**IN THE HIGH COURT OF ORISSA AT CUTTACK**
**WP(C) No.10019 of 2026**

***M/s. Advance Engineering*** ... ***Petitioner***

*Mr. Sunil Mishra, Advocate*

*-Versus-*

***Chief Commissioner, CGST & Central Excise, Odisha and others*** ... ***Opposite Parties***

*Mr. Sujan Kumar Roy Choudhury, Senior Standing Counsel*

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

**ORDER**

**Order No.** **16.04.2026**

**01.** ***W.P.(C) No.10019 of 2026 and I.A. No.6069 of 2026***

**1.** Learned Senior Standing Counsel appearing for the CGST, Central Excise & Customs submitted that the matter is not identical to the batch of matters listed today, to which, Sri Sunil Mishra, learned counsel for the petitioner conceded. Thus, in such view of the matter, this writ petition is de-linked from the batch of matters listed today and heard separately.

**2.** Heard the counsel appearing for the respective parties.

**3.** This writ petition is filed assailing Order-in-Original dated 30.08.2024 (Annexure-4) passed by Assistant Commissioner, GST and C.Ex., Bhubaneswar-II, Bhubaneswar under Section 73 of the Finance Act, 1994, though the proceeding has been dropped in favour of the petitioner. Besides this, Review Order dated 03.02.2025 passed by the Commissioner, GST & C.Ex., Bhubaneswar Commissionerate, Bhubaneswar in C.A Order No.08/REVIEW/S.TAX/BBSR/2025 under Section 84 of the Finance Act, 1994 (Annexure-1) directing the Deputy/Assistant Commissioner, Central Tax, GST & Central Excise, Bhubaneswar-II, Bhubaneswar to file appeal against the said Order-in-Original before the Commissioner (Appeals), GST & Central Excise, Bhubaneswar is under challenge in the instant writ petition.

**4.** Sri Sunil Mishra, learned counsel for the petitioner submitted that the Order-in-Original was passed in favour of the assessee by dropping the proceeding under Section 73 of the Finance Act, 1994. Nonetheless, in the review the Department having taken conscious decision to file appeal challenging said order dropping of proceeding, the petitioner has come up before this Court raising the issues that:

*i.* when the Order-in-Original itself is hit by law of limitation specified under Section 73 of the Finance Act, the review order of the Commissioner directing the authority concerned to file appeal cannot be sustained;

*ii.* the review order being passed beyond the period stipulated in Section 84 of the Finance Act, the direction to file appeal cannot be held to be tenable in the eye of law.

What is essentially argued by Sri Sunil Mishra, learned Advocate that the Commissioner could not sanctify and give life to a dead claim. He submitted that not only the decision taken in review under Section 84 to file appeal is bad in law, but also the Order-in-Original deserves to be quashed on the ground of limitation, notwithstanding the fact that there was no occasion for the petitioner to question such order decided on merit.

**5.** Sri Sujan Kumar Roy Choudhury, learned Senior Standing Counsel seeks accommodation to file counter affidavit.

**6.** On perusal of Order-In-Original (Annexure-4) and Review Order (Annexure-1), it appears the petitioner has made out a *prima facie* case on the issue of limitation raised. This Court is of the view that the petitioner is entitled to be protected by an interim order awaiting response from the opposite parties and, therefore, the authorities are directed not to take any coercive steps in terms of the impugned orders as indicated hereinabove till the next date.

**7.** List this matter on 7th May, 2026.

**(Harish Tandon)**
**Chief Justice**

**(M.S. Raman)**
**Judge**

*Laxmikant*