HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Writ Petition No. 14693/2026
CNR: RJHC010669972026
URN: CW / 26769U / 2026

M/s Gajmukhi Bullion, Through Its Proprietor Shri Dev Madanlal Adania S/o Shri Madan Lal Adania, Age 41 Years Having Its Principal Place Of Business At 178, Durga Das Nagar, Near National Park, Pali Rajasthan.

----Petitioner

Versus

1. Additional Commissioner, Central Goods And Service Tax, G-105, New Industrial Area, Near Diesel Shel, Jodhpur Rajasthan-342003.
2. Commissioner (Appelas), The Appellate Authority, Central Goods, And Service Tax, G-105, New Industrial Area, Near Diesel Shed, Jodhpur Rajasthan-342003.

----Respondents

For Petitioner(s)	:	Mr. Prateek Gattani
For Respondent(s)	:	Mr. Nilesh Choudhary for Mr. Kuldeep Vaishnav, D.G.C.

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

Reportable
17/07/2026

1. The present petition has been preferred against the order dated 16.01.2025 (Annexure-7), whereby penalties have been imposed upon the petitioner under Section 122(1)(ii), (vii), (xii), (xvi) and (xvii) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act"), as well as the Order-in-Appeal dated 28.01.2026 (Annexure-10) passed by respondent No. 2 affirming the aforesaid order.

2. Learned counsel for the petitioner submits that the petitioner is a proprietorship firm engaged in the business of bullion, gems, and jewellery and is a registered person under the CGST Act and

the Rajasthan Goods and Services Tax Act, 2017. It is further submitted that a show cause notice dated 21.05.2024 was issued proposing imposition of penalties under Section 122(1) of the CGST Act.

3. Learned counsel for the petitioner further submits that the anomaly arose when Shri Mahipal Singh, Additional Commissioner, who had himself examined the investigation report on 13.02.2023 and approved the proposal for initiation of prosecution proceedings under Section 132 of the CGST Act, subsequently proceeded to adjudicate upon the matter arising out of the same set of facts, thereby concluding that the petitioner was liable to be proceeded against.

4. Learned counsel has further submitted that the petitioner thereafter raised an objection regarding the same authority acting as an appellate authority and passing the order dated 16.01.2025 confirming the penalties imposed upon the petitioner.

5. Learned counsel further submits that the appellate authority rejected the petitioner's appeal in a cryptic manner while holding that, under the CGST regime, the fact that the same officer had acted as an adjudicator or investigator would not cast any stigma or cloud upon the validity of the proceedings or the orders passed therein.

6. Learned counsel for the petitioner has drawn the attention of this Court to Annexure-5, being the investigation report prepared for the purpose of initiating prosecution against the present petitioner. The said report is signed by Shri Abhishek Sinha, Deputy Commissioner (A.E.), CGST & Central Excise, Jodhpur, and bears the endorsement of having been carefully examined and

approved by Shri Mahipal Singh, Additional Commissioner (A.E.), CGST & Central Excise, Jodhpur.

7. Learned counsel has further drawn the attention of this Court to the findings recorded by the concerned authority while dealing with the objections raised by the petitioner in the order dated 16.01.2025. In this regard, learned counsel has specifically referred to Paragraph 25 of the order dated 16.01.2025 (Annexure-7), appearing at Page No. 139, and has submitted that Paragraphs 25.1, 25.2, and 25.3 thereof read as under:

> *"25.1. Now, I come to the contention of the taxpayer that the adjudicating authority in the present case can not adjudicate the impugned SCN because the same authority had granted permission for launch of prosecution i.e. filing of criminal complaint under section 132 of the CGST Act 2017, against the noticee in the same matter. Because the said authority is prejudice with the fate of the noticee as he has already directed/order for launch of prosecution against the noticee.*
>
> *25.2. I observe that Section 132(6) of CGST Act, 2017 deals with prosecution and its Sub-section (6) reads as under*
>
> *Section 132. Punishment for certain offences -*
>
> *(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.*
>
> *Therefore, the competent authority for sanction of the prosecution is Commissioner, not Additional Commissioner. Therefore, the contention of the taxpayer is misplaced.*
>
> *25.3. I observe that the investigation Report for filing a Compliant was prepared by Shri Abhishek Sinha, Deputy Commissioner and the same was countersigned by Shri Mahipal Singh, Additional Commissioner, now, Shri Mahipal Singh, Additional Commissioner is acting a quasi judicial authority. I observe that instead of pleading his case with new facts and documentary evidence, the taxpayer is trying to hinder the proceedings. This attempt is noting but to hamper the adjudication proceedings."*

10. Learned counsel relied upon the judgment rendered by Hon'ble Apex Court in the case of ***Ashok Kumar Vs. State of Haryana; (1985) 4 SCC 417*** (decided on 10.05.1985), relevant paragraph 16 of which is reproduced herein below:

> *"16. We agree with the petitioners that it is one of the fundamental principles of our jurisprudence that no man can be a Judge in his own cause and that if there is a reasonable likelihood of bias it is "in accordance with natural justice and common sense that the justice likely to be so biased should be incapacitated from sitting". The question is not whether the judge is actually biased or in fact decides partially, but whether there is a real likelihood of bias. What is objectionable in such a case is not that the decision is actually tainted with bias but that the circumstances are such as to create a reasonable apprehension in the mind of others that there is a likelihood of bias affecting the decision. The basic principle underlying this rule is that justice must not only be done but must also appear to be done and this rule has received wide recognition in several decisions of this Court. It is also important to note that this rule is not confined to cases where judicial power stricto sensu is exercised. It is appropriately extended to all cases where an independent mind has to be applied to arrive at a fair and just decision between the rival claims of parties. Justice is not the function of the courts alone; it is also the duty of all those who are expected to decide fairly between contending parties. The strict standards applied to authorities exercising judicial power are being increasingly applied to administrative bodies, for it is vital to the maintenance of the rule of law in a welfare state where the jurisdiction of administrative bodies in increasing at a rapid pace that the instrumentalities of the State should discharge their functions in a fair and just manner. This was the basis on which the applicability of this rule was extended to the decision- making process of a selection committee constituted for selecting officers to the Indian Forests Service in A.K. Kraipak v. Union of India. What happened in this case was that one Naquisbund, the acting Chief Conservator of Forests, Jammu and Kashmir was a member of the Selection Board which had been set up to select officers to the Indian Forest Service from those serving in the Forest Department of Jammu and Kashmir. Naquisbund*

who was a member of the Selection Board was also one of the candidates for selection to the Indian Forest Service. He did not sit on the Selection Board at the time when his name was considered for selection but he did sit on the Selection Board and participated in the deliberations when the names of his rival officers were considered for selection and took part in the deliberations of the Selection Board while preparing the list of the selected candidates in order of preference. This Court held that the presence of Naquishbund vitiated the selection on the ground that there was reasonable likelihood of bias affecting the process of selection. Hegde, J. speaking on behalf of the Court countered the argument that Naquisbund did not take part in the deliberations of the Selection Board when his name was considered, by saying :

But then the very fact that he was a member of the Selection Board must have its own impact on the decision of the Selection Board. Further, admittedly, he participated in the deliberations of the Selection Board when the claims of his rivals ... was considered. He was also party to the preparation of the list of selected candidates in order of preference. At every stage of his participation in the deliberation of the selection board, there was a conflict between his interest and duty.... The real question is not whether he was biased. It is difficult to prove the state of mind of a person. Therefore what we have to see is whether there is reasonable ground for believing that he was likely to have been biased.... There must be a reasonable likelihood of bias. In deciding the question of bias we have to take into consideration human probabilities and ordinary course of human conduct.

This Court emphasised that it was not necessary to establishes as but it was sufficient to invalidate the selection process if it could be shown that there was reasonable likelihood of bias. The likelihood of bias may arise on account of proprietary interest or on account of personal reasons, such as, hostility to one party or personal friendship or family relationship with the other. Where reasonable likelihood of basis is alleged on the ground of relationship, the question would always be as to how close is the degree of relationship or in other words, is the nearness of relationship so great as to give rise to reasonable apprehension of bias on the part of the authority making the selection."

8. Learned counsel also relied upon the judgment rendered by this Hon'ble Court in ***M/s Ramjilal Mohanlal v. Union of India & Ors.*; D.B. Civil Writ Petition No. 7616/2024** (decided on 29.01.2026).

9. Per contra, learned counsel for the respondents submits that the impugned show cause notice was issued by Shri Gyanendra Kumar Tripathi, Additional Commissioner, and that no objection was raised by the petitioner at the initial stage. It is, therefore, contended that the petitioner cannot be permitted to raise such objections at this belated stage.

10. Learned counsel for the respondents further submits that the role discharged by an officer as a quasi-judicial authority is distinct from the role performed while approving an investigation report or a proposal for prosecution. It is, therefore, submitted that the two capacities are not in conflict so as to give rise to any presumption of prejudice against the petitioner. It is further submitted that the petitioner has failed to demonstrate any actual prejudice on account of the same officer having approved the investigation report and subsequently acting as the quasi-judicial authority.

11. After hearing learned counsel for the parties at length, this Court finds that the investigation report for initiation of prosecution was prepared by Shri Abhishek Sinha, Deputy Commissioner, and the same was countersigned and approved by Shri Mahipal Singh, Additional Commissioner.

12. This Court finds that Shri Mahipal Singh, Additional Commissioner (A.E.), CGST & Central Excise, Jodhpur, who acted as the quasi-judicial authority, also passed the impugned order

dated 16.01.2025. Such an arrangement undermines the very foundation upon which a quasi-judicial authority is expected to function. This Court is of the view that the precedents cited by the respondents have only limited applicability and do not accord with the settled principles governing the exercise of quasi-judicial powers, particularly in circumstances where a person directly associated with the initiation of proceedings proceeds to adjudicate upon the same matter. Paragraph 25.3 of the impugned order itself reflects that the objection regarding the investigation report having been countersigned and approved by the same authority was not adequately addressed, notwithstanding the fact that Shri Mahipal Singh subsequently passed the impugned order dated 16.01.2025 in his quasi-judicial capacity.

13. This Court does not deem it necessary to enter into the question as to whether the multiple roles assumed by the same officer, namely, investigator, approving authority, and quasi-judicial authority, actually resulted in bias or partiality in the present case. However, the reasonable apprehension of bias in the mind of the petitioner cannot be ignored, particularly when the matter concerns the exercise of quasi-judicial powers. In view of the aforesaid, this Court deems it appropriate to remand the matter by quashing the Order-in-Original dated 16.01.2025 (Annexure-7) and the Order-in-Appeal dated 28.01.2026 (Annexure-10), with a direction to the competent authority to decide the matter afresh, ensuring that the roles of investigator, approving authority, and quasi-judicial officer are not discharged by the same individual.

14. This Court further clarifies that it has not examined whether the impugned order is otherwise vitiated by actual bias or prejudice and has remanded the matter solely on the ground that the authority exercising quasi-judicial powers was also involved in the approval of the investigation report leading to the initiation of prosecution proceedings. All other issues and contentions are left open to be decided by the competent authority strictly in accordance with law.

(PRAVEER BHATNAGAR),J (DR. PUSHPENDRA SINGH BHATI),J

3/Devanshi Upadhyay/659