

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.217/2023

Kamrul Nahar

.....Petitioner(s).

V E R S U S

The Union of India & others

.....Respondent(s).

For Petitioner(s) : Mr. Biplabendu Roy, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Deputy S.G.I.,
Mr. Debalay Bhattacharya, G.A.,
Mr. Paramartha Datta, Advocate,
Mr. Soumyadeep Saha, Advocate.

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

Order

11/04/2023

Heard Mr. Biplabendu Roy, learned counsel appearing for the petitioner. Also heard Mr. Bidyut Majumder, learned Deputy S.G.I. appearing for the respondent No.1-Union of India, Mr. Debalay Bhattacharya, learned Government Advocate appearing for the respondents No.2, 3, 4 & 6 and Mr. Paramartha Datta, learned counsel appearing for the respondent No.5.

2. By means of this writ petition filed under Article 226 of the Constitution of India, the petitioner has challenged the (i) Notice dated

01.06.2022; (ii) Show-cause and Summary of show-cause notice dated 11.10.2022; (iii) Assessment and Summary of order dated 21.11.2022; (iv) Recovery order dated 09.01.2023; and (v) Rejection order dated 27.02.2023.

3. The facts of the case, in brief, are that the petitioner is a Registered Person in the name and style "Kamrul Nahar" and has been carrying on business of importing goods from Bangladesh by paying IGST and selling the same in Tripura by depositing tax. During the year 2018-2019 petitioner imported goods from Bangladesh by paying IGST but the respondents illegally issued show-cause notice dated 11.10.2022 to the petitioner and thereafter, passed the order of assessment dated 21.11.2022 charging further IGST along with interest and penalty against the deposited IGST. The Customs authority also did not upload the IGST paid by the petitioner in the GST Portal. Petitioner also applied for rectification of the demand order but it was also rejected by the authority vide order dated 27.02.2023. Since the petitioner had already paid IGST at the time of release of imported goods, charging further IGST along with interest and penalty is illegal, arbitrary and violation of principles of natural justice. Aggrieved thereby, the petitioner has preferred the present writ petition. Hence, this case.

4. Petitioner has prayed for the following reliefs:

"In the premises aforesaid, it is therefore most respectfully prayed that Your Lordships' may graciously be pleased to issue Notice, call for the Records, issue Rule, calling upon the Respondents to show cause as to why a Writ in the nature of Certiorari and/or any other Writ of like nature, should not be issued declaring Notice dated 01.06.2022 (Annexure-2), Show Cause Notice dated 11.10.2022 and Summary of Show Cause Notice dated 11.10.2022 (Annexure-3 & 4 respectively), Assessment/Adjudicating Order dated 21.11.2022 and Summary of the Order dated 21.11.2022 (Annexure-5 & 6) and Order for Recovery in Form GST DRC-09 under Rule 143 of GST Rules, 2017 vide No.515 dated 09.01.2023 (Annexure-7) and Order dated 27.02.2023 in the Rectification petition (Annexure-9) for the Assessment Years 2018-19 issued and passed by the Respondent No.6 to be illegal and without jurisdiction and consequently liable to be set aside and/or quashed and/or as to why the assessment for the Assessment Year 2018-19 should not be declared illegal and arbitrary and consequently set aside and/or quashed and as to why Respondents should not be directed to restrain, refrain and forbear from giving effect to the impugned order of assessment/adjudicating order and summary of the order dated 21.11.2022 (Annexure-5 & 6) passed & issued in pursuance thereof and after hearing the parties and upon cause or causes that may be shown, be pleased to make the Rule absolute

and/or pass any such further order or orders as Your Lordships may deem fit and proper.

-AND-

Pending disposal of the instant Writ Petition, Your Lordships may further be pleased to stay the operation of the Order for Recovery in Form GST DRC-09 under Rule 143 of GST Rules, 2017 vide No.515 dated 09.01.2023 (Annexure-7) and Assessment/Adjudicating Order dated 21.11.2022 and Summary of the Order dated 21.11.2022 (Annexure-5 & 6) and all other proceedings in pursuance thereto and/or pass any such further Order/Orders as Your Lordships may deem fit and proper in the ends of justice.”

5. On perusal of the documents on record, we find no fault with the impugned order. The impugned order dated 27.02.2023 only indicates that along with the books of accounts which have been submitted for the purpose of reconsideration of the assessment made, the petitioner has not enclosed any reply as required. Further, the petitioner has also stated that he has not submitted any suitable explanation to the show-cause notice.

6. In view of above, without expressing any opinion on merits, the present writ petition is disposed of directing the petitioner to submit suitable reply and any other document and assist the respondent authorities in order to complete the assessment as required under law. The counsel appearing for

the petitioner undertakes that he would file the reply and all such documents required by the respondents within a period of one week from the date of receipt of the copy of this order and thereafter the respondents shall consider the case of the petitioner as expeditiously as possible in accordance with law.

7. With the above observation and direction, the writ petition is disposed of.

Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

CHIEF JUSTICE (ACTING)

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