14.05.2026
Item No.13
Ct. No. 10
BR

WPA 8506 of 2026
Ram Chandra Sahoo
-vs-
The Union of India and Ors.

Mr. Himangshu Kumar Ray,
Mr. Subhasis Podder,
Ms. Shiwani Shaw,
Ms. S. Bagaria
.... For the petitioner

Mr. Mr. Vipul Kundalia, Sr. Adv.,
Ms. Sretapa Sinha,
Mr. Dhirodhaho Chaudhuri
.... For the respondent

1. Affidavit of service filed by the petitioner be kept on record.

2. The petitioner in the present case challenges interalia, the show cause notice dated 30.7.2024 along with the adjudication order passed ex parte dated 6.1.2025 under Section 74 of the Central Goods and Services Tax Act. The impugned action by the respondent no. 3 relates to a demand for proportionate reversal of ITC to the tune of Rs. 3,02,100/- (CGST and SGST each of Rs. 1,51,050/-) in respect of Exempt Outward supplies, along with interest and penalty @ 100 % of the amount of tax, totaling Rs. 6,04,200/-) for the period 2017-18 to 2021-22.

3.Learned counsel appearing for the petitioner submits that the petitioner, in the instant case was engaged in the business of Wholesale and Retail trade of Medicine during the relevant financial periods covering both taxable supplies under HSN Codes 9031,9018,3808,3401 etc as well as Non-taxable items under HSN Codes 3006, 2308, 2309 etc.

4. After issuance of the show cause notice, the petitioner filed a reply to the same. However, without considering the said reply an ex parte order of adjudication has been passed by the authority concerned, which is under challenge in the instant writ petition. Against the order of adjudication , the petitioner has already made an attempt to file an appeal on the Goods and Sales Tax portal but due to a technical glitch, the same could not be uploaded.

5. The petitioner paid pre-deposit of 10% of the amount of tax amounting to Rs. 30,216/- (CGST & SGST each Rs. 15108/-) which was already debited from the electronic Credit Ledger. The pre- deposit amount was deposited before the SGST authorities on 5.4.2025 and 6.4.2025 respectively.

6. The petitioner places reliance upon Section 74 sub-section 5 read with Rule 142 (1A) of the Central Goods and Services Tax Rule,2017. The said Section is reproduced below:

74(5) : *The person chargeable with tax may, before service of notice under sub-section (1) , Pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent of such tax on the basis of his own as ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.*

7.Sub-rule 1A of Rule 142 is also reproduced below:

142(1A) : *The proper officer may, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74 as the case may be , communicate the details of any tax, interest and penalty as ascertained by the said officer, in* ***Part A of FORM GST DRC-01A****.*

8. Learned counsel appearing for the respondent vehemently opposes and submits

that the petitioner has already availed the statutory remedy by making pre deposit and attempting to file an appeal, the writ petition is not maintainable

9.Having heard the parties and upon perusing the materials available on record, this Court is satisfied that the petitioner has been able to make out a prima facie case and that interference is warranted at this stage. Since the petitioner has already made an attempt to file an appeal electronically before the appellate Authority but due to technical glitch the appeal could not be uploaded on the portal of the CGST department.

10.In the interest of justice, I direct the petitioner to file an appeal afresh before the concerned appellate authority in terms of the proviso to Rule 108 of the CGST Rule,2017 within two weeks from date in the prescribed manner, by raising all relevant grounds as pleaded in the writ petition, including the challenge to the issuance of the show cause notice. The concerned appellate authority shall dispose of the appeal as expeditiously as possible preferably within a period of eight weeks from the date of filing and by passing a reasoned order in accordance with law and communicate such decision within a week thereafter .

11.Writ petition is disposed of without going into the merits of the case.

12.There will be no order as to costs.

13.It is made clear, that the concerned appellate authority shall notify accordingly with regard to the manual filing of the appeal in Form GST APL-01 along with the relevant documents. The delay in filing the appeal including the statutory period prescribed thereof shall stand condoned by virtue of Section 107 sub-section 4 of the CGST Act.

(Smita Das De, J.)