



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P..(C) No. 35262 of 2022

M/s. Chintamaniswar Constructions Pvt. Ltd., Bhubaneswar

Petitioner

*Mr. R.P. Kar, Sr. Advocate along with
Mr. A.K. Dash, Advocate*

Vs.

The Chairperson, Central Board of Indirect Taxes & Others

Opposite Parties

*Mr. A. Kedia, Jr. Standing Counsel
(O.P. Nos. 1, 3 to 6)*

CORAM:

**DR. JUSTICE B.R. SARANGI
MR. JUSTICE G. SATAPATHY**

ORDER
01.07.2024

Order No.
03.

This matter is taken up by hybrid mode.

2. The Petitioner before this Court seeks a direction to the Opposite Parties to permit the Petitioner to rectify the GST Return filed for the period 2020-21 and 2021-22 from B2B instead of B2C as was wrongly filed under GSTR-1 in order to get the Input Tax Credit (ITC) benefit by M/s. The Odisha Police Housing and Welfare Corporation Ltd. (O.P. No.7), the principal contractor.

3. Admittedly, the last date by which the rectification should have been carried out were 20th October, 2021 and 30th November, 2022 respectively.

4. It is the case of the Petitioner that the error came to be noticed after the OP.No.7 held up the legitimate running bill amount of the Petitioner by informing it about the above error on 1st August, 2022. It is the case of the Petitioner that thereafter it has been making requests to the Opposite Parties to permit it to correct the GSTR-1 Forms but to no avail.



5. The stand taken by the Opposite Parties is that once the deadline for rectification of the Forms was crossed, then no further indulgence could be granted to the Petitioner.

6. The fact remains that by permitting the Petitioner to rectify the above error, there will be no loss whatsoever caused to the Opposite Parties. It is not as if that there will be any escapement of tax. This is only about the ITC benefit which in any event has to be given to the Petitioner. On the contrary, if it is not permitted, then the Petitioner will unnecessarily be prejudiced.

7. In similar circumstances, the Madras High Court in its order dated 6th October, 2020 in Writ Petition No.29676 of 2019 (*M/s. SUN DYE CHEM v. The Assistant Commissioner ST*) accepted the plea of the Petitioner and directed that the Petitioner in that case should be permitted to file the corrected form.

8. The Court permits the Petitioner to resubmit the corrected Form-GSTR-1 from B2C to B2B for the aforementioned periods 2020-21 and 2021-22 and to enable the Petitioner to do so a direction is issued to the Opposite Parties to receive it manually. Once the corrected Forms are received manually, the Department will facilitate the uploading of those details in the web portal. The directions be carried out within a period of four weeks.

9. The writ petition is disposed of with the above directions.

10. An urgent certified copy of this order be issued as per rules.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE