IN THE HIGH COURT OF ORISSA AT CUTTACK
<u>WP(C) No.33128 of 2025</u>

Subrat Rout ... ***Petitioner***

Mr. Deba Priya Mishra, Advocate

-Versus-

The Commissioner of (C.T. & G.S.T.), Odisha and others ... ***Opposite Parties***

Mr. Seshadeb Das, Additional Standing Counsel

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

<u>ORDER</u>

<u>Order No.</u> **15.12.2025**

01.

1. Challenging the order dated 27.07.2021 passed by CT & GST Officer, Cuttack-1 City Circle, Cuttack under Section 73 of the Odisha Goods and Services Tax Act, 2017/the Central Goods and Services Tax Act, 2017 (Collectively, "GST Act") for the tax period from 01.12.2018 to 31.12.2018 in connection with show cause notice dated 30.04.2021, the petitioner has come up before this Court invoking provisions under Articles 226 and 227 of the Constitution of India.

2. It is the case of the petitioner that CT & GST Organisation, under a mistaken notion of fact proceeded to assess the present petitioner, namely, "Subrat Rout".

3. Mr. Deba Priya Mishra, learned Advocate submitted that the petitioner asserted that he has not received any payment in respect of the alleged work to have been executed during the aforesaid tax periods. At the time of initiation of adjudication process under Section 73 of the GST Act, the petitioner's registration granted under GST Act had already stood cancelled. Therefore, the petitioner was unaware of any order of adjudication and a demand being raised by the authority concerned. Such fact could come to his notice when he received a notice for recovery dated 29.03.2025. From the said notice, it could be found that the adjudication was entirely erroneous as the context never involved his transactions of business. The adjudication was made on the basis of receipt of amount in respect of work executed in favour of the Superintending Engineer North Division, Jagatpur. Therefore, he took steps by filing a representation dated 09.04.2025 before the Superintending Engineer, Mahanadi North Division, Jagatpur clarifying the position that whereas he was assigned with GSTIN 21BBPPR1202L1ZR in the name of "Subrat Rout", had never received payment of such amount towards execution of work. It is contended by learned counsel for the petitioner that being apprised of such apparent factual error, the said Superintending Engineer issued a letter to the Assistant Commissioner of CT & GST, Cuttack-I City Circle, Cuttack on 11.04.2025 acknowledging clerical error being crept in while furnishing TDS details to the said CT and GST Organisation. It is made clear that actual payments were made to "Sri Subrat Kumar Rout" allotted with PAN:AWWPR3325B and GSTN:21AWWPR3325B1ZN, who executed the work, but not to the petitioner, who was allotted with GSTIN 21BBPPR1202L1ZR. The petitioner did not receive the alleged amount during the period in question. Therefore, learned counsel strenuously urged to quash the adjudication order dated 27.07.2021.

4. Mr. Seshadeb Das, learned Additional Standing Counsel for the CT & GST Organisation, upon instruction received from Deputy Commissioner of CT & GST, CT & GST Circle, Cuttack-1 City, Cuttack, submitted that the mismatch was found in the figures disclosed in the returns GSTR-2A and GSTR-3B. Accordingly, notices were issued. Since there was no response, the proceeding under Section 73 of the GST Act was culminated in demand. Since no further proceeding was pending, show cause notice for recovery of outstanding amount was issued. He fairly conceded that the Department has admitted the error of fact and furnished the written instruction wherein the following is found recorded:

"With reference to the aforesaid subject, it is to state that Sri Subrat Rout, S/o. Kshirod Kumar Rout holding PAN-BBPPR1202L and GSTIN-21BBPPR1202L1ZR has submitted a representation regarding issuance of SCN for initiation of recovery proceeding by way of attachment of immovable property by your good office vide letter no.740/CT dated 29-03-2025 to Sri Subrat Rout due to non-payment of tax. In this regard, it is to state that two nos of bills whose total taxable value is Rs.15,83,500/- had been paid to Sri Subrat Kumar Rout holding PAN-AWWPR3325B and GSTIN-21AWWPR3325B1ZN. So, no payment has been made by this office to Sri Subrat Ku Rout holding GSTIN-21BBPPR1202L1ZR, but during return filing the advocate inadvertently entered the GSTIN-21BBPPR1202L1ZR of Sri Subrat Rout instead of GSTIN 21AWWPR3325B1ZN of Sri

Subrat Kumar Rout. Further, Superintending Engineer Mahanadi North Division No.1, Jagatpur also provided the copy of the RA Bill for reference which were verified. Both the works bills paid to Sri Subrat Ku Rout bearing PAN-AWWPR3325B are enclosed for your kind reference.

***Further, cross examination of the Bank Account Details also reveals that M/s. Subrat Rout bearing GSTIN-21BBPPR1202L1ZR has not received the payments as communicated in the SCN.*”**

4.1. The submissions of the learned counsel for the petitioner and the written instructions imparted to the learned Additional Standing Counsel as furnished to this Court admits of no ambiguity that the adjudication process initiated under Section 73 of the GST Act for alleged mismatch in the figures disclosed in the returns *vis-à-vis* receipt of amount towards execution of works contract by "Subrat Rout" (petitioner) is under mistaken fact. Therefore, this Court perceives that instead of proceeding against "Subrat Kumar Rout", the adjudication process being initiated against "Subrat Rout" and got completed and demand has been raised, which is assailed in the writ petition.

5. In the wake of such admitted factual position as adumbrated above, the order dated 27.07.2021 passed under Section 73 of the GST Act by the CT & GST Circle, Cuttack-1 City, Cuttack in connection with show cause notice dated 30.04.2021 issued under said provision pertaining to the tax period, December, 2018, cannot be held to be sustained and hence, the order and the notice are hereby quashed.

6. In the result, the writ petition stands allowed and accordingly pending Interlocutory Application (s), if any, is disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Aswini