IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8043 of 2025

M/s. Anand Hyper Market, Sambalpur .... ***Petitioner***

Represented by Adv.-
Mr. Abhaya Kumar Sharma, Advocate

-versus-

The Commissioner, CT & GST, Odisha and others .... ***Opp. Parties***

Represented by Adv.-
Mr. Sunil Mishra,
Senior Standing Counsel

CORAM:
THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE S.K. SAHOO

ORDER
02.04.2025

Order No.

01. 1. The learned counsel for the writ petitioner submits that though his client initially intend to withdraw the instant writ petition but subsequently, withdrew such submission and proceeded to pursue the instant writ petition.

2. The cancellation of a GST Certificate is basically found on the alleged fraud, misrepresentation or suppression of the facts. The facts discern from the record reveals that the petitioner, the partnership firm, applied for an additional place of business on the strength of sub-lease executed by the admitted lessee of the premises with the sub-lessee.

3. The lessor raised an objection before the Authority that such sub-lease is created in violation of one of the terms and conditions embodied in the parent lease, which appears to have been projected as a complete embargo is continuing with the GST registration.

4. The pivotal issue involved in the instant writ petition though not directly but incidentally arise is whether the Authority can adjudicate as to whether a deed of lease executed between the lessee and the sub-lessee is an outcome of fraud, misrepresentation, misstatement and/or suppression of facts solely on the basis of the restrictive clause contains in the parent lease.

5. The learned counsel for the Department seeks accommodation in this regard to ponder upon the same.

6. The writ petition is thus admitted as we find that the point as indicated hereinabove is of greater importance.

7. List this matter in the week commencing from 29.04.2025.

(Harish Tandon)
Chief Justice

(S.K. Sahoo)
Judge

I.A. No.4631 of 2025

02. 1. Since we have found that prima facie case has been made out, the Department is directed to provisionally issued GST Certificate at a principal place of business for which there does not appear to be any dispute. Such issuance of the provisional certificate is subject to the result of the instant writ petition.

2. Accordingly, the I.A. is disposed of.

(Harish Tandon)
Chief Justice

(S.K. Sahoo)
Judge

KKM