12 10-04-2026

AKG

Ct. 237

WPA 13008 of 2025
With
CAN 1 of 2026 and CAN 2 of 2026
M/s. J S Pigments Pvt. Ltd. & Anr.
Vs.
Union of India & Ors.

Mr. P. K. Das, Sr. Adv.,
Mr. Indranil Banerjee,
Mr. Subrata Mukherjee,
Mr. Anup Das

...for the Petitioners

Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal

...for the State

Mr. Vipul Kundalia,
Mr. Prithu Dudhoria,
Mr. Anindya Kanan

...for Union of India

Mr. Uday Sankar Bhattacharya,
Mr. Tapan Bhanja

...for CGST Authority

In Re.: **CAN 1 of 2026**

This is an application seeking amendment of the prayer portion of the writ petition. The petitioner submits that the date of the impugned order of adjudication has been erroneously stated as "February 3, 2025" instead of "January 3, 2025."

In my view, the aforesaid error is bona fide in nature. Accordingly, the application for amendment stands allowed, without insisting upon compliance with procedural formalities or technical requirements by the petitioner.

The learned Advocate-on-Record is granted liberty to effect the necessary correction in the date of the impugned order in the prayer portion, in accordance with law, within the course of this day.

Accordingly, **CAN 1 of 2026** is disposed of.

In Re.: **WPA 13008 of 2025**

By filing the present writ petition, the petitioners have challenged an adjudication order dated January 3, 2025, issued by the Additional Commissioner of CGST & CX, Kolkata North, GST Bhawan, Kolkata. A report, in the form of an affidavit, has been filed on behalf of the Department. From the materials on record, it appears that the facts, in brief, are as follows:

A show-cause-cum-demand notice dated July 26, 2022, was issued by the Directorate General of GST Intelligence (DGGI), Patna Zonal Unit, to the petitioners. The said notice was subsequently taken up for adjudication by the competent authority of CGST & CX, Kolkata North, GST Bhawan, Kolkata, culminating in the impugned adjudication order dated January 3, 2025.

It further appears that, on the same issue, proceedings had earlier been initiated by the State GST Authority, West Bengal, and two adjudication orders dated December 31, 2020, were passed. From the report filed by the CGST Authority before this Court, it is evident that the said adjudication orders pertained to the tax periods 2017–2018 and 2018–2019 and related to the disallowance of input tax credit (ITC) availed by the petitioners on the strength of invoices issued by ab initio cancelled or non-existent suppliers, who were found to be bogus upon verification by the State GST Authorities.

The report further clarifies that, for the financial years 2017–2018 and 2018–2019, the suppliers listed in Table A and Table B therein were treated as fake or non-existent by the State GST Authority on the basis of investigation, and the ITC availed by the petitioners from such suppliers during the said periods was disallowed under the provisions of the State Goods and Services Tax Act, 2017.

It is also apparent that the suppliers covered in the impugned adjudication order dated January 3, 2025, substantially overlap with those considered in the adjudication orders dated December 31, 2020, passed by the State GST Authority for the aforesaid financial years. The report acknowledges that all the ab initio cancelled or non-existent suppliers are common to both sets of adjudication orders.

Learned counsel appearing on behalf of the Central GST Authority, however, submits that the petitioners failed to disclose or furnish copies of the show-cause notices and adjudication orders issued by the State GST Authority during the course of investigation as well as adjudication. It is contended that, having failed to cooperate with the investigation and adjudication proceedings, the petitioners cannot now be permitted to challenge the impugned adjudication order dated January 3, 2025.

Per contra, learned counsel appearing for the petitioners has drawn the attention of this Court to a letter dated March 15, 2022, appearing at page 151 of the writ petition, to demonstrate that the petitioners had duly intimated the Senior Intelligence Officer, DGGI, Patna Zonal Unit, regarding the show-cause notice issued by the State GST Authority on the self-same allegations for the periods 2017–2018 and 2018–2019, covering all the suppliers in question.

However, it has not been demonstrated before this Court that copies of the show-cause notice issued by the State GST Authority or the adjudication orders dated December 31, 2020, were furnished before the Central GST Authority.

The law relating to overlapping jurisdiction, commonality of suppliers, and parallel proceedings initiated by the State GST Authority and the Central GST Authority has been authoritatively laid down by the Hon'ble Supreme Court in the judgment reported at **2025 (101) G.S.T.L. 289 (S.C.) [*Armour Security (India) Ltd. v. Commissioner of CGST, Delhi East*]**. The operative portion of the said judgment is extracted below:

"97. We issue the following guidelines to be followed in cases where, after the commencement of an Inquiry or investigation by one authority, another inquiry or investigation on the same subject matter is initiated by a different authority.

(a) Where a summons or a show cause notice is issued by either the Central or the State tax authority to an assessee, the assessee is, in the first instance, obliged to comply by appearing and furnishing the requisite response, as the case may be. We say, so because, mere issuance of a summons does not enable either the issuing authority or the recipient to ascertain that proceedings have been initiated.

(b) Where an assessee becomes aware that the matter being inquired into or investigated is already the subject of an inquiry or investigation by another authority, the assessee shall forthwith inform, in writing, the authority that has initiated the subsequent inquiry or investigation.

(c) Upon receipt of such intimation from the assessee, the respective tax authorities shall communicate with each other to verify the veracity of the assessee's claim. We say, so as this course of action would obviate needless duplication of proceedings and ensure optimal utilization of the Department's time, effort, and resources, bearing in mind that action initiated by one authority enures to benefit of all.

(d) If the claim of the taxable person regarding the overlap of inquiries is found untenable, and the investigations of the two authorities pertain to different "subject matters", an intimation to this effect, along with the reasons and a specification of the distinct subject matters, shall be immediately conveyed in writing to the taxable person.

(e) The taxing authorities are well within their rights to conduct an inquiry or investigation until it is ascertained that both authorities are examining the identical liability to be discharged, the same contravention alleged, or the issuance of a show cause notice. Any show cause notice issued in respect of a liability already covered by an existing show cause notice shall be quashed.

(f) However, if the Central or the State tax authority, as the case may be finds that the matter being inquired into or investigated by it is already the subject of inquiry or investigation by another authority, both authorities shall decide inter se which of them shall continue with the inquiry or investigation. In such a scenario the other authority shall duly forward all material and information relating to its inquiry or investigation into the matter to the authority designated to carry the inquiry or investigation to its logical conclusion. We say, so because, the taxable person except for being afforded the statutory

> protection from duplication of proceedings, otherwise has no locus to claim which authority should proceed with the inquiry or investigation in a particular matter.
>
> (g) However, where the authorities are unable to reach a decision as to which of them shall continue with the inquiry or investigation, then in such circumstances, the authority that first initiated the inquiry or investigation shall be empowered to carry it to its logical conclusion, and the courts in such a case would be competent to pass an order for transferring the inquiry or investigation to that authority.
>
> (h) If it is found that the authorities are not complying with these aforementioned guidelines, it shall be open to the taxable person to file a writ petition before the concerned High Court under Article 226 of the Constitution of India.
>
> (i) At the same time, taxable persons shall ensure complete cooperation with the authorities. It is incumbent upon them to appear in response to a summons and/or reply to a notice.

98. Before parting with this matter, we deem it appropriate to make certain suggestions concerning the common IT infrastructure shared by the Central and State tax authorities. It is imperative that the Departments act in harmony and maintain heightened vigilance with respect to intelligence inputs received by them, so as to give full effect to the legislative intent underlying the GST regime. Such coordination would also serve to mitigate the unnecessary hardship caused to taxpayers by overlapping proceedings and lack of interdepartmental communication."

Having regard to the law laid down as aforesaid, and without entering into the other aspects of the matter, this Court is of the considered view that the adjudication order dated January 3, 2025, cannot be sustained in law. The same is, accordingly, set aside.

Accordingly, **WPA 13008 of 2025** stands disposed of.

<u>In Re.: **CAN 2 of 2026**</u>

This is an application seeking extension of the interim order.

In view of the disposal of the writ petition, no further orders are called for in the present application.

Accordingly, **CAN 2 of 2026** stands disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)