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ARPAN SRIVASTAVA Digitally signed by ARPAN SRIVASTAVA Date: 2026.10.12 18:23:49 +0530

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 180 of 2026

1 - Kamal Kishore Rathi S/o Bajrang Lal Rathi Aged About 41 Years R/o 41, Upendra Chandra Banerjee Road Laxmi Niwas, Second Building Second Manjil Kankurgachi, Kolkata 700054. West Bengal.

... Petitioner

versus

1 - Union Of India Through The Secretary Central Board Of Indirect Taxes And Customs North Block, New Delhi, -110001.

2 - The Directorate General Of G S T Intelligence Rapiur Zonal Unit Through The Joint Director 4th Floor, R I O Complex, Lalpur Raipur Chhattisgarh. 492015.

3 - The Additional / Joint Commissioner C G S T And Central Excise Bengaluru West 1st Floor B M T C Bus Stang Building Banshankari, Bengaluru -560070.

4 - Additional / Joint Commissioner Of Central Tax, G S T Bhawan 35, -C, Mother Teresa Marg Administrative Area Arera Hills, Near Paryawas Bhawan-Bhopal Madhya Pradesh 462011.

... Respondent

For Petitioner	:	Mr. Vijay Chawla, Advocate
For Respondent	:	Mr. Manish Sharma, Advocate
For Respondent/ UOI	:	Mr. Abhishek Bajnare, Advocate

Hon’ble Shri Justice Narendra Kumar Vyas
Order on Board

07/10/2026

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India, assailing the show cause notice No. 14/RZU/JD/GST/2026-27 dated 26.08.2026, issued by Respondent No. 2, Joint Director, GST Intelligence, under Section 74 of the SGST Act,

2017, read with the CGST Act, 2017. By the said notice, the GST Department has called upon various persons, including the petitioner, to show cause as to why a penalty should not be imposed upon them under Sections 122(1A), 122(3) and 125 of the CGST Act, 2017, read with Section 20 of the IGST Act, for the acts of omission and commission detailed in the show cause notice. The petitioner has also challenged the corrigendum dated 27.08.2026 issued in respect of the show cause notice.

2. Learned counsel for the petitioner submits that the impugned notice has been issued without affording the petitioner an opportunity of hearing and, as such, is in violation of the principles of natural justice and fair play, as well as the provisions of the GST Act.

3. Per contra, learned counsel for the respondent submits that, under the GST Act, the petitioner has been provided with various opportunities to submit a reply to the show cause notice. He further submits that, by the said notice, the petitioner has been directed to produce all evidence on which the petitioner intends to rely in support of the defence. The notice further requires the petitioner to indicate in the reply whether the petitioner wishes to be heard in person before the case is adjudicated. It is further mentioned in the notice that, if the petitioner fails to respond to the notice or does not appear before the adjudicating authority when the matter is listed for hearing, the case shall be decided ex parte on the basis of the evidence available on record. He further submits that the records relied upon by the DGGSTI for the purpose of issuing the notice have been listed in the addendum attached to the notice.

4. He further submits that, upon perusal of the notice itself, it is evident that the impugned communication is merely a show cause notice and

that the petitioner has already been afforded an opportunity to submit a reply and place documents on record. As such, the present writ petition challenging the show cause notice is not maintainable. He further submits that, under the GST Act, if an order is passed under Sections 122(1A), 122(3) and 125 of the CGST Act, 2017, read with Section 20 of the IGST Act, the petitioner has an alternative remedy of appeal under Section 107 of the GST Act before the Appellate Authority. Therefore, he submits that the present writ petition challenging the show cause notice is not maintainable and prays for its dismissal.

5. I have heard learned counsel for the parties and perused the record and consider the provisions of Section 107 of the GST Act which reads as under:-

Section 107. Appeals to Appellate Authority.-

(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

(3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.
(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-
(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, [1][subject to a maximum of [3][twenty] crore rupees], in relation to which the appeal has been filed.
[**Provided** that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to ten per cent. of the said penalty has been paid by the appellant.]
(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.
(8) The Appellate Authority shall give an opportunity to the appellant of being heard.
(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under Section 73 or 74 [or section 74A].

(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.

(15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.

(16) Every order passed under this section shall, subject to the provisions of Section 108, or section 113 or section 117 or section 118 final and binding on the parties.

6. From perusal of Section 107 of the GST Act, it is quite vivid that various appellate authorities against the adjudicating authority is provided to the petitioner under the Act, as such, the writ petition against the show cause notice, without submitting reply to the show cause notice or adjudication by the authority and thereafter without taking recourse of appellate forum available to them under the GST Act, the same are not maintainable and liable to be dismissed.

7. The Hon'ble Supreme Court has examined the issue regarding maintainable of the writ petition without exhausting the statuary appellate remedy under the GST Act, in case of **The Assistant Commissioner of State Tax and Others vs. M/s Commercial Steel Limited** reported in **(2022) 16 SCC 447** has held in paragraphs 11 to 13 as under:

> "11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition

can be entertained in exceptional circumstances where there is:

(i) a breach of fundamental rights;

(ii) a violation of the principles of natural justice;

(iii) an excess of jurisdiction; or

(iv) a challenge to the vires of the statute or delegated legislation.

12 In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent.

13 For the above reasons, we allow the appeal and set aside the impugned order of the High Court. The writ petition filed by the respondent shall stand dismissed. However, this shall not preclude the respondent from taking recourse to appropriate remedies which are available in terms of Section 107 of the CGST Act to pursue the grievance in regard to the action which has been adopted by the state in the present case."

8. Considering the provisions of law, a writ petition challenging a show cause notice is ordinarily not maintainable unless a jurisdictional error is alleged or the competence of the authority to issue the notice is challenged. Further, in view of the availability of the statutory remedy of appeal under the GST Act, the present writ petition is not maintainable and is liable to be dismissed on this counts.

9. Further the Government of India Ministry of Finance vide circular dated **12th March, 2022** as amend the earlier **Circular No.31/05/2018, dated 9th February, 2018** and has directed as under:-

> "6. The Central Tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as "DGGI") shall exercise the powers only toissue show cause notices. A show cause notice issued by them shall be adjudicated by the competent Central Tax officer of the executive Commissionerate in whose jurisdiction the noticee is registered when such cases pertain to jurisdiction of one executive Commissionerate of Central Tax only."

10. Thus, the grievance relating to jurisdiction stands redressed, and no further adjudication on this aspect is warranted at this stage by this Court.

11. However, it is directed that, before determining the tax liability of the petitioner, the respondent shall comply with the provisions of the GST Act in its letter and spirit affording an opportunity of hearing to the petitioner. The petitioner shall also cooperate in the proceedings and shall not attempt to delay the proceedings pending before the authority. The petitioner shall not seek unnecessary adjournments and shall cooperate with the authority for the early disposal of the matter.

12. Consequently, the writ petition is dismissed for the reason mentioned above.

Sd/-
(Narendra Kumar Vyas)
Judge

Arpan