Serial No. 03 Supplementary List
MLHC010006582026

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 190 of 2026

Reserved on : 11.08.2026
Pronounced on : 17.11.2026
Uploaded on : 17.11.2026

Whether the operative part or full judgment is pronounced : Full Judgment

B.S. Automobiles
A partnership firm having its registered office at Mawlong Hat, Shillong
East Khasi Hills, Meghalaya-793002, represented by its
Managing partner Shri Dipak Goyal, Aged about 50 years,
S/o (L) Shankar Lal Goyal,
R/o Flat No. N-101, Fernadle Apartment, M.G Road,
East Khasi Hills, Shillong **… Petitioner(s)**

Versus

1.The State of Meghalaya represented by
Commissioner & Secretary to the Government of Meghalaya,
Department of Finance & Taxation,
Shillong, Meghalaya

2.The Principal Commissioner of State Tax,
Office of the Commissioner Taxes,
4th Secretariat Building, Lachumiere,
Shillong-793003, Meghalaya.

3. The Deputy Commissioner of Taxes (Recovery Officer),
4th Secretariat Administrative Building,
Lower Lachumiere Shillong, Meghalaya-793001.

4.The Superintendent of Taxes,
Circle-1, Head Quarter, Meghalaya

…. Respondent(s)

Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Judge
Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner(s) : Mr. R.S. Mishra, Adv. with
Ms. B. Sarma, Adv.

For the Respondent(s) : Mr. A. Kumar, AG with
Mr. J.N. Rynjah, GA

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

Per. H.S. Thangkhiew, Judge:

JUDGMENT:

1. By the instant writ petition, the petitioner, a registered partnership firm carrying on the business of trading in motor parts and ancillary items at Mawlong Hat, Shillong, bearing GST Registration No. 17AABFB8118K1ZF under the Meghalaya Goods and Services Tax Act, 2017 has assailed the legality and jurisdiction of the proceedings initiated by Respondent No. 4 (Superintendent of Taxes, Circle-1, Head Quarter, Meghalaya) for the Financial Year April 2020-April 2021.

2. The prayer in the writ petition is for the issuance of a Writ of Certiorari or any other appropriate writ to quash and set aside:

(a) The Summary of Show Cause Notice in Form GST DRC-01 bearing ***Reference No. ZD171124000778I*** dated **28.11.2024**;

(b) The Impugned Assessment Order bearing ***Reference No. ZD170225000740Y*** dated **27.02.2025** passed under Section 73 of the MGST Act, 2017, confirming a tax demand of **Rs. 19,90,088/-** along with interest and penalty, together with the summary thereof in Form GST DRC-07;

(c) Form GST DRC-01D bearing date 27.02.2025 directing payment of Rs. 19,90,088/- within seven days, and,

(d) Recovery Notices bearing dates 05.03.2026 and 31.03.2026 issued by Respondent No. 3

3. The core grievance of the petitioner is that the entire proceedings was conducted in gross violation of the mandatory provisions of Section 73(1) of the Central Goods and Services Tax Act, 2017 / Meghalaya Goods and Services Tax Act, 2017 and Rule 142(1) of the CGST/MGST Rules, 2017, inasmuch, as no statutory Show Cause Notice was ever served prior to issuing the summary in Form GST DRC-01. Furthermore, the petitioner asserts a complete breach of the principles of natural justice and the statutory mandate under Rule 26(3) of the CGST/MGST Rules, 2017.

4. The learned counsel for the petitioner, Mr. R.S Mishra with Ms. B. Sarma has submitted that the Petitioner has been regularly complying with the provisions of the MGST Act, 2017 and discharging its tax liabilities and following an intimation of discrepancies in Form GST ASMT-10 **dated 21.08.2024** (Ref No. ZD170824000532P), a detailed reply was filed on **21.09.2024** before the Respondents. However, he submits that without issuing or serving a proper statutory Show Cause Notice under Section 73(1) of the MGST Act, 2017, the Respondent No. 4 issued only a Summary of Show Cause Notice in Form GST DRC-01 dated 28.11.2024. He further submits that though the Form DRC-01 indicated that a Show Cause Notice was attached, however apart from a statement containing certain figures, no Show Cause Notice setting out the grounds or factual basis was annexed or served upon the petitioner.

5. The learned counsel has then highlighted a glaring procedural anomaly in the Form GST DRC-01 dated 28.11.2024, wherein he submits while the date for submitting a written reply was fixed on 28.12.2024, the date for personal hearing was scheduled on 13.12.2024. This incongruity he submits, effectively denied the Petitioner a reasonable opportunity of hearing which rendered the Form GST DRC-01 untenable in the eye of law, apart from resulting in a clear violation of the principles of natural justice. It is then submitted that pursuant to the DRC-01 notice, the respondents passed the

impugned order dated 27.02.2025, whereby demand of GST under Section 73 of the MGST Act, was confirmed along with interest and penalty and along with this order, Form GST DRC-01D, was issued directing payment to be made within 7 days. The petitioner he submits, then replied to the Show-Cause dated 27.02.2025, to which no response was received which led it to believe that the matter was closed. However, he submits the Petitioner was shocked when he received the recovery notices dated. 05.03.2026 and 31.03.2026 directing to make a payment of Rs. 19,90,088 within seven days.

6. The learned counsel has then submitted that Section 73 of the MGST Act, 2017, provides for the determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised other than fraud or any wilful misstatement or suppression of facts. This provision he submits also obligates the Proper Officer, to issue and serve a substantive Show Cause Notice (SCN) setting out the grounds for any proposed tax liability, interest under Section 50, and penalty under Section 73(9). The statutory scheme he submits therefore, mandates a formal notice and an opportunity to submit a representation must precede any final order under Section 73(9).

Further he submits under Rule 142 of the MGST Rules, 2017 which deals with Notice and Order for Demand of amounts payable under the Act, at Rule 142(1) thereof, Form GST DRC-01, is to be in the form of an

electronic summary to be served along with the statutory SCN, and Rule 142(5) prescribes that a summary of the order issued under Section 73(9) or Section 74(9) or Section 75(12) or Section 75(3) or Section 76(3) or Sections 125, 129 and 130 shall be electronically uploaded in the Form GST DRC-07 specifying therein, the amount of tax, interest and penalty payable.

7. The learned counsel the submits that Form GST DRC-01 is an ancillary procedural document and does not constitute a substantive SCN in itself, and therefore, Form GST DRC-01 cannot substitute, or replace the statutory requirement of a Show Cause Notice as provided under Section 73(1). The initiation of proceedings in the instant case he contends, on the basis of Form GST DRC-01 without issuing a primary SCN, constitutes a fundamental jurisdictional defect, vitiating the proceedings and rendering consequential demand orders unsustainable in law.

It has also been pointed out by the learned counsel that neither the summary in Form GST DRC-01 dated 28.11.2024, nor the final Assessment Order dated 27.02.2025 bore any digital signature, or physical signature of the Proper Officer, as mandatorily required under Rule 26(3) of the CGST/MGST Rules, 2017 and the Information Technology Act, 2000. As such he submits the unsigned notices dated. 28.11.2024 and order dated 27.02.2025 are invalid in the eye of law.

8. On the question of maintainability, it has been asserted by the learned counsel that despite the existence of an alternative statutory remedy under Section 107 of the Act, the present Writ Petition under Article 226 of the Constitution of India is wholly maintainable on the submissions which have been made earlier on the procedure adopted by the Respondents which is without any jurisdiction. In support of this contention, reliance has been placed on the following judgments:

a. ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Ors.(1998) 8 SCC 1***

b. ***M/s Godrej Sara Lee Ltd. V. The Excise and Taxation Officer-Cum-Assessing Authority and Ors. (2025) 11 SCC 808***

The learned counsel the asserts that the present case falls squarely under exceptions (ii) and (iii) of the *Whirlpool* doctrine, as the proceedings are wholly without jurisdiction for want of a statutory Show Cause Notice and suffered from a total violation of natural justice.

9. On another limb of submission, the learned counsel has argued that the case involves pure questions of law, rather than disputed questions of fact and in this context has placed reliance on the following judgments, namely, ***Chandra Kishore Jha v. Mahavir Prasad and Others, (1999) 8 SCC 266,*** wherein it was observed that it is a well-settled salutary principle of law

that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. Another judgment pressed into service by the Learned Counsel is the case of ***Construction Catalysers Pvt. Limited v. State of Assam and 2 Ors., W.P.(C) No. 3912 of 2024,*** which he submits has detailed mandatory procedure to be followed which are:-

a. That uploading an electronic summary in Form GST DRC-01 under Rule 142(1) does not dispense with the statutory requirement of issuing a substantive Show-Cause Notice (SCN) under Section 73(1). Irrespective of issuing a DRC-01 summary, the Proper Officer must issue a proper SCN to put Section 73 into motion.
b. When the statute categorically distinguishes a Show-Cause Notice under Section 73(1) from a Statement under Section 73(3), an attachment detailing tax determination (Statement under Section 73(3)) uploaded alongside Form GST DRC-01 cannot replace an SCN under Section 73(1). Proceedings initiated without a primary SCN are bad in law and liable to be set aside.
c. Notices, statements, and demand orders (Form GST DRC-07) issued by the Proper Officer must be electronically authenticated using a Digital Signature Certificate (DSC) or E-signature under Rule 26(3). Failure to authenticate these documents renders them ineffective, redundant, and void.
d. Under Section 75(4), granting an opportunity of personal hearing is a mandatory statutory safeguard whenever requested in writing

or whenever an adverse decision is contemplated against the assessee. Passing an adverse demand order without affording a personal hearing violates principles of natural justice and statutory mandates.

10. On behalf of the respondents, Mr. A. Kumar, the learned AG assisted by Mr. J.N. Rynjah, learned GA has raised a preliminary objection on the ground of maintainability. It is contended that the writ petition is not maintainable in view of Section 107(1) of the MGST Act, which provides an efficacious statutory alternative remedy of appeal before the Appellate Authority within three months from the date of communication of the order to such persons. It is further submitted that under Section 117 of the MGST Act, an appeal lies to the High Court only against an order passed by the State Bench or Area Benches of the Appellate Tribunal, and strictly on substantial question of law, that has not previously settled by the courts and shall be heard only on the questions so formulated. In the instant petition it is asserted, the Petitioner has failed to raise any previously unsettled legal question and as such on this ground too, the writ petition is not liable to be entertained by this Court. The learned AG has then referred to the case of ***Thansingh Nathmal v. A. Mazid, Superintendent of Taxes AIR 1964 SC 1419*** and submits that it has been held that the discretionary writ jurisdiction under Article 226 of the

Constitution, should not be exercised to bypass statutory machinery created under tax statutes.

11. On the merits of the matter, the learned AG has submitted that the impugned proceedings were conducted in accordance with law. He has then taken this Court through the sequence of events to show that substantial compliance with the prescribed procedure was followed. It is submitted that the petitioner in spite of knowledge, did not appear for the scheduled hearing and that notwithstanding the discrepancy in dates, no reply was submitted as even otherwise, there is no prohibition for submission of reply after the hearing. The orders of the Superintendent of Taxes he submits and summary of order on the determination were uploaded in Form GST DRC-07 and that these orders had been digitally signed. Form GST DRC-01D he submits was also issued intimating the amounts recoverable under Section 79 to which the petitioner did not prefer any appeal and on the expiry of three months under Section 107(1) and also he further period of one month as per Section 107(4), any appeal is thus barred. The petitioner he submits having lost the right to statutory remedy having not availed the same during the limitation period, cannot now seek to invoke the writ jurisdiction of this Court to overcome a time barred appeal.

The petitioner he then submits, having annexed the statements of Form GST ASMT-10 dated 21.08.2024 issued by the Superintendent of Taxes

under Section 61(1) read with Rule 99(1) for scrutiny of returns and having filed reply thereto on 21.09.2024, was aware of the demand made and the reply, signifies compliance with Section 61(3) to which the Petitioner cannot afterwards contend otherwise. It is also submitted that the issuance of the Show-Cause under Form GST DRC-01 dated 28.11.2024 under Section 73(1) read with 142(1)(a) was accompanied with the Show-Cause Notice and B.S. Automobiles Notice. Consequently, the demand of Rs. 19,90,088 confirmed vide Order dated 27.02.2025 and the subsequent Recovery Notices dated 05.03.2026 and 31.03.2026 are legal, valid, and enforceable.

12. It is then contended that all statutory steps under the MGST Act were complied with and submits that a Show Cause Notice dated 28.11.2024 signed by the Superintendent of Taxes, Circle-1, Shillong, was served upon the petitioner, specifying the tax period (April 2020 to March 2021), under a single head of demand specifying the tax amounts under IGST, CGST, and SGST while directing a response within 30 days. This notice he submits, was accompanied by summary Form GST DRC-01, which explicitly listed the attached document at Page 28 as BS Automobiles NOTICE (7) (2).pdf. statement. It is further submitted that though, an opportunity of personal hearing was granted on 13.12.2024 under Section 75(4), the Petitioner failed to appear and no adjournment was sought under Section 75(5) and no Form GST DRC-06 was submitted, on or before 28.12.2024, under Rule 142(4). In

this situation therefore he submits, the Proper Officer passed the adjudication order under Section 73(9) on 27.02.2025, within the statutory limitation period ending 28.02.2025 under Section 73(10) and uploaded summary Form GST DRC-07 under Rule 142(5), whereafter following lapse of the mandatory three-month payment window under Section 78, recovery proceedings under Section 79 read with Rule 142B were lawfully initiated via Form GST DRC-01D on 05.03.2026.

13. It is also contended that the petitioner's claim of non-service of the Show Cause Notice is incorrect and contradicted by the materials on record, inasmuch as, the document annexed at Page 30, below the table of Form GST DRC-01 of the Writ Petition, is itself described by the officer as a notice. This document he submits complies with the requirement of Section 73(1) as it identifies the person, tax period, head of demand, and tax amounts. These demand figures he submits are identical to Serial 3 of the ASMT-10 statement at Page 23, to which the petitioner submitted a reply on 21.09.2024, establishing actual prior knowledge of the exact case and that furthermore, Section 73(1) prescribes no specific form for the notice itself, whereas Rule 142(1)(a) prescribes a form solely for the summary.

14. The learned AG while closing his arguments has reiterated his submissions with regard to the knowledge of date of hearing which has been admitted by the petitioner, that all notices and orders carry the signatures of

the Proper Officer and has lastly reinforced the contention that the Writ petition is not maintainable due to the presence of alternate efficacious remedy by way of statutory appeal under Section 107. It has also been pointed out by the learned AG that though the limitation period for appeal had expired on 27.06.2025, the instant writ petition has been filed only on 27.04.2026. The Learned AG has also furnished further authorities on why writ petitions ought not to be entertained against assessment orders, or cases wherein the Assessee having participated in the proceedings approaches the writ Court after the appeal period, and where this Court refused to entertain a writ against a GST demand, holding that the questions were better suited to be placed before the Appellate Authority under Section 107 especially there being no finding on any violation of natural justice or any inherent lack of jurisdiction. The said judgments are given herein below:-

a. ***CCT v. Glaxo Smith Kline Consumer Health Care Ltd. (2020) 19 SCC 681***
b. ***M/s Kamal Ideal Infratech Pvt. Ltd. v. Union of India SLP(C) No. 21957 of 2026, Order dated. 16.06.2026***
c. ***Mishra Security Services v. State of UP 2026 SCC Online All 11165***
d. ***Jorabat Shillong Expressway Ltd. v. Union of India, W.P.(C) Case No. 245 of 2024, Judgment dated. 02.06.2026.***

15. On hearing the learned counsel for the parties, in the considered view of this Court the primary issue that has to be examined at the outset is the maintainability of the writ petition. The learned counsel for the petitioner in his submissions, has been at pains to attempt to show that firstly the action of the Respondents was in violation of the prescribed procedure contained in Section 73(1) with regard to the Show-Cause Notice, Form GST DRC-01 under Section 75(4) and 75(5) with regard to the date of hearing, apart from other alleged discrepancies such as the absence of signatures by the Proper Officer. Further is the ground that the principles of natural justice have been violated, as the petitioner allegedly was not afforded an opportunity of hearing. On these two basic issues, from the discussions, submissions and materials on record, in the opinion of this Court, the petitioner has not been able to put up a convincing case, inasmuch as, it cannot be said that notice under Section 73(1) was not to the knowledge of the petitioner, or of the date of hearing given therein, but however, there was a failure on the part of the petitioner to make an appearance. Further, is the fact that no reply was filed and even after recovery notices were issued, no appeal was preferred. The procedure adopted by the respondents being in substantial compliance and within its jurisdiction, it cannot therefore be held, that there was lack of inherent jurisdiction. The petitioner also not having participated in the proceedings in spite of adequate notice, no violation of the principles of

natural justice can be said to have been occasioned. A further pertinent fact that cannot escape the notice of this Court is that the writ petition has been filed after a long unexplained delay after the expiry of the statutory limitation period provided under Section 107(1) and 107(5) of the MGST Act, 2017. As such on the ground of maintainability itself, the instant writ petition fails.

However, in consideration of the entire facts and circumstances of the case, notwithstanding the conduct of the petitioner in not diligently pursuing the matter before the authorities, apart from not preferring a statutory appeal within the limitation period, to meet the ends of justice, but not to serve as a precedent, the Petitioner is permitted to prefer an appeal as provided under Section 107 of the MGST Act against the assessment order dated 27.02.2025 and recovery notices dated 05.03.2026 and 31.03.2026 within a period of four weeks from the date of this order.

16. As ordered above the writ petition is accordingly closed and disposed of.

(B. Bhattacharjee)
JUDGE

(H.S. Thangkhiew)
JUDGE

Meghalaya
17.11.2026
"V. Lyndem- AR-PS"

Verified
Digitally signed by: VALENTINO LYNDEM
Signed On: 17-11-2026 17:30:31 IST