



**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.285 of 2025

Sri Shekhar Chandra Podder, Prop. of M/S Shekhar Chandra Podder, S/o Lt. Manindra Chandra Podder, Lane-03, Joynagar, Agartala, Tripura (West), PIN-799001, having GSTIN- 16AEYPP1732Q1ZL represented by Sri Shekhar Chandra Podder, aged about 68 years

.....Petitioner(s);

Versus

- 1.The Union of India represented by the Secretary, Ministry of Finance, Revenue Department, Government of India, North Block, Raisina Hill, New Delhi, P.O. North Block, Central Secretariat, P.S. Raisina Hill, PIN-110 001
2. The Director, Government of India, Ministry of Finance (Department of Revenue), Central Board of Indirect Taxes and Customs
3. The Chief Commissioner of State Tax, Government of Tripura, P.N. Complex, Gurkhabasti, P.O. New Capital Complex, P.S. New Capital Complex, Agartala, Tripura (West), PIN-799010
4. The Joint Commissioner of State Tax, Government of Tripura, P.N. Complex, Gurkhabasti, P.O. New Capital Complex, P.S. New Capital Complex, Agartala, Tripura (West), PIN-799010
5. The Joint Commissioner, Ministry of Finance, Revenue Department, Government of India, Central Goods and Services Tax, Tripura Division-1, CGST Bhawan, Netaji Chowmuhani, Mantri Bari Road, P.O. Agartala, P.S. West Agartala, West Tripura, PIN-799 001
6. The Assistant Commissioner (Anti-Evision), Ministry of Finance, Revenue Department, Government of India, Central Goods and Services Tax, Tripura Division-1, CGST Bhawan, Netaji Chowmuhani, Mantri Bari Road, P.O. Agartala, P.S. West Agartala, West Tripura, PIN-799 001
7. The Superintendent of State Tax, Government of Tripura, Charge-III, P.O. Agartala, P.S. East Agartala, Tripura (West), PIN-799 001
8. The Superintendent (Enforcement), Ministry of Finance, Revenue Department, Government of India, Central Goods and Services Tax, Tripura Division-1, Jackson Gate Building, 3rd Floor, Lenin Sarani, P.O. Agartala, P.S. West Agartala, West Tripura, PIN-799 001
9. The Superintendent (Anti-Evasion), Ministry of Finance, Revenue Department, Government of India, Central Goods and Services Tax, Tripura Division-1, CGST Bhawan, Netaji Chowmuhani, Mantri Bari Road, P.O. Agartala, P.S. West Agartala, West Tripura, PIN-799 001

.....Respondent(s)



For Petitioner(s) : Mr. Bibhal Nandi Majumder, Sr. Advocate,
Mr. Samrat Sarkar, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Deputy SGI,
Mr. P. Gautam, Sr. G.A.,
Mr. Ratan Datta, Advocate,
Ms. Saswati Nag, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

Date of hearing : **30.06.2026**

Date of Judgment & Order : **30.06.2026**

Whether fit for reporting : **YES**

JUDGMENT & ORDER (ORAL)

(Per M.S. Ramachandra Rao, C.J.)

Heard Mr. Bibhal Nandi Majumder, learned Senior Counsel assisted by Mr. Samrat Sarkar, learned counsel for the petitioner, Mr. Ratan Datta, learned counsel for respondent No.6, Mr. Bidyut Majumder, learned Deputy SGI for respondents No.1, 2, 5, 8 & 9 and Mr. P. Gautam, learned Senior Government Advocate for respondents No.4 & 7.

2. Perused the pleadings and Counter Affidavits of the parties.

Reliefs sought for in the Writ Petition:

3. In this Writ Petition, the petitioner has challenged certain notifications (A-7, 9 and 10) issued by the Govt. of India, Demand-cum-Show Cause Notice, bearing Reference No: GEXCOM/ADJN/GST/3073/2024-ADJN-O/COMMR-CGST-AGARTALA, dt.22.07.2024 (Annexure-56), issued by the Ld. Joint Commissioner, Central GST Commissionerate, Agartala (Respondent No.5) to the Petitioner, under Section 74(1) of the CGST/TSGST Act and Order-in-Original No.12/GST/JC(HQRS)/2024-25, dt.03.02.2025 (Annexure-78), passed by the Ld. Joint Commissioner, Central GST Commissionerate, Agartala etc.



4. However as regards the challenge to the notifications issued by the Government of India vide Annexures 7, 9 & 10 are concerned, no argument has been advanced and it is not necessary for us therefore to deal with the validity of the said notifications, and therefore we do not propose to go into the said aspect.

The Demand-cum-Show Cause Notice dt.22.07.2024:

5. The main question in the Writ Petition relates to the validity of a Demand-cum-Show Cause Notice dt.22.07.2024 [Annexure-56] issued by the Joint Commissioner, Central GST Commissionerate, Agartala [respondent No.5 to the Writ Petition] under Section 74(1) of the Central Goods and Services Tax Act, 2017 [“Act”, *for short*], and the consequent impugned Order-in-Original dt.03.02.2025 [Annexure-78] passed by the said officer.

6. It is not in dispute that the Demand-cum-Show Cause Notice issued on 22.07.2024 by the respondent No.5 pertains to four financial years i.e. 2017-18, 2018-19, 2019-20 and 2020-21.

Submission of senior counsel for the petitioner:

7. It is the contention of learned Senior Counsel for the petitioner that as regards the financial year 2017-18, the initiation of proceedings through the show cause notice dt.22.07.2024 by the respondent No.5 is impermissible in view of the fact that the said show cause notice was issued for that year beyond the period of five years from 31.12.2018, the due date for furnishing of annual return for the said financial year, as laid down in Section 74(10) of the Act of 2017. In other words it was issued for that year after the 5



year period provided in the Act has expired and so it was issued without jurisdiction.

8. As regards the financial years 2018-19 and 2019-20, Senior Counsel for the petitioner contends that notice had been issued by the SGST authorities on 24.02.2025 [Vol-VII Page 1092-1095] mentioning about mismatches between Input Tax Credit (ITC) availed in Electronic Credit Ledger (ECL) than those declared in the annual return, and he points out that these proceedings were admittedly dropped on 08.07.2025 by the SGST authorities.

9. He contends that in the Demand-cum-Show Cause Notice dt.22.07.2024 issued by respondent No.5, he has also covered the aspect of excess availment of ITC for 2018-19 and 2019-20 [Vol-VII Page 1157 – Counter Affidavit of respondents No.1, 2, 5, 8 & 9].

10. He further contends that for the financial year 2018-19 and 2019-20, the CGST authorities cannot, in view of Section 6(2)(b) of the Act of 2017, go into this aspect of excess availment of ITC because the subject matter is already covered in the show cause notices issued by SGST authorities to the petitioner referred to supra.

Submission of counsel for respondents:

11. Counsel for the respondents however contends that as regards the financial year 2017-18, the respondent No.5 cannot be said to be wrong in issuing the show cause notice because of a notification No.06/2020 dt.03.02.2020 [Annexure-7] issued under Section 168A of the Act of 2017. He also supported the action of respondent no.5 in including the financial years 2018-19, 2019-20, 2020-21 in the said show cause notice.

**Consideration by the Court:**

12. We shall first deal with the plea of petitioner regarding the validity of action of respondent no.5 in initiating proceedings for the year 2017-18.

13. A reading of the notification No.06/2020 dt.03.02.2020 [Annexure-7] indicates that the Central Government had issued the said notification on the recommendation of the GST Council and in the said notification, the time limit for furnishing of the annual return for the period 2017-18 was extended up to 07.02.2020 for the State of Tripura.

14. In our opinion, this notification is intended for the benefit of assesses, if they had not already filed their annual return for 2017-18 financial year by 31.12.2018.

15. This notification is not intended to benefit the respondent CGST department, and extend for their benefit the time limit prescribed in Section 74(10) of the Act of 2017 to initiate proceedings beyond the period of 5 years from the date of filing of the annual return for 2017-18 i.e., beyond 31.12.2023.

16. No other notification issued by the Central Government under Section 168A of the Act of 2017 extending the time limit for exercising powers under Section 74 of the Act of 2017, has been brought to our notice by the counsel for the respondents.

17. In the Counter Affidavit filed by the respondents, it is also stated that during the year 2019-20, the country as well as the entire world was facing unprecedented COVID-19 pandemic, due to which normal business and administrative functioning were severely disrupted, and extension of due dates



were granted in public interest to mitigate hardships faced by taxpayers and to ensure compliance.

18. But no notification issued by the Central Government under Section 168A of the Act of 2017 for the period covered by COVID-19 extending the time limit for initiation and completion of proceedings under Section 74 of the Act of 2017, has been filed by the respondents or placed before this Court.

19. In para 4 of the Counter Affidavit filed by the respondents, it is also stated that there was initiation of investigation by CGST authorities for the financial year 2017-18 on 22.03.2021, and reliance is placed on a notice dt.22.03.2021 [Annexure-16] issued by the CGST authority to the petitioner.

20. The said document mentions that there was a wrongful deposit allegedly made by the petitioner of VAT in GST regime in contravention of the Act of 2017.

21. This document does not amount to initiation of proceedings for the purpose of Section 6(2)(b) of the Act of 2017 at all, because it is not one commencing any adjudicatory proceeding by way of issuance of a show cause notice, and at best this can be construed as only a notice for the purpose of scrutiny.

22. It cannot also be construed as a notice under Section 74 of the Act for the reason that as directed by the notification dt.13.12.2023 of the GST Policy Wing, Central Board of Indirect Taxes & Customs, Department of Revenue, Ministry of Finance, Government of India, Section 74(1) of the Act of 2017 can be invoked only in cases where there is a fraud or willful misstatement or suppression of facts to evade tax on the part of a taxpayer,



and there is no such allegation contained in the notice dt.22.03.2021 issued by the CGST authorities, and for the first time such allegation was made only in the Demand-cum-Show Cause Notice dt.22.07.2024 issued by the fifth respondent.

23. So as far as financial year 2017-18 is concerned, the action of the respondent No.5 in issuing the said show cause notice and passing the impugned order in original on 03.02.2025 is without jurisdiction and contrary to the Act.

24. Regarding 2018-19 and 2019-20, it is admitted by the respondents in the Counter Affidavit at para 25 that Section 6(2)(b) of the Act of 2017 prohibits initiation of parallel proceedings when proceedings on the same subject matter have already been initiated by the State GST authorities, and that the identity of subject matter is a mandatory pre-condition for invoking the statutory bar.

25. This is also the principle laid down by the Supreme Court in *M/s Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate & Another*¹. In para 96, the Supreme Court has summarized the legal position as under:

“96. We summarize our final conclusion as under: -

i. Clause (b) of sub-section (2) of Section 6 of the CGST Act and the equivalent State enactments bars the “initiation of any proceedings” on the “same subject matter”.

ii. Any action arising from the audit of accounts or detailed scrutiny of returns must be initiated by the tax administration to which the taxpayer is assigned.

¹ Special Leave Petition (C) No.6092 of 2025 dt.14.08.2025



iii. *Intelligence based enforcement action can be initiated by any one of the Central or the State tax administrations despite the taxpayer having been assigned to the other administration.*

iv. *Parallel proceedings should not be initiated by other tax administration when one of the tax administrations has already initiated intelligence-based enforcement action.*

v. *All actions that are initiated as a measure for probing an inquiry or gathering of evidence or information do not constitute “proceedings” within the meaning of Section 6(2)(b) of the CGST Act.*

vi. *The expression “initiation of any proceedings” occurring in Section 6(2)(b) refers to the formal commencement of adjudicatory proceedings by way of issuance of a show cause notice, and does not encompass the issuance of summons, or the conduct of any search, or seizure etc.*

vii. *The expression “subject matter” refers to any tax liability, deficiency, or obligation arising from any particular contravention which the Department seeks to assess or recover.*

viii. *Where any two proceedings initiated by the Department seek to assess or recover an identical or a partial overlap in the tax liability, deficiency or obligation arising from any particular contravention, the bar of Section 6(2)(b) would be immediately attracted.*

ix. *Where the proceedings concern distinct infractions, the same would not constitute a “same subject matter” even if the tax liability, deficiency, or obligation is same or similar, and the bar under Section 6(2)(b) would not be attracted.*

x. *The twofold test for determining whether a subject matter is “same” entails, first, determining if an authority has already proceeded on an identical liability of tax or alleged offence by the assessee on the same facts, and secondly, if the demand or relief sought is identical.”*

(emphasis supplied)



26. As rightly contended by learned Senior Counsel for the petitioner, in the notices issued by SGST authorities on 24.02.2025 [Vol-VII at Page 1092-1095], there is mention about mismatches between ITC availed in Electronic Credit Ledger than declared in annual return, which proceedings were admittedly dropped on 08.07.2025 by SGST authorities.

27. But in the show cause notice issued on 22.07.2024 by the respondent No.5, he has also included the aspect of excess availment of ITC for 2018-19 and 2019-20, though it is the subject matter of the show cause notices and proceedings already issued by the SGST authorities.

28. In our opinion, in view of the bar contained in Section 6(2)(b) of the Act, the respondent no.5 could not have initiated proceedings into this aspect of excess availment of ITC for these two financial years which aspect/subject matter is already covered in the show cause notices issued by the SGST authorities to the petitioner as mentioned above. So to that extent his show cause notice and impugned order are without jurisdiction.

29. However as regards the short payment of GST aspect which is contained in the Demand-cum-Show Cause Notice dt.22.07.2024 issued by the respondent no.5 for 2018-19 and 2019-2020, this aspect was not subject matter of the show cause notices and proceedings issued by SGST authorities for those years.

30. Therefore to that extent, the action of the respondent No.5 cannot be found fault with.

31. Coming to the financial year 2020-21, we may point out that the notice of the SGST authority to the petitioner dt.16.07.2021 relates to



mismatch of tax liability indicated by the petitioner in GSTR-1B and GSTR-3B.

32. This is not a subject matter of the Demand-cum-Show Cause Notice dt.22.07.2024 issued by the fifth respondent.

33. Therefore to that extent also, one cannot find fault with the respondent No.5 in initiating proceedings by issuance of Demand-cum-Show Cause Notice.

34. For the aforesaid reasons, and since the show cause notice dt.22.07.2024 and the impugned order in original dt.3.2.2025 passed by the respondent No.5 cover the financial years 2017-18, 2018-19, 2019-20 and 2020-21, and since we have held supra that in respect of some financial years on some aspects, the respondent no.5 had no jurisdiction, we set aside the show cause notice dt.22.07.2024 to that extent and the Order-in-Original dt.03.02.2025 passed by the respondent No.5 in its entirety, and remit the matter back to the respondent No.5 to pass a fresh order within 3 months only on the aspects which he is entitled to do as per this Order after hearing the petitioner afresh. All consequential actions/orders of respondents are also set aside. The petitioner is granted liberty to contend before respondent No.5 that the conditions precedent for invoking Section 74 do not exist by filing additional reply to the show cause notice within 6 weeks from today.

35. Writ Petition is disposed of accordingly.

36. Pending application(s), if any, shall also stand disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)