Finance (Department of Revenue) as referred to above.

7. As a result of disposal of the writ petition, all pending Interlocutory Application (s), shall stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

MRS/Laxmikant