09.06.2026
Sl. 17
AMR
Ct.No.10

WPA 10748 of 2026

M/s. ISC Processors Private Limited
Vs.
Superintendent, Range-IV, Burrabazar Division, CGST & CX, Kolkata North Commissionerate & Anr.

Mr. Talay Masood Siddiqui
Mr. Dhirodatto Chaudhuri

...for the petitioner

Mr. Anjan Chakraborty
Ms. Avantika Chakraborty

...for the Union of India

Mr. Bhaskar Prosad Banerjee
Mr. Kaustav Kanti Maity

...for the Respondent-CGST & CX

1. Affidavit of Service filed in court today is taken on record.
2. The issue involved in the instant Writ petition is whether a Show Cause Notice dated 10.03.2026 issued under the Central Goods Services Tax Act 2017 is liable to be quashed at the threshold on the ground that the demand has been raised solely on the basis of the alleged non-existence of the supplier without appreciating the scope of the statutory provision and without conducting proper enquiry.

3. The petitioner in the instant case challenges, *inter alia*, the legality, validity and sustainability of issuance of the show cause notice dated 10.03.2026.

4. It is submitted by the petitioner that the sole ground for imposing demand upon the petitioner is that the concerned supplier from whom the petitioner had availed inward supplies and consequently input tax credit based on such inward supplies, is non existent. It is further submitted that the respondent CGST authority has issued the show cause notice without appreciating the scope of inspection 74A (5)(ii) the CGST Act, 2017. The impugned notice suffers from inherent lack of jurisdiction.

5. It is contended that the petitioner is a bonafide purchaser who has discharged its liability by making payment to the supplier through banking channels along with the applicable GST.

6. It is argued the input tax credit cannot be denied to the recipient solely on the ground of default or non-existence of the supplier, without first proceeding against the supplier and without establishing any fraud, collision, or wilful mis-statement on the part of the petitioner.

7. The petitioner submits that the show cause notice is ex facie without jurisdiction and amounts to an abuse of process of law, thereby warranting interference by this court under Article 226 of the Constitution of India, notwithstanding the existence of an alternative remedy.

8. The respondent vehemently opposes the Writ Petition and raises a preliminary objection as to its maintainability.

9. It is submitted that the challenge is premature in nature as only a show cause notice has been issued. The issue involved herein has not attained its finality and no adverse order has yet been passed against the petitioner.

10. The learned counsel for the respondents further submits that the petitioner has an efficacious alternative statutory remedy to file a reply to the show cause notice and participate in adjudication proceedings under Section 75 of the CGST Act, 2017.

11. The show cause notice has been issued based on intelligence and investigation which revealed that the petitioner has transacted with a non-existent entity which had no business existence at all and was only involved in issuing invoices without any actual supplying of underlying goods. The respondents contends that under section 16(2)(c) of the CGST Act, 2017, no input tax credit shall be available unless the tax charged in respect of such supply has been actually paid to the government. Since the supplier is non-existent, no tax has been deposited with the government exchequer, hence, the petitioner is not entitled to avail ITC.

12. Having heard the parties and upon perusing the materials on available records this Court is of the view that a Writ Petition challenging a mere show cause notice is ordinarily not entertained by a Writ Court but the jurisdiction under Article 226 of the Constitution of India can be invoked only in exceptional circumstances namely where the show cause notice is issued without jurisdiction or is in violation of the principles of natural justice or is an abuse of process of law.

13. In the instant case the adjudication proceeding has yet not been commenced. The petitioner has been called upon to show cause as to why the proposed demand should not be confirmed and the petitioner has adequate opportunity to file a reply and place all its contention and documents before the adjudicating authority.

14. However, in order to balance the equities and to ensure that the adjudication is conducted in a fair and time bound manner, this court is of the view that for the ends of justice, the petitioner shall file a comprehensive and detailed reply to the show cause notice dated 10.03.2026 within a period of three weeks from the date of communication of this order to refute the allegations made in the show cause notice and the same shall be considered by the concerned adjudicating authority by passing a reasoned order in accordance with law upon affording an opportunity of hearing to the parties namely the petitioner and the supplier to demonstrate their bonafides and decision shall be accordingly communicated within a week thereafter. The entire exercise of adjudication shall be peremptorily completed within a period of four months from the date of receipt of reply with the above observation and directions the Writ petition being No. WPA 10744 of 2026 is accordingly disposed of without going into the merits of the case.

15. It is made clear that since this Court has not expressed any opinion on the merits of the rival contentions, all points are kept open to be agitated before the adjudicating authority.

16. There will be no order as to costs.

17. All parties shall act on the server copy of the order duly downloaded from the official website of this Court.

(Smita Das De, J.)