



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19753 of 2025

Biswajeet Choudhury

....

Petitioner

Mr. Rudra Prasad Kar, Senior Advocate
being assisted by Mr. Asit Kumar Dash, Advocate

-versus-

***Commissioner (Appeals), GST &
Central Excise and Customs,
Bhubaneswar & others***

....

Opposite Parties

Mr. Radheyshyam Chimanka, Sr. Standing Counsel,
GST, Central Excise & Customs

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

14.08.2025

Order No.

01.

W.P.(C) No.19753 of 2025 / I.A. No.11766 of 2025

1. Mr. R.S. Chimanka, learned Senior Standing Counsel, GST, Central Excise & Customs enters appearance on behalf of opposite parties and files his appearance memo in Court today, which is taken on record.

2. Mr. R.P. Kar, learned Senior Advocate appears on behalf of petitioner and submits, assuming though not admitting that there could be allegation of suppression by his client, the determination of amount of service tax due was not made anywhere near within one year from date of the notice. He submits, the facts are glaring for him to demonstrate that impossibility to determine within the time cannot be the case of revenue. He relies on use of word 'shall' in sub-section (4B) of Section 73 of the Finance Act, 1994 to make his point.

3. He relies on judgment dated 4th April, 2024 of a Division Bench in the High Court of Patna (Civil Writ Jurisdiction Case



no.18398 of 2023) *M/s. Kanak Automobiles Pvt. Ltd. v. Union of India and others (tiol print)*. We reproduce below paragraph-10 from the judgment;

“10. Here, we agree that it is not an absolute mandate that the proceedings should be completed within one year from the notice; but it requires the statutory authority to take all possible steps, so to do and conclude the proceedings within an year. No steps were taken in the entire one year period, which results in the frustration of the goal of expediency as required statutorily. We hence find that the proceedings cannot be continued.”

4. Mr. R.S. Chimanka, learned Senior Standing Counsel for the Revenue produces the copy of the order of the Apex Court dated 02.05.2025 passed in SLP (C) No.5392 of 2025 and submits that in view of the observation of the Apex Court at paragraph-9 of the said order, the hearing of this case may be deferred.

5. Let the matter be tagged with W.P.(C) No.18713 of 2024 and be listed on the same day when the said writ petition is directed to be listed. Till then, no coercive action shall be taken against the petitioner.

Urgent certified copy of this order be granted as per rules.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Signature Not
Verified

Aswini

Digitally Signed
Signed by: ASWINI KUMAR SETHY
Designation: Personal Assistant
(Secretary-in-Charge)
Reason: Authentication
Location: ORISSA HIGH COURT,
CUTTACK
Date: 18-Aug-2025 20:00:59