

## M/s. Parija Enterprises, Cuttack Vs State Of Odisha And Others

**Court:** Orissa High Court

**Date of Decision:** Jan. 30, 2025

**Hon'ble Judges:** Arindam Sinha, ACJ; M.S. Sahoo, J

**Bench:** Division Bench

**Advocate:** S.K. Jena, S. Das

**Final Decision:** Disposed Of

### Judgement

Arindam Sinha, ACJ.

1. Mr. Jena, learned advocate appears on behalf of petitioner and submits, application has been filed by his client for amendment, to include annexure-

1 as challenged in the writ petition.

2. Mr. Das, learned advocate, Additional Standing Counsel appears on behalf of State and in fairness submits, he will meet all points of challenge.

3. The application is allowed. It is treated as part of the petition to dispense with necessity of filing consolidated writ petition.

4. Mr. Jena submits, his client's appeal was out of time. However, first summary order issued in Form DRC-07 was in the pandemic period

alleged. His client had no knowledge. Upon coming to know appeal was preferred out of time. It is a clear case of violation of principles of natural

justice. There be interference.

5. Mr. Das submits, two notices and a reminder were issued prior to Covid period. On query made he submits, order made by Form DRC-07 was in

the Covid period. He points out, the order was duly communicated online leaving no reason for petitioner to have caused delay in preferring the

appeal.

6. In this case, petitioner had sought to avail his statutory remedy of appeal. The appeal was presented out of time. It was preferred against an order

passed in the period of pandemic. There is no provision in Odisha Goods and Services Tax Act, 2017 by section 107, for enlarging the period of

prescribed time for an appeal to be entertained. As such, revenue's stand that dismissal of the appeal on ground of delay cannot be interfered with

bears substance.

7. Consequence of petitioner having lost his right of appeal is for petitioner to be rendered remediless. This is not contemplated in law. That a person

can agitate his contention for issuance of certiorari even after losing right of appeal had been discussed by the Supreme Court in the case of U.P.

State v. Mohd Nooh, reported in AIR 1958 SC 86. Furthermore, the appeal was preferred against an order passed in the period of pandemic. The fact

appears to us as being a situation, in which we must exercise our extraordinary power to intervene.

8. Impugned order is set aside and the matter restored to the Assessing Officer (AO). Petitioner will communicate certified copy of this order to the

AO by 17th February, 2025 and obtain date of hearing. The AO will thereupon proceed to pass fresh order.

9. The writ petition is disposed of.

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