

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.1412 of 2026
M/s. Monte Carlo Limited, Gujarat Petitioner
Mr. Anil Bezawada, Advocate
-versus-
The Additional Commissioner of Opposite Parties
State Tax (Appeal), Central Zone-II,
Odisha and another
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

Order No. 22.01.2026

01. 1. The petitioner by way of filing this writ petition

beseches to exercise power of extraordinary jurisdiction under the provisions of Articles 226 and 227 of the Constitution of India with the following prayer(s):

"The Petitioner, therefore, prays that your Lordships would be graciously pleased to admit this Writ Petition, call for the records, after hearing the parties, allow the same, issue writ/writs in the nature of certiorari/mandamus and/or any other further writ/direction to quash actions of the 1 st Opposite Party, by way of passing the Impugned Appeal Order passed in Form GST APL-04 vide Ref No.ZD2109250201601 dated 17.09.2025, as arbitrary, unconstitutional and contrary to various precedents laid down in the subject matter and violative of Article 14, 300A and Article 19(1)(g) of the Constitution of India;

And further be pleased to pass any other order/orders to quash the impugned actions of the 2nd Opposite Party by way of order passed in Form GST DRC 07 vide Ref No.ZD210424033515V dated 30.04.2024, without affording the petitioner with an opportunity of personal hearing, which is in violation of principles of natural justice, arbitrary, unconstitutional, unreasonable and also in violation of provisions of the Odisha State Goods and Services Tax Act, 2017.

And further be pleased to pass any other order/orders to quash the impugned actions of the 2nd Opposite Party by way of Order vide Ref No.ZD21012501519R dated 17.01.2025 rejecting the application for rectification dated 06.04.2024 without providing the opportunity of personal hearing and without considering the submission of the petitioner arbitrary, unconstitutional, unreasonable, contrary to Section 161 of the CGST/OGST Act, 2017 and violative of principles of natural justice;

And further be pleased to pass any other order/orders to set aside or quash the recovery proceedings initiated in Form GST DRC 13 vide No.12748 dated 19.12.2025.

And further be pleased to pass any other order/orders as may be deemed just and proper;

And for this act of kindness, the petitioner shall, as in duty bound, ever pray."

2. The petitioner, a private limited company, engaged in the business of works contract and rendering construction works, on the allegation of non-payment of tax as per the final audit report dated 10th June, 2023 in Form GST ADT-02 by the State Tax Officer, CT & GST Territorial Range, Jajpur, Odisha, was issued with Show- Cause Notice in Form GST DRC-01, dated 17th November, 2023 issued by the Assistant Commissioner of State Tax, Keonjhar Circle, Jajpur, Odisha-opposite party no.2, responding to which reply was submitted on 12th December, 2023.

2.1. The opposite party no.2 passed an order confirming the demand of Rs.3,13,02,550/- (CGST of Rs.1,56,51,275/- + OGST of Rs.1,56,51,275/-) for the tax periods from April, 2018 to March, 2019 under Section 73 of the Central Goods and Services Tax Act, 2017/Odisha Goods and Services Tax Act, 2017 (collectively, "the GST Act") vide order dated 30th April, 2024 in Form GST DRC-07.

2.2. The petitioner has filed an application on 6th May, 2024 under Section 161 of the GST Act for rectification of said order passed by the opposite party no.2, which was rejected vide order dated 17th January, 2025.

2.3. Being aggrieved by the order dated 17th January, 2025 passed by opposite party no.2, the petitioner preferred an appeal before the Additional Commissioner of State Tax (Appeal), Central Zone-II, Cuttack-opposite party no.1 under Section 107 of the GST Act on 21st February, 2025 in Form GST APL-01, which was admitted by the opposite party no.1 on 1st March, 2025 and, notice was issued to the petitioner on 21st May, 2025 to show-cause as to why the appeal in Form GST APL-01, dated 21st February, 2025 should not be rejected as being time barred and date of personal hearing was scheduled on 30th May, 2025. Pursuant to the same, the petitioner submitted the reply and appeared in connection with the personal hearing.

2.4. The opposite party no.1 vide order dated 17th September, 2025 in Form GST APL-04 rejected the appeal preferred by the petitioner as beyond the period stipulated under Section 107 of the GST Act. Therefore, the opposite party no.2 issued a notice in Form GST DRC-13, dated 19th December, 2025 for recovery of the demand confirmed in order dated 30th April, 2024 and also initiated

garnishee proceeding with issue of notice in Form GST DRC-09, dated 2nd January, 2026 to the Project Director, Project Implementation Unit of National Highway Authority of India, Keonjhar.

2.5. At this stage, the petitioner has approached this Court by way of filing this instant writ petition show indulgence.

3. Learned counsel appearing for the petitioner submitted that since the authority delayed in disposal of petition under Section 161 of the GST Act, the petitioner is precluded to ventilate its grievance under Section 107 as the outer limit stipulated under Section 107 to challenge the adjudication order did set in. However, he submitted that since the appeal period specified under Section 107 to challenge the order rejecting the application under Section 161 was still available, the appeal could not have been rejected.

3.1. He further submitted that once the application for rectification is filed indicating error apparent on the face of the order of assessment and disposal of the same would tantamount to merger of order in the adjudication order and therefore, the appeal against such order being within time specified under Section 107, the Appellate Authority committed error of record which warrants interference by this Court.

3.2. He further submitted that opposite party no.1 without considering the factual details and submissions made by the petitioner with respect to grounds of the application for condonation of delay having rejected the appeal, his order is not only bad in law, but also smacks arbitrariness and contrary to the settled principles of law and, therefore, it is prayed that the order(s) requires to be declared non est as it violates the principles of natural justice.

4. At this stage, Mr. Sunil Mishra, learned Standing Counsel for the CT & GST Department strongly opposing the contention of the learned Advocate appearing for the petitioner submitted that once the petitioner has chosen to avail alternative remedy provided under the GST Act by filing appeal, in the event of dismissal of appeal, he could not abandon the method and procedure prescribed for challenging the said appellate order. This writ petition is not entertainable inasmuch as the petitioner has approached this Court by circumventing statutory provisions.

5. Heard learned counsel for the petitioner and learned Standing Counsel for the CT and GST Department.

6. Perused the record.

7. Having found that the contentions raised by the learned counsel for the petitioner can very well be taken as ground of appeal before the Goods and Services Appellate Tribunal under Section 112 of the GST Act, this Court without expressing any opinion on the merit of the matter wishes to relegate the Petitioner to avail the alternative remedy.

7.1. It would be apposite to quote Section 107(8) of the GST Act, which runs thus:

"(8) No appeal shall be filed under sub-section (1), unless the appellant has paid--

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum, equal to ten per cent of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of Section 107, arising from the said order, subject to a maximum of twenty crore rupees, in relation to which the appeal has been filed."

7.2. It has been brought to our notice that the Department of Revenue, Ministry of Finance issued a notification being S.O. No.4220(E) dated 17th September, 2025 providing an opportunity to an aggrieved person to file an appeal in exercise of the powers conferred by sub-section (1) of Section 112 of the Central Goods and Services Tax Act, 2017 in the following:

"In exercise of the powers conferred by sub-section(1) of Section 112 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby notifies the 30th day of June, 2026, as the date up to which appeal may be filed by the Appellate Tribunal under this Act in respect of all cases where the order sought to be appealed against is communicated to the person preferring the appeal before the 1 st day of April, 2026 and all appeals in respect of order communicated on or after 1st April, 2026 may be filed before the Appellate Tribunal within three months from the date on which such order is communicated to the person preferring the appeal."

7.3. Apropos the same and in order to facilitate smooth filing of an appeal before the said Tribunal, a 'User Advisor for the GSTAT e-Filing Portal' is also issued by the authorities containing the timeline within which the appeal can be filed before the GSTAT in the following:

"User Advisory for the GSTAT E-Filing Portal Please note that this advisory is only a snapshot for the entire appeal filing process. For detailed understanding and in order to have a seamless experience on the portal, users are advised to refer to the E- filing user manual, FAQs and user videos.

Important Timelines Staggered Filing Period (Until December 31st, 2025):- The filing window for second appeals filing is based on staggering of the ARN/CRN of first appeal filed in APL-01/03 before the Appellate Authority or the notice in RVN-01 issued by the Revisional Authority. The system first validates the ARN/CRN date and only upon successful validation of the date of the ARN/CRN of the APL-01/APL-03/RVN-01, the appellant can proceed further to Login/Registration. The schedule for filing is as follows:

TABLE Sl. Period of filing appeal in Form Period during which the No. APL-01 or APL-03 under section appeal under section 112 107 of the Act or issuance of notice of

the Act before the in Form RVN-01 in terms of GSTAT may be filed section 108 of the Act.

1 Such orders of the Appellate Period commencing on authorities or revisional authorities 24.09.2025 and ending on sought to be appealed before the 31.10.2025 or any date appellate tribunal where the succeeding such date being Appeal in Form GST APL-01 or not later than 30.06.2026 GST APL-03 or notice in Form GST RVN-01 filed or, as the case may be, issued on the common portal on or before 31.01.2022 2 Such orders of the Appellate Period commencing on authorities or revisional authorities 01.11.2025 and ending on sought to be appealed before the 30.11.2025 or any date appellate tribunal where the succeeding such date being Appeal in Form GST APL-01 or not later than 30.06.2026 GST APL-03 or notice in Form GST RVN-01 filed or, as the case may be, issued on the common portal on or after 01.02.2022 but on or before 28.02.2023 3 Such orders of the Appellate Period commencing on authorities or revisional authorities 01.12.2025 and ending on sought to be appealed before the 31.12.2025 or any date appellate tribunal where the succeeding such date being Appeal in Form GST APL-01 or not later than 30.06.2026 GST APL-03 or notice in Form GST RVN-01 filed or, as the case may be issued on the common portal on or after 01.03.2023 but on or before 31.01.2024 4 Such orders of the Appellate Period commencing on authorities or revisional authorities 01.01.2026 and ending on sought to be appealed before the 31.01.2026 or any date appellate tribunal where the succeeding such date being Appeal in Form GST APL-01 or not later than 30.06.2026 GST APL-03 or notice in Form CST RVN-01 filed or, as the case may be, issued on the common portal on or after 01.02.2024 but on or before 31.05.2024 5 Such orders of the Appellate Period commencing on authorities or revisional authorities 01.02.2026 or any date sought to be appealed before the succeeding such date being appellate tribunal where the not later than 30.06.2026 Appeal in Form GST APL-01 or GST APL-03 or notice in Form GST RVN-01 filed or, as the case may be, issued on the common portal on or after 01.06.2024 but on or before 31.03.2026 It may be noted that if an appeal before the GSTAT relating to any ARN/CRN could not be filed within the window scheduled for it, the appellant can still come on any subsequent date but before 30th June, 2026.

It may further be noted that appeals before the GSTAT against any order of the appellate/revisional authority in APL-04 that has been communicated on or after 1st April, 2026 shall have to filed before the appellate Tribunal within three months of the order of APL-04 being communicated.

Appeals before the GSTAT in cases where the appeal in APL-

01/03 or notices in RVN-01 are not available in the GSTN system: for all the Appeals filed before the Appellate authority or notices of the Revisional authority where the ARN/CRN is not available in the GSTN system, the filing window will open from the midnight of 31st December 2025 and will expire on June 30. 2026.

Thus, users are strongly advised not to hurry since more than sufficient time has been provided for filing appeals before the GSTAT wherever the orders in APL-04 have been issued on or before 31st March 2026.

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7.4. It is also brought to the notice that certain modifications are made by Order dated 24.09.2025 of the President, GST Appellate Tribunal and said Order has been revoked with following Order dated 16.12.2025:

"Now, therefore, in exercise of the powers conferred by Rule 123 of the aforesaid Rules (Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025), the undersigned is pleased to revoke the Order dated 24.09.2025 with effect from 18.12.2025. This revocation shall not impugn the validity of any appeals lodged pursuant to the prior order before 18.12.2025. This order is without prejudice to the powers of the Appellate Tribunal under Section 112 of the Central Goods and Services Tax Act, 2017."

7.5. It is no longer res integra that the Writ Court can be approached assailing an order for which the forum of appeal is provided and the same is entertainable in the event the forum is not made functional or constituted as the person cannot be rendered remediless. Equally it is true that if conditions are attached to filing an appeal before such forum, the Writ Court shall ensure strict compliance thereof as a person cannot steal a march taking a shelter that there is no inhibition in the writ Court in entertaining the writ petition and passing an order taking departure from the said statutory provision.

7.6. Since the forum has already been provided in the statute, which is now made functional and the period for filing the appeal has been specified in the above Notification/Circular/Order, it would not be proper for the Writ Court to keep such writ petitions pending as the dispute raised by the petitioner in the instant writ petition can be adjudicated by the said forum and, therefore, the writ petition is disposed of with the following directions:

I. The petitioner is directed to deposit the amount if not already deposited, as required under sub-section (8) of Section 112 of the GST Act before the Goods and Services Tax Appellate Tribunal to file the appeal within the period specified above.

II. The petitioner, as undertaken, shall file appeal as per the timeline given above and in the "User Advisor for the GSTAT e-Filing Portal".

III. In the event the appeal is filed and the same is found to be in order as per the requirement of Section 112 of the GST Act read with relevant Rules framed thereunder, the same shall be entertained by the Goods and Services Tax Appellate Tribunal.

8. This Court makes it clear that we have not expressed any opinion on the merits on the Orders impugned in the writ petition. As a result of disposal of the writ petition, pending Interlocutory Application(s), if any, shall stand disposed of.

(Harish Tandon) Chief Justice (M.S. Raman) Judge MRS/Laxmikant Signed by: LAXMIKANT MOHAPATRA Designation: Senior Stenographer Reason: Authentication Location: High Court of Orissa, Cuttack Date: 27-Jan-2026 18:31:48