



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22850 of 2024

M/s. Ganni Ajay Dora, Cuttack Petitioner

Represented By Adv. –
Mrs. Z.M. Wallace, Advocate

-versus-

Chief Commissioner of CT and Opposite Parties
GST, Cuttack and others

Represented By Adv. –
Mr. S. Das, Addl. Standing Counsel
Mr. A. Kedia, Junior Standing Counsel

CORAM:
THE HON'BLE MR. JUSTICE ARINDAM SINHA
AND
THE HON'BLE MR. JUSTICE M.S. SAHOO

ORDER
29.10.2024

Order No.
02.

1. Mrs. Wallace, learned advocate appears on behalf of petitioner and submits, additional affidavit of her client was filed pursuant to leave granted on order dated 27th September, 2024. Copies be served.



2. Petitioner's case is, inter alia, he could not respond to the notices for prosecuting his appeal because he was unwell. He being a handicapped person, was thus prevented. Accordingly, he seeks interference by restoration of the appeal, dealt with on impugned order dated 24th January, 2023 made by the first appellate authority. Mrs. Wallace submits, if given the opportunity her client believes he will be able to defend the allegation regarding liability of unpaid tax and consequent penalty imposed by impugned order.

3. Mr. Das, learned advocate, Additional Standing Counsel appears on behalf of State-revenue and on query from Court submits, medical documents disclosed in the affidavit go to show that at the time the notices were received by petitioner, he was under treatment. Mr. Kedia, learned advocate, Junior Standing Counsel appears on behalf of opposite party no.4.

4. We reproduce below a passage from paragraph-3 in impugned order.

“Considering the grounds of appeal as filed by the Appellant, notice for personal hearing vide notice number ZD211222001568Z dated 03.12.2022 fixing date of personal hearing to 12.12.2022 was issued to the taxpayer. On 12.12.2022, the tax payer did not appear for which another notice was issued vide this office Notice



No.ZD2112220070295 dated 13.12.2022 fixing the date of hearing to 19.12.2022. On 19.12.2022, the tax payer did not appear for hearing. So, another notice bearing No.ZD2101230008841 dt.04.01.2023 was issued to the tax payer fixing the date of hearing to 09.01.2023. On 09.01.2023, neither the tax payer nor the authorized representative of the tax payer appeared. Hence, I am constrained to dispose of the case on the materials available on the appeal record.”

Considering petitioner was unwell and under medical treatment at the time notices referred to in impugned order regarding the appeal were served upon him, we are inclined to interfere. Impugned order is set aside and quashed only on the ground that petitioner appears to have been prevented from prosecuting his appeal.

5. Petitioner will forthwith communicate website copy of this order on duly applying for certified copy. The communication is to be made to opposite party no.2. The communication must be made by 8th November, 2024. Said opposite party will fix a date for personal hearing. It is made clear, on the date fixed if petitioner does not prosecute the appeal by himself or through his authorized representative, impugned order will stand automatically restored. Otherwise, said opposite party, upon hearing petitioner, will pass fresh order.



6. The writ petition is disposed of.

(Arindam Sinha)
Judge

(M.S. Sahoo)
Judge

Sks