

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 2471 of 2026

M/s Sujata Udit Builders Private Limited, a Company Registered under the provisions of the Indian Companies Act 1956/2013, having its office at Williams Town, Deoghar, P.O. & P.S. Deoghar, District Deoghar Jharkhand, PIN- 814112, through its Director, Mr. Shankar Kumar Kunwar, aged about 63 years, son of Bhola Prasad Kunwar resident of Tiwari Chowk, Deoghar College Road, P.O.- Deoghar P.S.- Deoghar, District -Deoghar, Jharkhand 814 112.

... .. Petitioner

Versus

1. Chief Commissioner, Central Goods and Service Taxes and Central Excise, Ranchi Zone, Patna, having its office at 3rd Floor, Central Revenue Building, Birchand Patel Path, P.O. & P.S.- Birchand Patel Path, District - Patna, PIN-800001.
2. Principal Commissioner, Central Goods and Service Taxes, Ranchi, having its office at C.R. Building, Mahatma Gandhi Road, P.O.- GPO, P.S.- Chutia, District- Ranchi, Jharkhand, PIN-834001.
3. Superintendent (Adjudication), Central Goods and Service Taxes, Ranchi, having its office at C.R. Building, Mahatma Gandhi Road, P.O.- GPO, P.S.- Chutia, District- Ranchi, Jharkhand, PIN-834001.

... .. Respondents

CORAM : HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr M. S. Mittal, Sr. Advocate
Mr Salona Mittal, Advocate
Ms Lavanya Gadodia Mittal, Advocate
Mr Yashdeep Kanhal, Advocate
Mr Arya Vardhan Singh, Advocate
Ms Divya Choudhary, Advocate
Mr Sourav K. Jha, Advocate

For the Respondents : Mr Amit Kumar, Sr. SC (CGST)
Mr Anurag Vijay, Jr. SC (CGST)

02 /Dated: 22.04.2026

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to the Order-In-Original dated 29.09.2025 *inter alia* on the ground of delayed adjudication.
3. The learned Senior Advocate for the petitioner pointed out that so-called notice in this case was issued on 29.09.2020, but the Order-In-Original has been made only on 29.09.2025. He submitted that such a

delayed adjudication by itself, vitiates that the order-in-original dated 29.09.2025.

4. The learned Senior Advocate referred to the order of the Hon'ble Supreme Court in the case of *Union of India vs. GMR Airport Infrastructure Ltd.* In *Petition for Special Leave to Appeal (C) No. 5392 of 2025* passed on 02.05.2025, and submitted that this Court may admit and keep this petition pending or simply keep this petition pending even without admitting the same because the Hon'ble Supreme Court was looking into the larger issues involved in the matter of challenge to the delayed adjudication or disposal of show cause notices after unreasonable delay.

5. The learned Senior Advocate for the petitioner, by referring to paragraphs 62 and 63 of the writ petition, pointed out that even though an appeal was provided against the Order-In-Original dated 29.09.2025, that would entail making the pre-deposit. He submitted that the petitioner cannot make the pre-deposit, and in proof of the same, an extract of the audited account books of the petitioner company was also enclosed along with the petition.

6. The learned Senior Advocate for the petitioner submitted that, in similar circumstances, several other High Courts have entertained petitions but kept them pending until the disposal of the **GMR Airport Infrastructure Ltd. (Supra)** matter by the Hon'ble Supreme Court.

7. The learned Senior Advocate also submitted that the petitioner's alleged liability relates mainly to Government Construction for which there were exemptions. By ignoring the exemptions, liability has been imposed that exceeds jurisdiction. He submitted that the impugned order is vulnerable on several other grounds, not restricted to the issue of delayed adjudication.

He, however, submitted that should the Hon'ble Supreme Court decide against the assessee on the issue of delayed adjudication, the Petitioner would be agreeable to be relegated to the appeal remedy to agitate the other challenges to the impugned order in the original, and an undertaking to this effect could be recorded on behalf of the petitioner.

8. Mr Amit Kumar, learned counsel for the respondents, submitted that there was no merit in the petitioner's contentions. In any event, the petitioner has an alternative and efficacious remedy, which cannot be bypassed. He submitted that in similar matters, including the case of *M/s Navjeevan Construction Vs. In Union of India & Anr.*, W.P.(T) No. 2462 of 2026, this Court declined to entertain the writ petition and directed the petitioner to avail of the alternative remedy. He submitted that this is the course of action which should be followed in this matter.

9. The rival contentions now fall for our determination.

10. Admittedly, in this case, the Order-In-Original is appealable. Since the petitioner has an alternate remedy provided by the Statute itself, ordinarily, the petitioner cannot be allowed to bypass the statutory regime and insist upon the adjudication of several issues raised to challenge the Order-In-Original directly before this Court.

11. The Hon'ble Supreme Court in the case of **GMR Airport Infrastructure Ltd.** (Supra) is considering the larger issue of delayed adjudication and whether, based upon such delay alone, final adjudication orders can be quashed.

12. It is in the above context and after appreciating the submission that almost 250 matters were disposed of by the Tribunal following the judgment of the Delhi High Court holding that delayed adjudication alone is a ground

for quashing the orders-in-original, the Hon'ble Supreme Court made the following observations in paragraphs-8 and 9 of its order dated 02.05.2025:-

“8. He pointed out that almost 250 matters came to be disposed of by the Tribunal following the judgment of the High Court of Delhi.

9. Since we are looking into the larger issues involved in this matter, we may only say that if any matter comes up for hearing before the Tribunal or any of the High Courts on the subject in question, the hearing may be deferred till we take an appropriate call in the matter.”

13. This petition was filed on 11.03.2026, i.e., about 10 months after the Hon'ble Supreme Court's order dated 02.05.2025. The Hon'ble Supreme Court's order extends some protection even to matters before the Tribunal.

14. This petition is yet to be admitted. This petition is not restricted to challenging the Order-In-Original only on the ground of delayed adjudication. Admittedly, several other grounds have been raised.

15. If ultimately, the Hon'ble Supreme Court holds that orders made after unreasonable delay can be quashed on the said ground alone, then perhaps, the petitioner can succeed in this petition. However, if the Hon'ble Supreme Court holds otherwise, then all other issues raised by the petitioner to challenge the Order-In-Original will have to be considered by this Court, which cannot be possible for various reasons. The consideration of all such issues would involve adjudicating several factual matters. This Court, exercising its extraordinary jurisdiction under Article 226 of the Constitution, does not exercise any appellate jurisdiction, but exercises the powers of judicial review.

16. Instead, if the petitioner is relegated to instituting an appeal, the petitioner can raise all issues without being limited to the issue of delayed

adjudication. The appeal would be a more comprehensive remedy rather than a piecemeal or truncated adjudication before this Court. The request for keeping the hearing in abeyance can also be made by the petitioner before the Appellate Authority, based on the Hon'ble Supreme Court's order dated 02.05.2025, if the petitioner is not quite confident of the grounds other than the ground of delayed adjudication.

17. In similar cases, including *M/S Navjeevan Construction (supra)*, we have directed the petitioner to avail of the alternate remedy of appeal. There is no case made out for taking any different view in this matter, simply because the petitioner submits that it is unable to pay the pre-deposit amount.

18. The right to appeal is never an inherent right. The right to appeal is subject to a pre-deposit, and challenges to this requirement have already been rejected. Based upon the audited accounts alone, we cannot accept the petitioner's contention that the petitioner is unable to pay the pre-deposit amount, and to that extent, the alternate remedy is not efficacious. The jurisdiction under Article 226 of the Constitution cannot be exercised to frustrate the statutory regime provided in the Statute.

19. The deviation from the practice of relegating the parties to the alternate remedy, particularly in fiscal matters, is to be exercised sparingly by way of an exception and not as a rule. Therefore, unless an extraordinary case is made out, there is no question of bypassing this practice of exhaustion of alternate remedy by way of self-imposed restriction.

20. In the case of **Oberoi Constructions Ltd. vs Union of India & Others, (2025) 137 GSTR 601**, the Bombay High Court has considered the law on the subject by referring to several decisions of the Hon'ble Supreme Court. Following the reasoning in the said decision, we do not think that the

petitioner has made out an extraordinary case to allow it to bypass the practice of exhaustion of an alternate remedy.

21. The decisions of the various High Courts concern possibly the exercise of discretion. Considering the earlier orders passed by this Court, we decline to entertain this petition and relegate the petitioner to avail of the alternate remedy provided under the law.

22. The decision of the Hon'ble Supreme Court in the case of *J.M. Baxi & Co., Gujarat Vs. Commissioner of Customs, New Kandla and Anr.*, [(2001) 9 SCC 275] turns on the peculiar facts of the case where a demand had been raised merely sixteen years after the amount had become due from the importer on whose behalf the appellant had been acting as an agent. In this case, no such startling facts have come to our notice.

23. Accordingly, we dispose of this petition with liberty to the petitioner to avail of the alternate remedy of appeal. All contentions of all parties, including those based on delayed adjudication, remain open. If the petitioner files an appeal within four weeks from today after complying with all the statutory pre-requisites, then, we direct the Appellate Authority to consider such appeal on its own merit and in accordance with law, without adverting to the issue of limitation.

24. This petition is disposed of with liberty in the above terms. No costs.

(M.S. Sonak, C.J.)

(Rajesh Shankar, J.)

April 22, 2026
Ranjeet / R.Kr.
NAFR
Uploaded on 23.04.2026