



IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.6887 of 2026

M/s. Kalinga Trader

....

Petitioner

Mr. Pranaya Sahoo, Advocate

-versus-

***The Joint Commissioner, GST &
Central Excise, Bhubaneswar and
another***

....

Opposite Parties

Mr. Bismayananda Prusty,
Senior Standing Counsel

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

ORDER
26.03.2026

Order No.

- 02.
1. The petitioner has filed the instant writ petition assailing the Order-in-Original dated 2nd February, 2026 passed by the Joint Commissioner, GST & Central Excise Bhubaneswar Commissionerate, Bhubaneswar confirming the demand of an excess availment and utilization of inadmissible Input Tax Credit & short paid/not-paid tax, interest under Section 50(1) of the Central Goods and Services Tax / Odisha Goods and Services Tax Act, 2017, the interest under Section 50(3) of the said Act and the penalty under Section 74 and Section 122 (3) of the said Act.
 2. The challenge is basically founded upon the violation of principles of natural justice as the petitioner did not receive the notice fixing a date for the hearing yet the authority proceeded to dispose of the said proceeding in his absence as if the petitioner has the knowledge of the said hearing date.



3. On the last occasion, it was made known to the counsel appearing for the department and invited his attention to apprise the Court as to whether the notice as reflected in the said order was duly served upon the petitioner when ahead in time i.e. the date fixed for hearing of the said matter. The matter was adjourned in this regard.

4. The counsel for the Department upon taking instructions submits that the notice was in fact sent to the petitioner but the postal record received by the department would evince that the same was received after the date of the hearing so fixed.

5. Taking a clue from the aforesaid fact, the aforesaid revelation of the fact leads to an inescapable inference that the petitioner was not served with the notice fixing a date for the hearing and, therefore, could not get an adequate opportunity to defend.

6. We are conscious that the principles of natural justice is ingrained and inhered in any adjudicatory process when recognized as one of the facet of the constitutional ethos. The Constitution mandates that a person cannot be vexed nor be condemned unless he is provided inadequate opportunity to defend and in the event there appears to be violation of principles of natural justice based upon the legal maxim *audi alteram partem*, such order is susceptible to be interfered with. Though there has been a paradigm shift as every violation of the natural justice may not render the decision liable for an interference unless the prejudice is shown but what we find in the instant case is that if the adequate opportunity is not given and relevant documents are not produced which may clinch the issue, it would cause greater prejudice to the assessee.



Solely on the ground that the order appears to have been passed without affording an adequate opportunity to defend as the notice was served upon the petitioner after the passing of the order, the Order-*in*-Original impugned in the instant writ petition *i.e.* dated 2nd February, 2026 passed by the Joint Commissioner, GST & Central Excise Bhubaneswar Commissionerate, Bhubaneswar is hereby quashed and set aside. The matter is relegated to the authority to decide the same afresh after giving an adequate opportunity of hearing to the petitioner.

7. The learned counsel for the Department submits that the Court may fix a date as the petitioner is duly represented in the instant case so that there may not be any occasion to contend that the date so fixed by the authority could not be communicated to the Assessee- petitioner.

8. We, therefore, direct the authority to take up the aforesaid instant proceeding on 9th April, 2026 at 11.00 A.M. when the petitioner shall remain present and it goes without saying that the petitioner shall not procrastinate the said proceeding but shall cooperate and assist the Officer in discharging his duties and deciding the case in an impartial manner.

9. Accordingly, the writ petition is allowed.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge