(2023) 03 OHC CK 0205

In the Orissa High Court

Case No : OTAPL No.03 Of 2021

M/s. Rungta Mines Ltd — APPELLANT

Vs

Commissioner Of Central Goods And Service Tax, Central Excise And Customs, Rourkela — RESPONDENT

Date of Decision : 27-03-2023

Acts Referred:
Constitution of India, 1950 — Article 226, 227
Central Excise Act, 1944 — Section 35G
Limitation Act, 1963 — Section 14

Citation : (2023) 03 OHC CK 0205

Hon'ble Judges : S. Talapatra, J;Savitri Ratho, J

Bench : Division Bench

Advocate : K. Kurmy, S. Mishra

Final Decision : Disposed Of

Judgement

I.A. No.06 of 2021

1. This matter is taken up through hybrid mode.

2. Heard Mr. K. Kurmy, learned counsel appearing for the applicant and also Mr. S. Mishra, learned Senior Standing Counsel appearing for the Opposite Party.

3. This is an application for condonation of delay of 1741 days in preferring the appeal under Section 35G of the Central Excise Act, 1944 against the order dated 29.02.2016 read with Corrigendum dated 08.03.2016 delivered in the appeal bearing No.FO/75216-75220/2016.

4. It appears from the averments made in this application that the applicant had wrongly filed one writ petition under Article 226/227 of the Constitution of India against the said impugned order, despite there being an appellate provision. This court by the order dated 01.03.2021 had disposed of the writ petition having observed as follows:

"Learned counsel for the Petitioner seeks to leave to withdraw this petition, with liberty to file appeal in accordance with law.

The writ petition is dismissed as withdrawn with liberty as prayed for."

5. Mr. Kurmy, learned counsel has submitted that, apart from the above delay caused for approaching a wrong forum [Section 14 of the Limitation Act, 1963] there is no delay in filing the appeal.

6. Mr. Mishra, learned Senior Standing Counsel has not opposed the prayer for condonation of delay. In our considered view, the above delay is liable to be condoned. It is condoned accordingly.

7. In the result, this application stands allowed and disposed of.

OTAPL No.03 of 2021

1. In view of the order passed today in I.A. No.06 of 2021, this appeal will be taken up for consideration.

2. Let the matter be listed on 18th April, 2023.

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