

# TAX INFO

*Dated 12.10.2021*

Latest update on GST Law: Information regarding **Pre-Deposit of appeal to be made from Cash Ledger only** based on the **Judgement issued by Orissa High Court.**

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## **Pre-Deposit of appeal to be made from Cash Ledger only**

<b>Name of Petitioner</b>	Jyoti Construction
<b>Name of Respondent</b>	Deputy Commissioner of CT & GST
<b>Court</b>	HC-Orissa
<b>Date of Judgement</b>	07.10.2021
<b>Appeal No.</b>	W.P.(C) Nos.23508 of 2021

### **Facts of the Case:**

A demand was raised by the Deputy Commissioner of CT & GST, Jajpur, Odisha against the Petitioner and the Petitioner filed an appeal before the appellate authority after depositing pre-deposit of 10% of the disputed amount of tax. However, this payment was required to be made by the Petitioner by debiting its Electronic Cash Ledger as provided under Section 49(3) read with Rule 85 (4) of the OGST Rules.

As it was noticed that the Petitioner has made the payment of the pre-deposit by debiting the Electronic Credit Ledger. Considering this to be defective and liable for rejection of the appeal.

### **Contention of Petitioner:**

The Petitioner contended that he was paying was a percentage of the output tax as defined under Section 2(82) of the OGST Act, the amount could well be paid by debiting the ECRL

### **Reply of Respondent:**

Pre-deposit cannot be equated with output tax. As per Rule 41(2), ITC can be utilized for payment of self-assessed output tax as per the return and not pre-deposit

### **Findings of Court:**

It is not possible to accept the plea of the Petitioner that "Output Tax" could be equated to the pre-deposit required to be made in terms of Section 107 (6) of the OGST Act. The proviso to Section 41 (2) of the OGST Act limits the usage to which the ECRL could be utilised. It cannot be debited for making payment of pre-deposit at the time of filing of the appeal.

### **Decision of the Court:**

The Court is unable to find any error having been committed by the appellate authority in rejecting the Petitioner's contention that the Electronic Credit Ledger could be debited for the purposes of making the payment of pre-deposit.

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