

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A

WP(C) No.258 of 2025

WP(C) No.259 of 2025

WP(C) No.260 of 2025

M/S Advanced Root Knowledge Informatics Private Limited, 16, Office Lane, Melar Math, Agartala, Tripura (West) – 799001 to be represented by its Director Sri Debanuj Biswas, S/o Sri Kalipada Biswas, aged about 40 years, resident of Ashirbad House, North Joynagar, Agartala, Tripura- 799001.

..... *Petitioner(s)*

V E R S U S

1. State of Tripura, represented by the Finance Secretary, Government of Tripura, New Secretariat Complex, P.O. Secretariat-799010, Agartala, West Tripura.
2. The Commissioner of Taxes & Excise, Khadya Bhavan, P.N. Complex, Gorkhabasti, P.O. Kunjaban, Agartala, Tripura-799010.
3. The Superintendent of State Tax (SGST), Charge-VI, Government of Tripura, Kar Bhavan, Agartala, Palace Compound, Tripura-799001.

..... *Respondent(s)*

For Petitioner(s) : Mr. Pranabashis Majumder, Advocate,
Mr. Dhruba Jyoti Saha, Advocate.

For Respondent(s) : Mr. P. Gautam, Sr. Government Advocate.

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

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15/05/2025

All these writ petitions [WP(C) No.258 of 2025, WP(C) No.259 of 2025, WP(C) No.260 of 2025] relate to the same petitioner concerning proceedings under Section 73(1) of the Tripura State Goods and Service Tax Act, 2017 (*TSGST Act, 2017, for short*) for the relevant financial years i.e. FY 2023-24, FY 2022-23 and FY 2021-22 respectively in each of the above writ petitions wherein the Superintendent of State Tax, Charge-VI, Agartala, West Tripura, respondent No.3 has passed separate orders in original dated 11.02.2025 imposing tax, interest and penalty upon the petitioner holding

that as per the return submitted by the petitioner under Section 59 of the Act on self assessment, the taxpayer had declared tax liability. The petitioner has deposited tax for the relevant financial year at a much lesser rate compared to the scheduled rate of tax against manpower supply at the rate of 18%. This is obvious when compared with the turnover declared in his self assessed returns like GSTR-3B and GSTR-1 and the TDS data of the respective deductors as per Section 51 of the GST Act. Before initiation of proceedings, the petitioner was informed after scrutiny of returns in Form GST ASMT-10 to which he replied in Form GST ASMT-11. However, on being dissatisfied with his reply, the proceedings were initiated by issuance of show-cause notice contained in Form GST DRC-01 concerning each of the financial years. The impugned order has been passed after considering the petitioner's reply and giving him personal hearing.

Mr. Pranabashis Majumder, learned counsel for the petitioner submits that the impugned order in original has been passed without supplying the relied upon documents thereby violating the principles of natural justice. Therefore, the writ petition is maintainable. Had the verification report of the deduction of tax at source by the recipients were furnished to the petitioner it could have been in a better position to explain the mismatch between the total taxable turnover and the liability incurred by the petitioner upon which he has dutifully deposited the tax. The respondent No.3 has without granting such opportunity proceeded to hold him liable for enhanced tax, interest and penalty which are contrary to the scheme of the GST Act. Therefore, the respondents may be asked to explain.

Mr. P. Gautam, learned Senior Government Advocate submits that the petitioner has approached this Court bypassing the alternative statutory remedy of appeal under Section 107(1) of the TGST Act. The proceedings have been held after issuance of show-cause notice and on consideration of the petitioner's reply after giving opportunity of hearing as well. Therefore, there is no violation of principles of natural justice. However, the grounds which are being raised herein are open for the petitioner to raise before the learned Appellate Authority which shall be considered, in accordance with law.

We have considered the submissions of learned counsel for the parties. At the outset, it is to be indicated that the petitioner has a statutory remedy of appeal under Section 107(1) of the TGST Act. The appeal can be preferred within a period of 90 days from the date of the order in original and delay if any can be condoned up to 30 days thereafter under Section 107(4) of the Act of 2017. The allegation of non-supply of relied upon documents to the petitioner can be a facet of the principles of natural justice which is open for the petitioner to be raised in the appeal along with all other grounds of law and fact as are available to the petitioner. However, on the face of it, it cannot be said that the proceedings suffer from violation of principles of natural justice as the impugned order in original has been passed after issuance of proper show-cause notice and consideration of the reply of the petitioner.

In such circumstances, we are not inclined to entertain the writ petitions on the ground of availability of alternative statutory remedy of appeal. We, therefore, refrain from making any observations on other

grounds on merits which the petitioner may raise before the appellate forum.

In such circumstances, the writ petitions are dismissed with liberty to the petitioner to approach the Appellate Authority, in accordance with law.

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

(BISWAJIT PALIT) J

(APARESH KUMAR SINGH) CJ

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