



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.35021 of 2025

M/s. Narbheram Vishram, ***Petitioner***
Haryana

Mr.Parth Parikh, Advocate along with
Mr.Mukesh Panda, Advocate

-versus-

Assistant Commissioner of ***Opposite Parties***
Customs, Paradeep Customs
Division, Jagatsinghpur and others

Mr. Sujan Kumar Roy Choudhury,
Senior Standing Counsel , GST & Central Excise & Customs

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

Order No. **ORDER**
11.12.2025

01. 1. The memo of appearance filed by Mr.Parth Parikh, Advocate to argue the case on behalf of petitioner is taken on record. Similarly, the memo of appearance of Mr.Sujan Kumar Roy Choudhury, learned Senior Standing Counsel appearing on behalf of Central Excise and Customs is taken on record.
2. The instant writ petition is taken out at the admission stage on the basis of an undisputed facts emanating from the record. The proceeding for refund of an excess custom duty with interest was initiated by the petitioner before the Assistant Commissioner of Customs, Paradeep Customs Division, Paradeep (opposite party



No.1) after having received an adjudication in this regard that the excess custom duty were charged long back. Since a considerable period elapsed because of the belated adjudication by the authority, the interest was claimed as the legitimate dues to the petitioner was unreasonably withheld by the authority. The said proceeding came up before the said authority on 29.09.2025 and a decision of this Court rendered in *OTAPL No.29 of 2025 (Commissioner of Customs (Preventive), C.R.Building, Rajaswa Vihar, Bhubaneswar Vs.M/s.Vedanta Limited)* passed on 09.05.2025 was relied upon in support of the claim of interest for delayed refund.

3. In paragraph-5.7 of the impugned order, the authority returned the finding to the effect that the judgment of the jurisdictional High Court has not been accepted by the Reviewing Authority and the Department is contemplating to file the Special Leave Petition before the Supreme Court of India against the said order. Interestingly, the proceeding to consider claim for refund is rejected without recording any independent finding thereupon.

4. It is the cardinal principle of law that the decision rendered by the High Court or the Supreme Court is binding on the authority and in the event the authority has a dissent to the proposition of law as laid down by the Courts, it has a remedy to move the higher forum as provided in the statute. There is no embargo created to exhaust the remedy provided in the statute, but it is incongruous to suggest that mere contemplation to



exhaust such remedy, the authority proceeded to dismiss the said proceeding. It would invite a chaotic situation if the proceeding is finally disposed of on sheer assumption that the litigant is intending to approach the higher forum challenging the order of this Court which is otherwise binding on the said authority. The fate of the proceeding before the higher forum is unknown and it may invite an irreversible situation in the event the litigant who intended to challenge the binding order emerged unsuccessful. The proper course should have been adopted to keep the said proceeding in abeyance for a reasonable time, so that the finality to the binding judgment is achieved.

5. We do not appreciate the order impugned in the instant writ petition that on mere contemplation to challenge the binding order, the proceeding should receive a dismissal/rejection. We, therefore, *set aside* the said order. The proceeding initiated by the petitioner is revived. The authority shall proceed to decide the said proceeding, in the event the Special Leave Petition assailing the order dated 09.05.2025 is filed before the Supreme Court and any order is passed thereunder.

5.1. We, thus, feel that a reasonable period of time should be provided to exhaust such remedy, and, therefore, the instant proceeding shall be kept pending for a period of three months from date. The authority shall take up the instant proceeding after the said period and in the event there is no order is passed in the



said Special Leave Petition, he shall proceed to decide the same on merit.

6. With the aforesaid observation and direction, the writ petition stands disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

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