

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.21 of 2025

Sri Tapash Kumar Saha, S/o Lt. Tajit Kr. Saha of 7/327 Ward No.7, Ashram Para, Mouja- Bishalgarh, PO- Bishalgarh, Bishalgarh N.P., West Tripura, Tripura-799102

.....Petitioner(s);

Versus

1. Commissioner (Appeals), CGST, Central Excise and Customs, 3rd Floor, GST Bhawan, Kedar Road, Machkhowa, Guwahati-781001

2. Assistant Commissioner, Central Goods & Services Tax, Tripura Division-I, Agartala, 1st Floor, Netaji Chowmuhan, Mantri Bari Road, P.O. Agartala, H.O., West Tripura-799001

3. Assistant Commissioner, Central Goods & Services Tax, Tripura Division-I, Agartala, 3rd Floor, Jackson Gate Building, Lenin Sarani, Agartala-799001

.....Respondent(s).

For Petitioner(s) : Mr. Vinoy Shroff, Advocate,
Mr. Arjun Acharjee, Advocate.

For Respondent(s) : Mr. Paramartha Datta, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Order

20/02/2025

Heard Mr. Vinoy Shroff, learned counsel assisted by Mr. Arjun Acharjee, learned counsel for the petitioner and Mr. Paramartha Datta, learned counsel for the respondents-revenue.

2. Petitioner has assailed the Demand-cum-Show Cause Notice dated 12.04.2022 [Annexure-A] for the financial years 2016-17 [October, 2016 to March, 2017] and 2017-18 [upto 30th June, 2017] on the ground that respondent No.2 has wrongly invoked the extended period of limitation so far as it relates to both the financial years i.e. 2016-17 & 2017-18. Moreover, the Demand-cum-Show Cause Notice has been issued only on the basis of 26AS statement obtained from the office of the CBDT without any investigation as to whether there is a suppression employed by the petitioner in filing his returns. The order in original dated 29.12.2023 [Annexure-C] passed by respondent No.3 has

confirmed the demand of tax, interest and penalty without even applying its mind on the reply submitted by the petitioner. Therefore, the order in original is also under challenge both on grounds of violation of principles of natural justice and the question of limitation in initiation of the proceedings. The appellate authority has dismissed the appeal on an erroneous finding that the appeal was filed beyond the period of two months plus one month condonable period. Petitioner has, therefore, also assailed the order in appeal dated 21.08.2024 [Annexure-G]. Since recovery proceedings are likely to be initiated, petitioner has approached this Court as the impugned orders are subject to challenge in writ jurisdiction on the grounds of lack of jurisdiction and violation of principles of natural justice also.

3. However after some arguments learned counsel for the petitioner seeks liberty to approach the learned CESTAT at Kolkata Bench for preferring an appeal under Section 86 of the Finance Act, 1994 with all grounds of law and fact as are available to him and also on the plea of condonation of delay, if any.

4. Mr. Datta, learned counsel for the respondents-revenue, does not object to this prayer.

5. In that view of the matter, the instant writ petition is disposed of giving liberty to the petitioner to approach the learned CESTAT within a period of two weeks. Needless to say, it is open for the petitioner to raise all such grounds of law and fact as are available to him including the question of jurisdiction. Let it be made clear that this court has not expressed any opinion on the merits of the case of the parties.

(BISWAJIT PALIT), J

(APARESH KUMAR SINGH), CJ