IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 3036 of 2026

M/s. Emotions Transmission Pvt. Ltd., a Company registered under the provisions of Companies Act, 1956/2013, having its office at Seth Surajmal Jalan Road, Near SBI Bazar Branch, Town Deoghar, P.O. & P.S. Deoghar, District Deoghar-814112 (Jharkhand), through its one of the Directors, namely, Mukesh Kumar Pandey, aged about 50 years, son of Shivnarayan Pandey, resident of Ward No. 20, Sth Surajmal Jalan Road, Dhobi Tola, Town Deoghar, P.O. & P.S. Deoghar, District Deoghar-814112 (Jharkhand).

……. Petitioner

Versus

1. Union of India, through the Principal Commissioner, Central Goods and Service Tax and Central Excise, Ranchi, having its office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. G.P.O., P.S. Chutia, Town & District Ranchi-834001 (Jharkhand).
2. Assistant Commissioner, Central Goods and Service Tax and Central Excise, Range Deoghar, having its office at Deoghar Palace, Second Floor, VIP Chowk, Court Road, Deoghar, P.O. & P.S. Deoghar, District Deoghar-814112 (Jharkhand).
3. Superintendent, Central Goods and Service Tax and Central Excise, Range Deoghar, having its office at Deoghar Palace, Second Floor, VIP Chowk, Court Road, Deoghar, P.O. & P.S. Deoghar, District Deoghar-814112 (Jharkhand).

…….. Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner: Mr Sumeet Gadodia, Advocate
Mr. Ranjeet Kushwaha, Advocate
Ms. Sanya Kumari, Advocate

For the Respondents: Mr P.A.S. Pati, Sr. S.C. (CGST)

02/Dated: 06.05.2026

1. Heard learned counsel for the parties.

2. The petitioner, by instituting this petition, seeks the following substantive reliefs: -

(i) For issuance of an appropriate writ, order or direction, including writ of certiorari, for quashing/setting aside the Order-in-original No.09/Supdt/CGST & CX/DGR-R/2023-24 dated 26.07.2023 and consequently summary of order contained in Form-GST DRC-07 dated 26.07.2023 (Annexure-2 & 2/1 respectively) passed by Respondent No.3, wherein Input Tax Credit (hereinafter referred as 'ITC' for short) amounting to Rs.8,48,496/-for the Financial Year 2018-19 has been rejected in exercise of power conferred under Section 73(9) of Central Goods and Service Tax Act, 2017 (hereinafter to be referred as 'CGST Act, 2017' for short) and consequently, Petitioner has been directed to reverse the said amount of ITC along with applicable rate of interest under Section 50 as well as penalty under Section 122(2)(a) of CGST Act, 2017 on the sole ground that Petitioner filed GSTR-3B Returns for the month of July, 2018 to March, 2019 after due date of claiming ITC and as such, Petitioner has contravened the provisions of Section 16(4) of CGST Act, 2017;

(ii) For issuance of an appropriate writ, order or direction, including writ of declaration, declaring that the petitioner is has rightly availed ITC of Rs.8,48,496/- by virtue of insertion of the provision of sub-sections (5) of Section 16 of the CGST Act, 2017 inserted vide Finance (No.2) Act,

2024 by the Central Board of Indirect Taxes & Customs (hereinafter referred as 'CBIC' for short), as with effect from 1" July, 2017, the due date for filing of GSTR-3B Returns have been extended till 30th November, 2021 for the Financial Year 2017-18 to 2020-21 and Petitioner filed its returns in GSTR-3B within the said extended period;

(iii) For issuance of further appropriate writ, order or direction, including writ of mandamus, directing the Respondents to immediately and forthwith refund the amount of ITC of Rs.8,48,496/- as reversed by petitioner vide Reference No. DI2002240000847 dated 02.02.2024 and Reference No. DI2004240007850 dated 15.04.2024, especially because in terms of the inserted provision of sub-section (5) of Section 16 of CGST Act, 2017 Petitioner rightly availed ITC and as such, it is duly entitled for refund of reversed ITC;

(iv) For issuance of further appropriate, order or direction, including writ of certiorari, for quashing/setting aside the notice to third person issued under Section 17(1)(c) of the CGST Act, 2017 as contained in Form- GST DRC-13 dated 18.12.2025 by Respondent No.2, wherein the Banker of the petitioner, namely, Canara Bank, Branch-Deoghar has been directed to discharge a sum of Rs.8,44,801/- i.e. the alleged interest and penalty upon

reversed ITC to the Government exchequer forthwith or upon the money becoming due; and

(v) For any other appropriate writ(s), order(s) or direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case.

3. In effect, therefore, the challenge is to the Order-In-Original dated 26th of July 2023 and the demands made thereunder relating to the financial year 2018-19.

4. Normally, we would have relegated the petitioner to avail of the alternate remedy under the Act. However, it is pointed out that after the passing of the impugned Order-In-Original, Section 16 of the CGST Act, 2017 has been amended by inserting sub-section (5) therein which reads as follows:-

> *"(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017- 18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021."*

5. Further, the CBIC vide Circular No. 237/31/2024/GST dated 15.10.2024 has also issued a clarification concerning the implementation of the provisions of sub-sections (5) and (6) in Section 16 of the CGST Act, 2017.

6. The impact of the above subsequent developments will have to be considered. A Coordinate Bench of this Court in the case of **Vinod Udaipuri v. Union of India and Others** in W.P. (T) No. 5267 of

2023 disposed of on 18.09.2025 has taken cognizance of the subsequent developments and based upon the same, set aside the Order-In-Original impugned in the said writ petition and remitted the matter to the appropriate authority to pass a fresh order after considering the implication and impact of the subsequent developments.

7. A similar course was followed by this Court in **Manoj Kumar Singh v. Principal Commissioner, Central Goods and Service Tax & Central Excise, Ranchi and Another** in W.P. (T) No. 7467 of 2025, disposed of on 21.01.2026.

8. Therefore, by adopting the same course, we quash and set aside the impugned Order-In-Original dated 26.07.2023. As a result of setting aside the Order-In-Original, the garnishee order dated 18.12.2025, which is issued in pursuance of the Order-In-Original, will also not survive, and the same is hereby quashed and set aside.

9. The matter is remanded to the Assessing Authority for a fresh decision in accordance with law after considering the impact of the above-referred subsequent developments.

10. The Assessing Officer must endeavour to dispose of the assessment proceedings afresh and in accordance with law, as expeditiously as possible and in any event, within four months from the date of the parties appearing before the Assessing Officer and filing a copy of this order.

11. The parties are directed to appear before the Assessing Officer on the 18th of May 2026 at 11:00 A.M. and file a copy of this order. The Assessing Officer, thereafter, will indicate an appropriate date on which the parties shall be heard and the assessment proceedings disposed of.

12. We note Mr Gadodia's statement that, at this stage, there is no question of a refund, even though the Order-In-Original is being set aside. All such issues shall abide by the orders that the Assessing Officer shall make pursuant to remand.

13. All contentions of all parties are, however, left open to be decided by the Assessing Officer in accordance with law and on their own costs.

14. The writ petition is accordingly disposed of in the above terms.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

May 06, 2026

N.A.F.R.

Manoj/Sharda/Cp.2

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