

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(T) No. 4574 of 2021

M/s. Rimjhim Ispat Limited, a Company incorporated under the Companies Act, 1956, having its works at B-22/23, Industrial Area, Somerapur, Hamirpur, Uttar Pradesh through its authorised signatory Mr. Bhaskar Bajpayi

... Petitioner

Versus

1. The State of Jharkhand
 2. The Commissioner of State Taxes, having its office at Project Bhawan, Dhurwa, P.O. Dhurwa, P.O. – Dhurwa, P.S. Jagannathpur, District-Ranchi, Jharkhand
 3. The Deputy Commissioner of State Taxes, Intelligence Bureau, Dhanbad Division, Jharkhand having his office at Near City Civil Court, Dhanbad
 4. The State Taxes Officer, Intelligence Bureau, Intelligence Bureau, Dhanbad Division, Jharkhand having his office at Near City Civil Court, Dhanbad
 5. Goods & Services Tax Network, through its Secretary, Worldmark 1, Aerocity, New Delhi, P.O. & P.S.- Aerocity, District- New Delhi 110037
- ... Respondents

CORAM: HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Nitin Kumar Pasari, Advocate

For the State : Mr. A. K. Yadav, Sr. S.C. I &
Mr. Ranjan Kumar, AC

For CGST : Mr. P.A.S. Pati, Advocate
& Mrs. Ranjana Mukherjee, AC

Order No. 18

Dated 01st May, 2023

Heard the learned counsel for the respective sides.

In this writ application, the petitioner has prayed for a direction upon the respondents to show cause as to how an Officer of the State Taxes could carry out the proceedings under Section 129(1) and (3) of the Act, that too when he is not the proper Officer under the Central Goods & Services Tax Act, 2017, for an inter-state transaction, necessarily falling under the ambit of Integrated Goods & Services Tax Act, 2017, in view of Section 20 of the said Act. The petitioner has further prayed for quashing and setting aside the order dated 15.02.2021 passed by the Proper Officer, whereby and whereunder, tax and penalty to the tune of Rs. 19,61,100/- has been imposed on the ground that E-way Bill had lost its validity without any finding of evasion of tax.

The factual aspects reveal that on 04.02.2021 the petitioner had raised an invoice against the order of stainless steel rod weighing 30.180 MT by GEE Limited, Howrah which was dispatched by the consignor on the same date via Road Transport with a valid E-way bill and other required documents. On 04.02.2021 itself an E-way bill for outward supply was generated and issued which was valid from 04.02.2021 till 10.02.2021. On the vehicle entering the boundary of the State of Jharkhand at Dhanbad, it was inspected by Officers and the E-way bill was found to have expired on 10.02.2021 subsequent to which the statement of the driver of the truck was recorded in Form GST MOV-01 and the vehicle along with the goods were directed to be stationed at Barwadda Police Station by issuance of Form GST MOV-02. Since the E-way bill had expired an order of detention in Form GST MOV-06 and a notice in Form GST MOV-07 were issued wherein the petitioner company was directed to show cause as to why the proposed tax and penalty to the tune of Rs. 19,61,100/- be not imposed. Finally an order was passed on 15.02.2021 wherein the tax and penalty upon the petitioner company was imposed to the tune of Rs. 19,61,100/-. Aggrieved by the order dated 15.02.2021, the petitioner had filed an appeal manually and he was subsequently communicated by the appellate authority to file an online appeal.

At the outset, Mr. Pasari, learned counsel for the petitioner submits that in view of the counter affidavit filed by the State he is not pressing prayer (a) made in this writ application. Mr. Pasari has also taken us through the merits of the case and in course of argument, Mr. P.A.S. Pati, learned counsel appearing for CGST has produced before us a copy of the order passed in W.P.(T) No. 1823 of 2021 which primarily dealt with the filing of an appeal in similar circumstances.

We have perused the order dated 21.12.2022 passed in W.P.(T) No. 1823 of 2021 in which it was concluded thus:-

“5. Having heard learned counsel for the parties and after going through the series of events, as also, taking into consideration that an efficacious alternative remedy by way of appeal is available to the petitioner under Section 107 of JGST Act, we therefore, grant liberty to the petitioner to approach the appellate authority against the impugned order passed under Form GST mov 09. On his approaching,

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the State Taxes Officer, Intelligence Bureau, Ranchi, Division Ranchi shall provide the GSTIN number so that the petitioner can prefer an appeal online. In case the appeal is not accepted online for any technical reasons, he would be at liberty to prefer an appeal manually before the appellate authority. The petitioner shall be at liberty to raise all the issues of facts & law and the grounds available to it in the appeal which shall be decided by the appellate authority in accordance with law.

6. *Consequently, the writ petition is disposed of with aforesaid direction and observation. Let it made be clear that this Hon'ble Court has not gone into the merits of the case of the parties."*

In such view of the matter therefore since the petitioner has an alternative remedy of an appeal which he has already availed of in terms of Section 107 of the JGST Act by filing the same manually which is being kept dormant by the Department, we dispose of this writ application with a direction to the Joint Commissioner (Appeals), Dhanbad Division, Dhanbad to dispose of the appeal preferred by the petitioner manually expeditiously and preferably within a period of eight weeks from the date of receipt/production of a copy of this order, since it has been submitted by the learned counsel for the petitioner that the memo of appeal submitted manually contains all the grounds on which he has assailed the impugned order dated 19.02.2021.

It is once again made clear that the Joint Commissioner (Appeals), Dhanbad Division, Dhanbad is to decide the appeal as directed above on the basis of the memo of appeal submitted manually by the petitioner and which is said to be lying dormant.

(RONGON MUKHOPADHYAY, J.)

(DEEPAK ROSHAN, J.)