

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.702 OF 2021**

M/S Rising East Liquor Pvt. Ltd.

..... Petitioner(s)

Vs.

The Union of India and ors.

..... Respondent(s)

For the Petitioner(s) : Mr. T.K. Deb, Advocate.

For the Respondent(s) : Mr. K. De, Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 03.01.2023.

Whether fit for reporting : YES/NO.

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

JUDGMENT AND ORDER(ORAL)

The case of the petitioner-Company in this instant writ petition is that the petitioner-Company is dealing in the production of country liquor and for this purpose, the petitioner-Company placed supply order for some machinery to a Haryana Based Company. Accordingly, the machinery was transported through a heavy vehicle from Haryana to Agartala with necessary E-Way Bills and billing under GST provisions of the Bill to shop. Thereafter, when the vehicle reached

Churaibari Check post, the vehicle was detained by the enforcement wing on the ground of having no E-Way Bill. Subsequently, the vehicle was released on furnishing a bank guarantee. Thereafter the petitioner preferred an appeal on 18.10.2019 before the GST Appellate Authority. The said authority vide order dated 01.12.2020 rejected the appeal on the ground of non-depositing pre-requisite deposit. In the said order, it was further stated that the petitioner did not submit certified copy of the impugned order and finally for non-submission of the certified copy of the impugned order, the appeal of the petitioner was rejected.

2. Hence, the petitioner has filed this instant appeal praying for the following reliefs:-

" i) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued calling for the records, lying with them;

ii) Issue Rule, calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari, should not be issued cancelling the impugned order dated 01.12.2020 in Annexure-7;

iii) Issue Rule, calling upon the Respondents and/or each of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, for quashing/setting aside the impugned order dated 01.12.2020, issued by the respondent No.4 should not be passed and also with a further direction to the respondent No.4 to hear the appeal of the petitioner and to hear the case on merit giving opportunity of hearing to the petitioner;

iv. Issue Rule, calling upon the Respondents and each one of them, to show cause as to why a Writ of Prohibition and/or in the nature thereof, shall not be issued, for prohibiting the Respondents for acting in furtherance of the impugned order dated 01.12.2020.

v. After hearing the parties, be pleased to make the Rules absolute in terms of Prayer I, ii, iii & iv above.

Pending disposal of this Writ petition, your Lordship further be pleased to pass an order for staying operation/execution of the impugned demand order dated 25.09.2019 passed by the respondent No.5."

3. Heard both sides and perused the evidence on record.

4. The order of the Appellate Authority dated 01.12.2020 is set aside and the matter is remanded back. The petitioner shall submit the certified copy of the impugned Demand Order dated 25.09.2019 before the Appellate Authority and the appeal shall be considered by the Appellate Authority in accordance with the law and its merit.

5. With the above observation and direction, this instant writ petition is disposed of.

JUDGE

CHIEF JUSTICE (ACTING)

