

16.07.2026
Ct. No.10

WPA 16100 of 2026

Raju Sharma
vs.
Assistant Commissioner of State Tax, Bureau of
Investigation &Ors.

Mr. AbhratoshMajumdar, Sr.Adv.
Mr. AvraMazumder
Mr. Rajesh Kumar Mishra
Mr. Kausheyo Roy
Ms. Vedika Agarwal
Ms. Alisha Das
Mr. Debdut Banerjee
Ms. Rupomita Ghosh
Ms. Sreeja Mukherjee

.....for the petitioner

Mr. D.N. Ray, Ld. GP
Mr. NikunjBerlia, Ld. AGP
Mr. SouravHaldar

....for the State-respondents

1. The affidavit of service filed in court today is taken on record.

2. Leave is granted to the Learned Advocate on record for the petitioner to implead the Deputy Commissioner of State Tax Bureau of Investigation, South Bengal as respondent No. 5.

3. The present Writ Petition has been field challenging inter alia, the legality, validity and propriety of the Order dated 19.03.2026 passed by the Deputy Commissioner of State Tax, Bureau of Investigation being the added respondent no. 5 herein, imposing penalty under Section 122(1)(i) and Section 122(1)(vii) of the West Bengal Goods and Services Tax Act, 2017 read with Central

Goods and Services Tax Act, 2017 (hereinafter referred to as the WBGST and CGST Act).

4. The core issue involved herein pertains to the imposition of penalty without affording the petitioner any opportunity of cross examination to rebut the allegation contained in the Show Cause Notice.

5. The petitioner is a sole proprietorship concern carrying on business under the name and style of “RID”. And is a registered taxable person under the WBGST and CGST Act.

6. Mr. AbhratoshMajumdar, Sr.Adv.The Learned Senior Counsel appearing on behalf of the petitioner submits as under:-

- i) A show cause notice has been issued on 25.6.2026 on the ground of issuance of invoices without actual supply of goods or services and availment and utilization of Input Tax Credit (ITC) without actual receipt of goods or services.
- ii) The Show Cause Notice has duly been responded to by the petitioner by way of a reply dated 16.02.2026, wherein, the petitioner specifically requested for cross examination in personal hearing of two persons, namely, Dipak Kumar Daiya and Barun Kumar Jha.
- iii) That without considering the said request of cross examination, the respondent authorities

arbitrarily passed the impugned order of adjudication dated 19.03.2026 thereby imposing a total penalty to the tune of Rs. 5,21,12,208/- (CGST Rs. 2,60,56,104/- and SGST Rs. 2,60,56,104/-) under Section 122 of the said Act.

iv) Subsequent thereto, the respondent authorities have already issued a reminder dated 29.06.2026 for payment of the outstanding demand amounting to the tune of Rs. 5,21,12,208/- with a stipulation that failure to make payment within the stipulated time would result in initiation of appropriate legal action.

v) That the impugned order has been passed in gross violation of natural justice and without affording the petitioner a reasonable opportunity of being heard.

vi) That in view of the above, the petitioner prays that the matter be remanded back to the adjudicating authority for fresh consideration after providing an opportunity of cross examination of the abovementioned two persons, on the basis of whose statement the impugned order has been passed.

7. Mr. D.N Roy Learned Government Pleader appearing for the State respondents made a fair

submission that there has been a violation of principles of natural justice in the present case. Accordingly he did not oppose the prayer for remanding the matter to the authority concerned for fresh consideration, subject to the condition that the petitioner cooperates with proceedings.

8. Having heard the parties and upon perusing the available record this court find that the petitioner has been able to make out a prima facie case for interference at this stage.

9. It is evident from the record that the petitioner in his reply to the Show Cause Notice has specifically sought permission to cross examine Dipak Kumar Daiya and Barun Kumar Jha. However, the impugned order was passed without acceding to the said request.

10. The denial of opportunity to cross examine the persons, whose statements have been relied upon for imposing penalty constitutes a gross violation of the principles of natural justice.

11. In view of the fair submission made by the Learned Government Pleader and considering the procedural infirmity noted above, this court is of the considered view that the matter warrants remand to the adjudicating authority for fresh consideration.

12. In light of the above observation, this court passes the following Order:-

- a. The impugned order dated 19.03.2026 along with all consequential notices and orders including the reminder dated 29.06.2026 is hereby set aside. The matter is remanded to respondent No. 5 for fresh consideration in accordance with law.
- b. The respondent No. 5 shall fix a date for personal hearing and shall provide with copies of all relevant documents.
- c. The respondent No. 5 shall specifically afford the petitioner an opportunity to cross examine Dipak Kumar Daiya and Barun Kumar Jha and shall permit the petitioner to file a fresh reply thereafter.
- d. The petitioner is directed to cooperate with the proceeding and shall not seek any unnecessary adjournment.
- e. The respondent No. 5 shall complete the entire exercise and pass a reasoned and speaking order in accordance with law on or before 30th September 2026. The decision so arrived at shall be communicated to the petitioner forthwith.
- f. It is clarified that since this Court has not expressed any opinion on the merits of the case

the respondent No. 5 shall not be influenced by any observation made herein and shall take an independent decision on the issue involved herein.

13. With the above observations and directions the writ petition stands disposed of.

14. It is also made clear that since this Court has not gone into the merits of the case, the respondent No.5 shall not be influenced by any observation made in this case and shall take an independent decision to consider the issue involved herein.

15. Since affidavits have not been called for, the allegations made in the instant writ petition are deemed to have been denied and not admitted.

16. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)