



2025:CGHC:61483

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 51 of 2024

1 - M/s Simran Construction (A Proprietorship Firm) Having Its Office At I-9, Steel Yard, Bhaisthan, Raipur (C.G.) Through Its Proprietor, Rajkumar Sihani, Son Of Sundardas Sihani, Aged Around 56 Years, Presently R/o B-58, Wallfort City, Bhatagaon, Ring Road No. 1, Raipur, District Raipur, Chhattisgarh

... Petitioner

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of State Tax (GST), North Block, Sector-19, Atal Nagar, Naya Raipur, Raipur, Commercial Tax, Raipur, Chhattisgarh

2 - Joint Commissioner (Appeals) Of Chhattisgarh State Tax (GST) North Block, Sector-19, Atal Nagar, Naya Raipur, Raipur, Commercial Tax, Raipur, Chhattisgarh

3 - The Assistant Commissioner Chhattisgarh State Tax, Circle-2, Raipur, Chhattisgarh

... Respondents

(Cause title as taken from Case Information System)

For Petitioner : Mr. Hari Agrawal, Advocate and Mr. Prashant Dansena, Advocate

For State-Respondents : Ms. Anuradha Jain, Panel Lawyer.

Hon'ble Shri Justice Naresh Kumar Chandravanshi

Order on Board

17/12/2025

1. Heard.
2. This petition has been preferred by petitioner under Article 226 of the Constitution of India against the order dated 04.07.2023

(Annexure-P/1) passed by the Joint Commissioner (Appeal), State Tax, Raipur (CG) under Section 107 of the Chhattisgarh Goods and Services Tax Act, 2017 (for short “the Act, 2017”) in Appeal Case No. 105/GST/2023 and prayed for the following reliefs:-

- “a. A writ and/or an order in the nature of appropriate writ calling the entire records of the case pertaining to the case of the petitioner.*
- b. A writ and/or an order in the nature of appropriate writ/order do setting aside order no.105/GST/2023 dated 04.07.2023 & the consequent summary of demand issued in GST APL-04 dated 04.07.2023 (**Annexure P-1**) and in effect remand the matter back to the Respondent authorities for taking a decision on claim of transitional credit of the petitioner on the basis of the documents/invoices submitted i.e. after due verification on merits, within a time frame fixed by this Hon’ble Court.*
- c. Cost of the proceedings.*
- d. Any other relief in the discretion of this Hon’ble Court.”*

3. As per the Scheme of the Act, 2017, second appeal is provided before the Goods and Service Tax Appellate Tribunal. It is stated at the Bar that though the Tribunal has been notified in the State of Chhattisgarh, the president or the members have not yet been appointed and therefore, this Writ Petition seeking the relief(s) as stated above has been filed.
4. Learned counsel for the petitioner would submit that the matter in issue has already been decided by this Court in WPT No.91/2021 (M/s Nutan Ispat and Power Pvt. Ltd. vs. State of Chhattisgarh & Ors.) vide order

dated 18.11.2025 and the Co-ordinate Bench of this Court in WPT No.40/2023 (M/s. Divya Steels Vs. State of CG and ors.) and other connected matters vide order dated 09.05.2024. In the said order, it has been observed that as soon as the President or State President enters office of the Goods and Service Tax Appellate Tribunal constituted under the Act, 2017, the petitioner would file an appeal that may be decided in accordance with law on its own merits. He also submits that the Central Board of Indirect Taxes and Customs has issued an order on 03.12.2019 (Order No.09/2019-Central Tax) wherein it has been observed that for the purpose of filing an appeal or application as referred to in sub section (1) or sub section (3) of Section 112 of the Act, 2017, as the case may be, the Appellate Tribunal and its Benches are yet to be constituted in many States as a result of which the said appeal or application could not be filed within time limit. He next submits that for the removal of such difficulties, it has been clarified that for the purpose of calculating, the date on which the order sought to be appealed against is communicated to the person preferring the appeal in sub section (1) of Section 112, the start of three months period shall be considered to be date on which the President or State President, as the case may be, of the Appellate Tribunal after its constitution under Section 109, enters office. Learned counsel lastly submits that after issuance of the said order, limitation has already been extended, further through notification dated 17.09.2025, the date of filing of appeal has also been notified, therefore, this petition may be disposed of and liberty may be granted to invoke the aforesaid provision to file an appeal along with statutory deposit.

5. Learned counsel for the State-respondent would not oppose the aforesaid prayer.
6. Having regard to the submission of learned counsel for the parties, particularly considering the order dated 03.12.2019 issued by the Central Board of Indirect Taxes and Customs, notification dated 17.09.2025 issued by the Ministry of Finance, Department of Revenue (Central), circular dated 11.07.2024 issued by the Government of India, Ministry of Finance, Department of Revenue (Central) and also considering the order passed by this Court and the Co-ordinate Bench in aforesaid cases, this Court finds it appropriate to direct that as soon as the President or State President enters the office of Goods and Service Tax Appellate Tribunal constituted under the Act, 2017, the petitioner may invoke the aforesaid provision for filing an appeal after statutory deposit. On such appeal being filed, the concerned Authority shall decide the same strictly in accordance with law. The statutory stay as provided under Section 112 (9) of the Act, 2017 would remain in operation till the decision of said appeal.
7. It is made clear that if the appeal is not filed within the prescribed period of limitation, the State would be at liberty to proceed against the petitioner for recovery of remaining tax, interest and penalty, if any, in accordance with law.
8. It is also made clear that if the amount required to file an appeal is not deposited by the petitioner within a period of 30 days from the date of this order, in the light of the Circular dated 11.07.2024, this order would lose its efficacy. However, learned counsel for the petitioner submits that the petitioner has already deposited the amount of statutory deposit, as mandated under Section 112 (8) of the Act, 2017.

9. With the aforesaid observations and directions, this Petition stands **disposed of.**
10. Pending interlocutory application(s), if any, also stands disposed of. No order as to cost(s).

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Rukhsar