



2025:CGHC:251

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 212 of 2024

1 - M/s Lucent Iron And Steel Traders A Proprietorship Firm, Principal Place Of Business At Block-2 Mig - 202, Chilpy Heights, Shankar Nagar, Bhawana Nagar, Raipur, Chhattisgarh - 492007, Through Proprietor Mrs. Meenu Lata Prajapati, W/o Ramlakhan Prajapati Aged About 36 Years Presently Residing At 128/20 Y Block Kidwai Nagar Near Rbi Colony Kidwai Nagar, Kanpur, Up-208011.

... **Petitioner**

versus

1 - Union Of India Through The Secretary, Ministry Of Finance Department Of Revenue North Block, New Delhi.

2 - The Principal / Joint Commissioner Cgst And Central Excise, Tikrapara, Dhamtari Road, Raipur, District Raipur, Chhattisgarh.

... **Respondents**

For Petitioner	:	Mr. Nikhil Tripathi, Adv.
For Respondent No. 1	:	Mr. Ramakant Mishra, Dy. Solicitor General
For Respondent No. 2	:	Mr. Maneesh Sharma, Adv.

(Hon'ble Mr. Naresh Kumar Chandravanshi, J)

Order on Board

02/01/2025

- The petitioner has preferred this writ petition under Article 226 of the Constitution of India challenging the order (Annexure P-2) dated 26-4-2024 passed by the respondent No. 2/ Joint Commissioner, Central Goods and Service Tax and Central Excise Tax, Raipur (hereinafter, Goods and Service Tax would be referred to as 'GST') seeking following reliefs :-

"10.1 This Hon'ble court may kindly be pleased to issue appropriate writ/order/direction and thereby

quash the impugned order (Ann. P/2) passed by the Joint Commissioner, GST Department, Chhattisgarh.

10.2 This Hon'ble court may kindly be pleased to issue appropriate writ/order/direction and thereby directing the Respondents to allow rectification of the Petitioner's GSTR-3B return for October 2018 and waive the erroneous liability of Rs. 5,00,24,576/-, including interest and penalties.

10.3 This Hon'ble court may kindly be pleased to issue appropriate writ/order/direction and thereby hold that the Petitioner is not liable to pay penalties of Rs. 50,02,458/ under Section 73(9) and Rs. 25,000/- under Section 125 of the CGST Act, 2017.

10.4 This Hon'ble court may kindly be pleased to issue appropriate writ/order/direction and thereby quash the impugned order dated 26-04-2024 issued by the Respondent No. 2 and further allow rectification of the GSTR-3B return for October 2018.

10.5 Any other order or direction this Hon'ble Court deems fit in the interest of justice.”

2. Learned counsel for the petitioner would submit that, petitioner M/s. Lucent Iron and Steel Traders, is engaged in the business of trading steel products. In October, 2018, due to an inadvertent error committed by the petitioner's consultant, data related to another company M/s. Lucent Steel Pvt. Ltd. was mistakenly filed in the GSTR-3B return of the petitioner for the month of October, 2018. This mistake resulted in the incorrect declaration of taxable supplies and the wrongful availment of Input Tax Credit (ITC) amounting to Rs. 5,02,39,154/-. Upon realizing the mistake, the petitioner promptly informed the jurisdictional Range Officers of both the Central and State GST authorities on 30-

11-2018 (Annexure P-5) about above mistake. Despite multiple representations and submissions, explaining the mistake and demonstrating that there was no intent to commit fraud or suppress facts, the petitioner's request for rectification was not accepted by the authorities. Subsequently, the GST Department issued a Show Cause Notice under Section 73 of the Central Goods and Service Tax Act, 2017 (henceforth, referred to as 'CGST Act') alleging the wrongful availment of Income Tax Credit and proposing recovery along with interest and penalties. He further submits that, alternative remedy of appeal before the CGST Appellate Tribunal is inadequate and ineffective as it requires pre-deposit of 10% of the disputed tax amount. Therefore, this petition may be admitted for hearing.

3. Per contra, learned counsel appearing for the respondents would submit that, this petition has been preferred against the order (Annexure P-2) dated 26-4-2024 passed by the respondent No. 2/ Joint Commissioner, Central GST and Central Excise Tax, Raipur, which has been passed under Section 73 of the CGST Act. The original order passed by the Joint Commissioner, CGST and Central Excise Act is appellable under Section 107 of the CGST Act before the Appellate Tribunal. The petitioner was issued a Show Cause Notice dated 27-12-2023. Since there is efficacious alternative remedy available to the petitioner under the CGST Act, therefore, this writ petition is not maintainable. In support of his contention, learned counsel for respondent No. 2 relied upon a decision of Hon'ble Supreme Court in the case of **Assistant Commissioner of State Tax and others Vs. Commercial Steel Limited [2022 (16) SCC 447]**.

4. Heard learned counsel for the parties and perused the material available on record.
5. The Central Goods and Service Tax Act, 2017 and Chhattisgarh Goods and Service Tax Act, 2017 have been enacted to regulate recovery of goods and service taxes. Section 107 of the CGST Act provides the provision to file appeal before the appropriate authority. If the Act provides to deposit any amount prior to filing of appeal, on this count, provisions of the CGST Act to file appeal cannot be bypassed.
6. In the matter of **Assistant Commissioner of State Tax and others** (supra), Hon'ble Supreme Court has held in para 10 and 11 as under :-

“10. The respondent had a statutory remedy under Section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternative remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:

- (i) a breach of fundamental rights;
- (ii) a violation of the principles of natural justice;
- (iii) an excess of jurisdiction; or
- (iv) a challenge to the vires of the statute or delegated legislation.

11. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate

authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent.”

7. In instant case, none of the above exceptions has been established. There is no violation of fundamental rights or the principles of natural justice in the instant matter. The petitioner was issued a show cause notice dated 27-12-2023, which is reflected from Annexure P-8, which is the reply filed by the petitioner. Para 6.8 of the impugned order also reveals that, petitioner has not responded to the letter/email issued by the jurisdictional Range officer, he also did not respond to the DRC-01A issued by the department. On due consideration, none of the above exceptions was found established.
8. Having considered the aforesaid facts and issue involved in instant case, since there is alternative statutory remedy available to the petitioner for redressal of its grievance, which has not been availed by it, in the light of the observation made by Hon'ble Supreme Court in the case of **Assistant Commissioner of State Tax and others (supra)**, I do not feel inclined to entertain instant writ petition invoking extraordinary jurisdiction of this Court, therefore, this petition is disposed of at this stage. However, liberty is left with the petitioner to take recourse of law against the impugned order.

Sd/-
(Naresh Kumar Chandravanshi)
JUDGE