

**AFR**



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.28012 of 2024**  
(Through Hybrid Mode)

*Narayan Sahu*

....

*Petitioner*

*-versus-*

*Union of India and others*

....

*Opposite Parties*

**Learned advocates appeared in the case:**

**For petitioner** : Mr. Sameer Gupta, Advocate

**For opposite parties** : Mr. Sunil Mishra, Advocate  
(Standing Counsel)

**CORAM:**

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

**J U D G M E N T**

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**Date of hearing and judgment : 26<sup>th</sup> November, 2024**  
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**ARINDAM SINHA, J.**

1. Mr. Gupta, learned advocate virtually appears on behalf of petitioner. He submits, impugned is order dated 26<sup>th</sup> September, 2024 said to be demand of tax and penalty, by which total of almost ₹41,00,000/- (forty one lakhs) has been demanded. The notice stood



issued by the proper officer, who is Assistant Commissioner of State Tax. He submits, the authority lacked the jurisdiction and power to issue the notice.

2. He draws attention to section 4 in Integrated Goods and Services Tax Act, 2017. The provision is reproduced below.

*“4. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.- Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify.”*

He submits, the cross authorization is vague inasmuch as subsequent notifications have not been made delineating jurisdictions and functions.

3. He draws attention to disclosures in the writ petition to demonstrate that the Council had proposed delineation of the jurisdictions and functions by suggesting both, provisions in the Act



as well as notifications to be made thereunder. On query from Court he submits, the Act does not contain the suggested provisions nor the notifications were made. He reiterates, the Council was aware that this would lead to confusion for and hardship to the dealers.

4. On Mr. Mishra, learned advocate, Standing Counsel having had interjected to submit petitioner did not have locus, Mr. Gupta relies on circular dated 31<sup>st</sup> December, 2018 issued by Central Board of Indirect Taxes and Customs, paragraph-6, being a question on who will be considered as owner of the goods for the purposes of section 129(1) of Central Goods and Services Tax Act, 2017. He demonstrates the answer to be either the consignor or the consignee should be deemed to be the owner. His client is consignee and therefore deemed owner of the goods detained. He seeks interference.

5. Mr. Mishra hands up notifications dated 24<sup>th</sup> June and 25<sup>th</sup> July, both of year, 2017. He submits, thereby there was clear authorization of proper officers under Odisha Goods and Services Tax Act, 2017. The two notifications read together leaves no room for petitioner to contend that impugned demand suffers lack of



jurisdiction. There be no interference and the writ petition dismissed. Mr. Gupta submits in reply, the notifications stand issued by the State authority. He reiterates, no notification stands issued under the IGST Act.

6. Provision in section 4 of IGST Act is cross authorization, inter alia, of officers of State Tax. Before us there is no dispute that there has been aforesaid notifications for appointment of proper officers and assignment of powers and duties to them as officers of State Tax. For purposes of the IGST Act, the empowering cross authorization provision says that inter alia, officers of State Tax are authorized to be proper officers for the purposes of that Act. The authorization is subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification specify. It is clear that there has been no notification limiting authority of cross authorized officers by way of exception or condition. In the circumstances, the appointment and powers of officers of State Tax, as proper officers will, under the cross authorization provision, empower them to correspondingly act under the IGST Act.



7. Second contention of petitioner is that it is deemed to be owner of the consignment being consignee under paragraph-6 of said circular dated 31<sup>st</sup> December, 2018. The prerogative to deem, as appears from paragraph-6, is with revenue.

8. We do not find reason to interfere. The writ petition is dismissed.

*(Arindam Sinha)*  
*Judge*

*(M.S. Sahoo)*  
*Judge*

*Prasant*

Signature Not Verified

Digitally Signed  
Signed by: PRASANT KUMAR SAHOO  
Designation: PERSONAL ASSISTANT  
Reason: Authentication  
Location: Orissa High Court  
Date: 26-Nov-2024 18:49:29

