



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19736 of 2025

***M/s. Sudarshan Products and
another***

....

Petitioners

Mr. Devraj Sahu, Advocate

-versus-

Union of India and others

....

Opposite Parties

Mr. Avinash Kedia,

Junior Standing Counsel for the Department

Mr. Satyanarayan Pattanaik, CGC

(for opposite party Nos.1 and 2)

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

12.08.2025

Order No.

- 02.
1. By way of filing the afore-noted writ petition, challenge is laid to order dated 09.02.2024 passed by the Principal Commissioner, GST & Central Excise, Bhubaneswar, pursuant to the order of remit dated 12.09.2023 by the learned Customs, Excise and Service Tax Appellate Tribunal, Kolkata, Eastern Zonal Bench, Kolkata (for short, "the CESTAT"), on the ground of violation of principles of natural justice.
 2. Petitioner no.2, proprietor of Petitioner no.1-Manufacturing and Trading unit of pan masala products, claimed to have discharged central excise duty since January 2008 to January 2011 and closed the unit with effect from 01.02.2011, which was duly noted by the Central Excise Authority.
 3. Petitioner no.2, due to deterioration of his health, had to remain outside the State for a certain period for treatment. However, in his absence, in a clandestine manner, manufacturing activity was carried on in the brand name of Petitioner no.1, i.e. "M/s.Sudarshan Products"



by certain other person(s). Petitioner no.2 disputes that such manufacturing activity in the brand name of “Sudarsan Products” was by some other person, who is not related to him. Even though summons were issued in the name of Petitioner under Section 14 of the Central Excise Act, 1944 and written statement was recorded on 04.03.2011 at Regional Office of the Directorate General of Central Excise, Regional Unit-Rourkela, in course of investigation, a demand of central excise was contemplated against the Sudarsan Products. However, the Commissioner of Central Excise Bhubaneswar-I upon being satisfied that the petitioner no.2 was no way connected in the clandestine manufacturing activity at Gangadhani village *vide* order dated 27.09.2012 dropped all the proposed action against M/s. Sudarshan Products and Sri Sudarshan Nayak (Petitioner nos.1 and 2 respectively). However, the Chief Commissioner Central Excise, Ranchi Zone, Patna reviewed the matter and *vide* order dated 30.11.2012 decided to carry the matter before the learned CESTAT.

4. The matter was carried by the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I against the M/s. Sudarshan Products, At/P.O.: Gangadahani, P.S.: Purushottampur, Ganjam (Excise Appeal No.731 of 2012) and the proprietor Sudarshan Nayak, At: Trinath Nagar, Berhampur (Excise Appeal No.732 of 2012) and Budhiman Nayak (At/P.O.: Gurunthi, P.S.: Purushottampur, District: Ganjam (Excise Appeal No.72018 of 2013). By a common order dated 12.09.2023, the learned CESTAT disposed of all these appeals and passed the following operative order:

“xxx xxx xxx

7. In view of the above observation, we set aside the impugned order and remand the matter back to the adjudicating authority for fresh adjudication. It is pertinent to mention here that the issue is very old, therefore,, the



adjudicating authority shall decide the show cause notice within 3(three) months from the receipt of this order by affording an opportunity of being heard to all the notices and thereafter to pass an appropriate order in terms of law.”

5. Sri Devraj Sahu, learned advocate for the petitioner submitted that pursuant to said order of remand, Principal Commissioner, GST & Central Excise, Bhubaneswar appears to have passed an order on 09.02.2024. He submitted that though it was directed by the learned CESTAT for grant of opportunity to the petitioner, no notice/intimation of hearing was served on him as the petitioner has shifted his residential house and has no connection with the earlier place where manufacturing activity was carried on. No notice/intimation stated to have been issued could be served on him in connection with fresh proceeding by the adjudicating authority. Therefore, the petitioner was deprived of appearing before the adjudicating authority to place relevant material. Hence, he prayed for setting aside the order dated 09.02.2024.

6. Sri Avinash Kedia, learned Junior Standing Counsel appeared for the Department and contended that the petitioner has an alternative remedy. Having not appeared before the authority concerned, though intimation was issued to him, he did not choose to furnish any material. He submitted that order dated 09.02.2024 passed by Principal Commissioner GST & Central Excise, Bhubaneswar cannot be faulted with.

7. Heard learned counsel for the parties.

8. Perused the record. It transpires during the argument and counter argument that the intimation of personal hearing returned with postal remark “addressee left, hence returned to sender”. Such fact also surfaced from the impugned order.



9. Learned Junior Standing Counsel did not dispute the fact that the notice/intimation for personal hearing claimed to have been issued to the petitioner, was never served on him. It is conceded that the said notice/intimation was sent to the old address and he admitted that after passing the Order-in-Original dated 09.02.2024 by the adjudicating authority, on a communication made through telephone for recovery of demanded amount, the petitioner sought for copy of the impugned order and such order was supplied to him on 08.04.2025. He fairly conceded that prior to passing of the Order-in-Original, though the intimation came back to the sender without service, no attempt was made to contact the petitioner over the telephone.

10. Under such premises, this Court is of the considered view that opportunity of hearing, as directed in the order dated 12.09.2023 of the learned CESTAT, was not afforded to the petitioner. Therefore, this Court is inclined to entertain this writ petition and set aside the order dated 09.02.2024 passed by the Principal Commissioner, GST & Central Excise, Bhubaneswar (Annexure-6). However, this Court feels it expedient to direct as follows:

- I. The petitioner shall appear before the authority concerned on or before 26th August, 2025 along with documents/evidence which he considers necessary for the purpose of establishing his case with respect to liability and shall also produce such other documents as may be called for by the authority concerned.
- II. On such appearance, the authority concerned shall undertake verification forthwith or specify further date(s). After affording reasonable opportunity, the adjudicating authority shall decide the show cause notice as directed in the order of the learned CESTAT.



III. The entire process shall be completed on or before 15th September, 2025. Needless to observe that the petitioner shall cooperate with the authority concerned and shall not seek any unnecessary adjournments.

11. With the aforesaid observations and directions, the writ petition stands disposed of. All pending Interlocutory Application (s), if any, shall stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Aswini

Signature Not
Verified

Digitally Signed
Signed by: ASWINI KUMAR
SETHY
Designation: Personal Assistant
(Secretary-in-Charge)
Reason: Authentication
Location: ORISSA HIGH
COURT, CUTTACK
Date: 14-Aug-2025 14:16:33