(2022) 11 OHC CK 0135

In the Orissa High Court

Case No : Writ Petition (C) No.1160 Of 2022

Bishnu Dev Oram APPELLANT

Vs

Superintendent Regali I Range, (Sambalpur I Division) & Another RESPONDENT

Date of Decision : 16-11-2022

Acts Referred:

Citation : (2022) 11 OHC CK 0135

Hon'ble Judges : S. Muralidhar, CJ;M.S. Raman, J

Bench : Division Bench

Advocate : Bhabani Prasad Mohanty, Avinash Kedia

Final Decision : Disposed Of

Judgement

1. A memo of appearance has been filed by Mr. Avinash Kedia, learned Junior Standing Counsel for CGST in Court, which is taken on record.

2. Issue notice. Mr. Avinash Kedia, learned Junior Standing Counsel for the CGST accepts notice on behalf of the Opposite Parties.

3. Both the parties agree that issue raised in the present petition is covered in favour of the Petitioner by the judgment dated 13th October, 2022 passed in W.P. (C) No. 7728 of 2022 (M/s. Durga Raman Patnaik vs. Additional Commissioner of GST (Appeals) (First Appellate Authority). Accordingly, the following directions are issued in line with those issued in para 13 of the said judgment:-

i. The petitioner is permitted to file returns for the period prior to the cancellation of registration, if such returns have not already been filed, together with tax defaulted which has not been paid prior to cancellation along with interest for such belated payment of tax and statutory payments and fee fixed for belated filing of returns for the defaulted period under the provisions of the Act, within a period of sixty days (60) days from the date of receipt of a copy of this Judgment, if it has not been already paid.

ii. It is made clear that such payment of tax/interest/penalty/ fine/fee etc. shall not be allowed to be made or adjusted from and out of any Input Tax Credit which may be lying unutilized or unclaimed in the hands of the petitioner.

iii. On payment of tax, interest, penalty and late fee, if any, and uploading of returns, as conceded by both the parties, the petitioner is at liberty to file the application for revocation of cancellation of registration within a period of 7 days therefrom along with petition for condonation of delay. In such eventuality, the proper officer/registering authority/ competent authority shall consider the same favourably by condoning the delay and revoke the cancellation of registration.

iv. The opposite parties shall take suitable steps by instructing GST Network, New Delhi or any other agency responsible for maintaining the Web Portal to make suitable changes in the architecture of the GST Web Portal to enable the petitioner to file his returns and to pay the tax/interest/penalty/fine/fee and it is to be ensured by the department that there shall be no technical glitch during the period specified herein.

v. The above exercise shall be completed by the opposite parties within a period of ninety (90) days from the date of receipt of a copy of this Judgment.

vi. The Authority concerned is at liberty to verify the veracity of the claim(s) made in the returns so furnished and take appropriate steps in accordance with law after affording reasonable opportunity of hearing to the petitioner.

4. The writ petition is disposed of with the above terms.

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