

GIB/OD/ANURAG SURI/23.03.2021/HC-217

High Court Category : AVAILMENT OF ITC

State : Odisha

Order No.: GIB/OD/ANURAG SURI/23.03.2021/HC-217

Name of Entry :
ANURAG SURI

Date : 23-03-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

In this case the applicant M/s. Sai Marketing which is engaged in trading of iron and scraps. In the present petition the Petitioner has questioned the show cause notice issued by Opposite Party No.3 on 23rd July, 2019, the orders dated 5th November, 2019 under Section 74 of the OGST Act as well as the consequential order under Section 74(9) of the OGST/CGST Act raising a demand for the month of March, 2018 under both the OGST and CGST Act for a total sum of Rs.1,25,57,922.80

A separate order was passed by Opposite Party No.3 under Section 74(9) of the OGST Act on the basis of alleged wrong availment of input tax credit (ITC) by the Petitioner and determining the OGST, CGST, interest and penalty to the tune of Rs.1,25,57,922

Decision of Advance Ruling Authority :

DECISION:

It may be noted that the period of enquiry as far as Central tax authority is concerned is from July, 2017 to June, 2018 whereas Opposite Party No.3 has issued a show cause notice specific for March, 2018 and, therefore, there is also an overlapping of the periods.

The Court quashes the show cause notice dated 23rd July, 2019, the impugned order dated 5th November, 2019 including the order dated 4th November, 2019 all passed by Opposite Party No.3 and directs that till the conclusion of the proceeding initiated against the Petitioner by the DGGSTI, no coercive action be taken against the Petitioner by the Opposite Party No.3 - Petition allowed.