



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21212 of 2025

M/s. NKC Projects Private Limited* *Petitioner

Mr. R.P. Kar, Senior Advocate assisted by
Ms. Maryada Dwibedi, Advocate

-versus-

***Commissioner of Sales Tax and* *Opposite Parties*
*others***

Mr. Sunil Mishra, Standing Counsel
for CT & GST Department

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

11.08.2025

Order No.

01. ***W.P.(C) No.21212 of 2025 & I.A. No.13152 of 2025***

This matter is taken up through Hybrid mode.

2. The instant writ petition has been filed challenging the orders dated 30th September, 2019, 23rd June, 2023 and 27th May, 2025 *vide* Annexures-3, 8 and 10 respectively on multiple grounds including the ground that the assessing officer passed an order beyond the statutory period provided under Section 42(6) of the Odisha Value Added Tax Act, 2004 (for short, “the OVAT Act”), which would be evident from the order-sheet annexed to the writ petition.

3. The attention of this Court was drawn to the aforesaid provision, wherein the assessment under Section 42 of the OVAT Act shall be completed within a period of six months from the date of service of notice under Sub-section (1) along with Audit Visit Report and in the event it could not be completed, the first proviso



appended thereto postulates that within the original period provided in the enabling Section, the Commissioner may be approached, who is otherwise conferred with power to allow such further time not exceeding six months for completion. It is thus contended that there is no extension of time granted by the Commissioner and it appears that the assessing officer proceeded to pass an order beyond the statutory period provided in the said enabling provision. A further plea is taken that the compliance under Section 41(4) of the OVAT Act has also not been ensured by the authority and on the above grounds, the orders impugned in the instant writ petition are liable to be interfered with.

4. Mr. Sunil Mishra, learned Standing Counsel appearing for CT & GST Department-opposite parties submits that so far as the plea of completion of the assessment proceedings within the statutory period provided under Section 42(6) of the OVAT Act is concerned, the said point has been taken for the first time in the instant writ petition and, therefore, an instruction in this regard is required from the competent authority and the relevant record are also to be scrutinized and, therefore, the opposite parties may be given an opportunity to file a counter affidavit to disclose the same.

5. For the purpose of an interim order, we find from the order sheet annexed to the instant writ petition in relation to a proceeding initiated by the assessing officer under Section 42 of the OVAT Act for the tax period from 1st October, 2015 to 30th June, 2017, which was registered on 1st January, 2019. The appearance of assessee appears to have been fixed on 12th February, 2019 and the final order was passed on 30th September, 2019, which is evidently beyond the period of six months from the date of the service



contemplated under Sub-section (6) of Section 42 of the OVAT Act.

6. We, therefore, restrain the opposite parties from taking any coercive steps in realizing and/or proceeding further on the basis of the demand till the next date.

7. The opposite parties are directed to file the counter affidavit within three weeks from date. Rejoinder affidavit, if there be any, may be filed within a week ++thereafter.

8. List this matter on 8th September, 2025.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

MRS/Laxmikant

Signature Not Verified

Digitally Signed
Signed by: LAXMIKANT MOHAPATRA
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 12-Aug-2025 18:11:48

