IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.10859 of 2025

M/s.NEELAM RUBBERS,
represented through its
Proprietress-Smt. Rekha Chandak,
Balasore .... ***Petitioner***

Mr.Rudra Prasad Kar, Senior Advocate
assisted by Mr.Madhab Lal Agarwal, Advocate

-versus-

The Chief Commissioner of CT & GST, Odisha, Cuttack .... ***Opposite Parties***

Mr.Sunil Mishra, Standing Counsel,
For State CT & GST)
Mr.Avinash Kedia, Junior Standing Counsel
(for Central GST)

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

ORDER
12.08.2025

Order No.

03. **1.** Assailing the order dated 25th February, 2023 of the Joint Commissioner of Commercial Tax and Goods and Services Tax, CT and GST Circle, Balasore (opposite party No.2) rejecting the application for refund on account of supplies effected to the unit established in Special Economic Zone/Developer in the said Zone relating to tax periods from April, 2018 to March, 2019, the petitioner has come up before this Court invoking the provisions under Articles 226 and 227 of the Constitution of India.

2. The petitioner, proprietorship concern, registered under the Central Goods and Services Tax Act, 2017/the Odisha Goods and Services Tax Act, 2017 (collectively, "GST Act") having supplied goods under the provisions of Integrated Goods and Services Tax Act, 2017 to the recipients situated within the Special Economic Zone, claimed refund in terms of Section 16 read with Section 54 of the GST Act by way of application in Form GST RFD-01. For the said purpose, it furnished certificate issued by a Chartered Accountant, as required under Section 16 read with Rule 89 of the GST Rules, 2017.

3. A show cause notice in Form GST RFD-08 dated 23rd February, 2023 has come to be issued directing the petitioner to file reply by 26th February, 2023.

4. Since the petitioner was diagnosed 'Carcinoma left lower alveolus post op" and was under medical treatment in Sum Ultimate Hospital, Bhubaneswar from 17th February, 2023 till 10th May, 2023, he could not take steps by 26th February, 2023. Due to the circumstances beyond his control prevented him from taking effective steps and thereby, the reply within the period stipulated in the show cause notice could not be complied with. Therefore, the petitioner seeks indulgence of this Court in the matter to set aside the *ex parte* order dated 25th February, 2023 rejecting the application for refund.

4.1. Mr. Rudra Prasad Kar, learned Senior Advocate contended that the circumstances during the said period was such that the petitioner could not furnish reply. Given a chance to explain the merit of the matter, the petitioner could have shown the genuineness of the transactions and the refund ought to have been allowed in its favour.

5. On the previous occasion, *i.e.*, 9th May, 2025 when the matter was taken up on the basis of the aforesaid facts, as presented by Mr. Rudra Prasad Kar, learned Senior Advocate appearing for the petitioner, Mr. Sunil Mishra, learned Standing Counsel for State CT and GST and Mr. Avinash Kedia, learned Junior Standing Counsel for Central GST sought for accommodation to obtain instructions in this regard. Accordingly, the matter was adjourned.

5.1. When the matter is taken up today, Mr. Sunil Mishra, learned Standing Counsel, on instruction, submitted that there is no infirmity in passing the *ex parte* order as the petitioner failed to respond to the notice within the period stipulated. However, he conceded to the fact of ill-health of the petitioner which was not within the knowledge of the authority concerned while passing the impugned order dated 25th February, 2023. The authority having not received any reply by 26th February, 2023 had no other option but to pass the *ex parte* order.

6. Considered the submissions of the learned counsel for respective parties and perused the record.

7. This Court was taken to the medical certificates enclosed to the writ petition (Annexure-6 series), wherefrom it would be manifested that the petitioner was under medical treatment for ‘Carcinoma left lower alveolus post op” during 17th February, 2023 to 10th May, 2023. From the said documents it is apparent that the circumstances prevented the petitioner from taking steps by 26th February, 2023, as a result of which on 25th February, 2023 the application has been rejected by the authority.

8. On the conceded position as aforesaid, this Court perceiving prejudice caused to the petitioner for not being granted opportunity to present its case before the authority concerned due to health condition, cannot, therefore, sustain the order dated 25th February, 2023. Hence, said order is, hereby, set aside. However, this Court feels it expedient to direct as follows:

I. The petitioner shall appear before the authority concerned on or before 26th August, 2025 along with books of accounts, tax invoices, copies of returns and/or any other documents which it considers necessary for the purpose of justifying its claim for refund and shall also produce such other documents as may be called for by the authority concerned.

II. On such appearance, the authority concerned shall undertake verification forthwith or specify further date(s). After affording reasonable opportunity, the veracity of claim for refund shall be adjudicated upon by passing appropriate order.

III. The entire process shall be completed on or before 15th September, 2025. Needless to observe that the petitioner shall cooperate with the authority concerned and shall not seek any unnecessary adjournments.

9. With the aforesaid observations and direction, the writ petition stands disposed of. All pending Interlocutory Application (s), if any, shall stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

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