



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.11754 of 2026

M/s. Nihar Ranjan Routray **Petitioner**

*Mr. Jagabandhu Sahoo, Senior Advocate along
with Ms. Kajal Sahoo, Advocate*

-versus-

Assistant Commissioner of State **Opposite Party**

Tax, CT & GST Circle, Kendrapara

Mr. Sunil Mishra, Standing Counsel

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

05.05.2026

Order No.

01. **1.** Challenging the Order dated 26th December, 2025 passed by the Assistant Commissioner of State Tax, Kendrapara Circle, Cuttack-II, Odisha, opposite party raising a demand of Rs.2,65,738/- for the period 2021-22, this writ petition has been filed.
- 2.** The opposite party issued an ASMT-10 along with annexure on 21st January, 2025 for the period 2021-22 alleging that upon scrutiny of the return, the petitioner has claimed excess ITC in GSTR-3B in comparison to ITC accumulated in GSTR-2A/2B. Pursuant thereto, the petitioner submitted a reply in DRC-06 on 28th April, 2025 stating that the petitioner has claimed ITC amounting to Rs.4,50,401.52 in each under the Central Goods and Services Act, 2017 and the Odisha Goods and Services Tax Act, 2017 and Rs.1885.50 under the Integrated Goods and



Services Tax Act, 2017 and no excess ITC has been claimed as per GSTR-2A.

3. The writ petition has been filed questioning propriety of order in DRC-07 raising the demand of Rs.2,65,738/- without appreciating the reply of the petitioner in proper perspective.
4. Learned counsel for the petitioner submitted that the order so passed by the Assistant Commissioner of State Tax, Kendrapara Circle, Cuttack-II being illegal, arbitrary and unsustainable in the eye of law, the same is liable to be quashed.
5. Mr. Sunil Mishra, learned Standing Counsel appearing for the CT & GST Organization opposed vehemently to exercise power under Article 226/227 of the Constitution of India to entertain of this writ petition against the impugned order, as alternative efficacious remedy is available under the statute. Having not demonstrated any special circumstance warranting interference with the impugned order, the writ petitioner cannot be allowed to circumvent the statutory remedy.
6. Heard Mr. Jagabandhu Sahoo, learned Senior Counsel being assisted by Ms. Kajal Sahoo, learned counsel for the petitioner and Mr. Sunil Mishra, learned Standing Counsel appearing for the CT & GST Organization.
7. The Hon'ble Supreme Court in *Radha Krishan Industries Vrs. State of Himachal Pradesh*, (2021) 3 SCR 406, held, *inter alia*, that where an effective alternative remedy is available to the aggrieved person, the High Court ought to restrain itself from exercising power under Article 226 of the Constitution of India and when a right is created by statute, which itself prescribes



the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution of India. It is made clear that this rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

8. In view of such enunciation of principles by the Hon'ble Supreme Court of India, this Court desists from entertaining this writ petition questioning the legality of the impugned order. However, finding that the approach to this Court being made within the period(s) stipulated under Section 107 of the GST Act, without expressing opinion on the merits of the case, it is apt to grant liberty to the petitioner to file appeal within a period of seven days from date. Needless to say that if the petitioner files appeal within the time stipulated, the appellate authority concerned, subject to compliance of other statutory formality, shall treat the same as if filed within the period of limitation under the GST Act and entertain the appeal for disposal on merit in accordance with law.
9. With the aforesaid observation, the writ petition along with the pending Interlocutory Application(s), if any, shall stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Signature Not Verified

Digitally Signed
Signed by: LAXMIKANT MOHAPATRA
Designation: SENIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 08-May-2026 13:02:37