



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.17606 of 2025

Samita Panda

«

Petition

Ms. Kananbala Roy Choudhury,

-versus-

The Commissioner of CT & GS « Opposite Par and  
another

Mr. Seshadeb Das, Additio  
Counsel for CT & GST Depa

**CORAM:**

**THE HON'BLE THE CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN**

**ORDER**

**Order No.**

**16.07.2025**

01. This matter is taken up through Hybrid mode.

2. Assailing orders dated 09.06.2025 and e 10.06.2025  
Annexures-4 and 5 respectively passed by the State Tax  
Jajpur Circle, Jajpur-Opposite Party No.2, whereby and v  
an application under Section 128A and a petition under S



the Odisha Goods and Services Tax Act, 2017/the Central Goods and Services Tax Act, 2017 are rejected, the Petitioner has a Court way of filing this writ petition under Articles 226 & 227 of the Constitution of India with the prayer(s):

Application and issue;

Page 1 of 6

- 1) Rule NISI calling upon the opp. Parties to show to why the impugned order under Annexure-4 & 5 not be set aside/quashed;
- 2) And if the O.P. fail to show cause or show ins cause make the said Rule absolute by issuing a W the nature of Certiorari quashing the impu Annexure-4 & 5;
- 3) A writ in the nature of Mandamus directing the Parties to allow the petitioner to file the bill for the tax period 2017-18.
- 4) Issue any appropriate Writ(s)/Direction(s)/Or deemed fit in the facts and circumstances of the And for this act of kindness, the petitioner as in V

3. The Petitioner having faced assessment under Section Central Goods and Services Tax Act, 2017 and the Odisha Goods and services act (collectively be called "the GST Act")

respect to transactions effected during the 2017-18 periods from April, 2017, to March, 2018, an order dated 16.02.2022 was passed by Tax Officer-Additional CT & GST Officer, CT & GST Circle, Jajpur Road raising a demand to the tune of Rs. 12,87,000/-



, 97,356/tax, interest and penalty

However, the figure relating to

V K R Z Q W R E H <sup>3</sup> ] H U R L Q W K

4. In order to avail the benefit of waiver soof interestlevied and imposed in said assessment order f untnder Sectio GST Act, the Petitioner has filed an application in Form as prescribed under Rule 164(1) of the Central Goods an

Tax Rules, 2017 and the Odisha Goods and eSse,r vi2c0e1s7 Tax Rul

F R O O H F W Lt hYe H GOS T\ R u ' i nvoking provisions of lEesH F D O O H G <sup>3</sup>

Section 128A.

5. The State Tax Officer, CT & GST, Jajpur Circle- AAuthority upon issuing notice in Form GST SPL- 03 on 01. clarifying error being crept in during entarmyo unitn the syst R I W D [ K D V E H H Q U H I O H F WL HW GH G D V the amount of tax, which is basic requi rbemeennetfi tf oro f availi waiver of interest and penalty as envisaged ournddeerr Section in Form GST SPL-07, dated 09.06.2025 has bee nt hies sued reje application in Form GST SPL-01.

6. The Petitioner filed a petition under Section 161 offor rectification of said order claiming tthoa t pasyi nce no t<sup>3</sup>ax 'is reflected in the webportal, the Assessing Authas required to consider the



application for waiver of interest and penalty under Section 128A of the CGST Act. Such petition was rejected by the order dated 10.06.2025.

7. Ms. Kananbala Roy Choudhury, learned counsel appearing for the Petitioner, having taken this Court into consideration the electronic Li vide Annexure-3, submitted by the Petitioner, which shows interest and penalty. Therefore, the mistake on the part of the Petitioner, the application under Section 128A could not have been rejected, and the Department ought to have considered waiver of interest and penalty.

7.1. She further submitted that the authority has committed an error being committed by the Department in issuing Show Cause Notice in Form GST SPL-03 dated 01.05.2025. rectification petition under Section 161 of the said Act been allowed; having not done so, the writ petition is allowed by directing the authority to exercise its powers under Section 128A of the GST Act in proper perspective.

8. Mr. Seshadeb Das, learned Additional Standing Counsel appearing for the Commercial Tax and Goods Services Department-Opposite Parties vehemently opposing the prayer advanced by the learned counsel appearing for the Petitioner for dismissal of the instant writ petition inasmuch as, error in reflecting the



demand correctly in the liab  
Nonetheless, the Petitioner was well aware of the  
dema interest and penalty as raised by way of r  
easoned or 16.02.2022 pertaining to the Financial  
Yeeafro re2,0 17-18. instead of finding fault with  
the systeomn eurp dsahtoeusl,d the pet have  
complied with the statutory requiremeln tb einne  
foirtd er to under Section 128A as per the demand  
raised in the assessm

- 8.1. Having taken to assessment order passevdi duen de  
SectiAnnexure-1, he submitted that the Assessinug  
iAdultyh ority ve depicted the component of ta  
(Rs.2,30,358/-), )i nterest ( and penalt  
(Rs.23,036/-) in total Rs.3,97,356/-.

precondition of discharge of liability to waavradis  
ttahxe in ord benefit of the waiver of interest and penalt  
raised unde the GST Act being not satisfied, the  
rejectFioormn of applic GST SPL-02 by order in Form GS  
SPL-07, dated 09.06. pursuant to notice in Form GST SPL  
04, datend 13.05.202 consonance with the statutory  
framework. Since the Petiti yet been deposited such amount  
of tax refslmееcнтte d in the order under Section 73 of the  
GST Act, refusanld to waive penalty by the authority i  
appropriate, whiocnh. n eeds no i

9. Heard Ms. Kananbala Roy Choudhury, learned  
couappearing for the Petitioner and Mr. Seshadeb



Das, learned Standing Counsel appearing for the CT & GST Department-Op Parties.

10. Considered the submissions made by the learned counsel parties and after going through the record submitted by the parties, it is observed that the assessment order under Section 73 pertaining to Financial Year 2017-18 (July, 2017 to March, 2018) demand to waive interest and penalty has been raised.

10.1. It is conceded by the learned counsel that the fact that the Petitioner (CGST & OGSST) has been reflected in the summary sheet assessment order and does not dispute that the Petitioner was unaware of such a fact. It is also not disputed that the Petitioner also approached the authority concerned within the period under the statute.

10.2. At the stage of hearing, learned counsel appearing for the Petitioner conceded that the Petitioner is willing to liability towards tax in order to avail the benefit under

11. Learned Additional Standing Counsel appearing for the Opposite Parties would submit that in their view, the Petitioner should pay such amount of tax within a period stipulated by the law, and the authority may consider the application under Section 128 of the GST Act for waiver of interest and penalty.



12. Faced with aforesaid situation, this Court in its order dated 09.06.2025 and the order dated 10.06.2025 passed under Section 161 of the GST Act rejecting petition for rectification and directs the Petitioner to deposit the amount of the assessment order dated 16.02.2022 within a week.

In the event of such deposit being made accordingly, the Additional CT & GST Officer, CT & GST Circle, Bhubaneswar, shall consider the application for waiver of interest submitted under Section 128A of the GST Act afresh on merits.

13. Needless to observe that in the event of failure on the part of the Petitioner to carry out the direction as aforesaid, the order dated 09.06.2025 passed under Section 128A and the order dated 10.06.2025 passed under Section 161 of the GST Act shall remain unaltered and the Opposite Parties shall be at liberty to proceed in accordance with law.

14. With the aforesaid observation and directions, the pending Interlocutory Application(s), if any, shall stand dismissed. There shall be no order as to costs.

(Harish Tandon) Chief  
Justice

<https://taxrealtime.in>



(M.S. Raman)  
Judge

MRS/Laxmikant