

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 18216 of 2017

M/s. Shiva Jyoti Construction ***Petitioner***

Mr. Jagamohan Pattanaik, Advocate
-versus-

The Chairperson, Central Board of ***Opposite Parties***
Excise & Customs and others

Mr. Subash Chandra Mohanty, Senior Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

ORDER
12.01.2023

Order No.

07. 1. 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 September, 2017 and March 2018 in Form-B2B instead of B2C as was wrongly filed under GSTR-1 in order to get the Input Tax Credit (ITC) benefit by M/s. Odisha Construction Corporation Limited (OCCL), the principal contractor.
2. Admittedly, the last date of filing the return was 31st March, 2019 and the date by which the rectification should have been carried out was 13th April, 2019.
3. It is the case of the Petitioner that the error came to be noticed after the OCCL held up the legitimate running bill amount of the Petitioner by informing it about the above error on 21st January, 2020. 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.

4. 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.

5. 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.

6. 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.

7. For the aforementioned reasons, the letters of rejection dated 19th June and 23rd September, 2020 are hereby set aside. The Court permits the Petitioner to resubmit the corrected Form-B2B under GSTR-1 for the aforementioned periods September, 2017 and March, 2018 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.

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

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

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S. Behera

