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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 15871 OF 2026

Mahapuja Ltd Through Its Director Keyur Jaswant Shah …Petitioner

Versus

The Office of The Commissioner of CGST And Central Excise Mumbai Central Through Additional Commissioner …Respondent

Mr D.V. Sawant, a/w Priyank Kulkarni and Sampada Jadhav i/b. Gaurav Borse for the Petitioner.
Mr Subir Kumar, a/w Saket Ketkar and Ashita Aggarwal for the Respondent.
Ms Jyoti Chavan, Addl. GP, a/w Suraj Gupte, AGP for the Respondent - State.

CORAM: SUMAN SHYAM & ADVAIT M. SETHNA, JJ.

RESERVED ON : 20th JULY 2026.
PRONOUNCED ON : 5th AUGUST 2026.

JUDGMENT (Per Advait M. Sethna, J.) :-

1. The Petitioner by way of this Petition, has primarily assailed the Order-In-Original dated 17th March 2026 passed by the Respondent No. 1 i.e. Additional Commissioner of CGST, Central Excise, Mumbai ("**Impugned Order**" for short). It is issued in Form GST DRC-07, under Rule 100(1), 100(2), 100(3) and 142(5) of the Central Goods and Service Tax Rules, 2017 ("**CGST Rules**" for short).

2. Heard. Rule. Rule made returnable forthwith with the consent of the parties.

3. Mr. Subir Kumar, learned counsel for the Respondents has raised a preliminary objection to the maintainability of the Petition. He would submit that the Impugned Order is appealable under Section 107 of the Central Goods and Service Tax Act, 2017 ("**CGST Act**" for short). The Petitioner without exhausting such alternative appellate statutory remedy has directly approached this Writ Court. Only on such ground, the Writ Petition deserves to be dismissed.

4. Mr. D.V. Sawant, learned counsel for the Petitioner at the outset submits that the Impugned Order is illegal in as much as it is passed in complete contravention of the principles of natural justice. This is in as much as pursuant to the search and seizure operations that commenced on 10th February 2021, under Section 67 of the CGST Act, the Respondents had seized certain documents, including books of accounts, business records, electronic devices, laptops from the premises of the Petitioner. It is the Petitioner's case that such seizure was effected without conducting any inventory of the articles so seized.

5. Mr. Sawant would further contend that before passing of the Impugned Order, the Respondents issued a fresh Show Cause Notice dated 26th June 2025. The same proposed disallowance of Input Tax Credit under Section 16 of CGST Act. It also proposed levy of tax in the form of IGST, CGST, SGST and other dues including penalty to the extent of Rs. 6.50 Crores on the Petitioner. According to him such Show Cause Notice was also issued in complete contravention of the provisions under the CGST Act.

6. Mr. Sawant would submit that before passing the Impugned Order the Petitioner had submitted its reply to a Notice dated 28th January 2026. This to the effect that the Petitioner was prejudiced in as much as the seized documents were not made available to the Petitioner. It was incumbent upon the Respondents to provide such relied upon documents before passing the Impugned Order. Failure of the Respondents to furnish the copy of the documents relied upon is contrary to law and renders the Impugned Order contrary to the principles of natural justice and hence, is illegal. Consequentially, the same ought to be set aside by this Court and the Petition be allowed by remanding the proceedings back to Respondent No. 1 for *de novo* hearing and passing a fresh adjudication order.

7. Mr. Kumar, learned counsel for the Respondents has vehemently refuted the contentions of Mr. Sawant. He would first submit that a personal hearing notice dated 16th January 2026 was duly issued to the Petitioner by Respondent No. 1 i.e. Adjudicating Authority. Pursuant to such notice, the Petitioner chose to submit a detailed reply dated 3rd February 2026 to the hearing notice, which is on record in the proceedings. Mr. Kumar, has submitted that there are parallel criminal proceedings by the Director of the Petitioner who appears to have been arrested pursuant to the investigation conducted by the Respondent. Moreover, pursuant to the arrest of one of the Directors, a Criminal Writ Petition No. 3748 of 2025 is also pending in this Court. The Petitioner is therefore adopting parallel proceedings to prejudice the Court with an attempt to portray a case in its favour which factually does not exist.

8. Mr. Kumar would submit that the Impugned Order records all submissions advanced by the Petitioner. It takes note of the Petitioner's grievance with regard to the allegation of the documents not supplied. Detailed findings to the contrary are recorded in the Impugned Order. The Petitioner has only made bald assertions with regard to such documents not being supplied without even stating and/or detailing the documents not supplied to the Petitioner and thereby prejudice caused to the Petitioner.

9. In light of the submissions advance Mr. Kumar has accordingly prayed for dismissal of the Writ Petition being devoid of merit.

10. We have noted the rival contentions raised by the learned counsel for the parties and with their assistance, we have perused the record. At the very outset, we find that the Impugned Order is appealable before the Appellate Authority i.e. Commissioner (Appeals) – II, as prescribed under Section 107 of the CGST Act.

11. On a careful perusal of the Impugned Order we find that the primary grievance of the Petitioner that the documents/record in the custody of the Respondents have not been supplied to the

Petitioner is duly addressed therein. More particularly, in paragraph 24 of the Impugned Order, it is categorically stated that the Show Cause Notice and relied upon documents were already forwarded to the email address of the Petitioner registered on the GST portal and other available email id on 28th June 2025. The same was forwarded again on 4th February 2026, to another email id at the request of the Petitioner. In view thereof, copies of such relied upon documents, on the basis of which such Show Cause Notice was issued, were duly provided to the Petitioner.

12. Contextually, we find substance in the submission of Mr. Kumar. The Petitioner was duly given a hearing notice, pursuant to which, the Impugned Order was passed. The Petitioner has not made a grievance, nor is there any pleading on record, with regard to non-availability of the Show Cause Notice, along with the relied upon documents. We are, therefore, unable to accept such stand of the Petitioner, based on bald assertions, which is bereft of any particulars/details, in support thereof. In fact, in the absence of any pleadings or material on record to contradict such findings of fact in the Impugned Order, we are not persuaded to take a different view in the given facts and circumstances.

13. The Petitioner has disclosed the fact of pendency of Criminal Writ Petition No. 3748 of 2025, in the Petition. It appears that the Petitioner has assailed the purported illegal arrest of its Director viz. Keyur Jaswant Shah, in such proceedings. Be that as it may. In our view, the pendency of the said Petition will not affect the adjudication of this Writ Petition.

14. Recently, in the case of ***Rikhab Chand Jain Vs. Union of India And Ors.***[1]*,* the Supreme Court has reiterated the position that High Courts should not entertain Writ Petitions under Article 226 of the Constitution, when alternate and efficacious remedies under the statute are available to such Petitioners. The exceptions in this regard have also been considered. To deviate from the normal practice of exhaustion of alternate remedies, the Petitioners must make out an exceptional case, as was held by the Supreme Court in the said decision. Such a case must be supported by proper pleadings and material. The above is relied upon and referred to in a recent decision of a co-ordinate Bench of this Court in ***Nikhil Garg S/o Vishnu Prasad Garg Vs. Union of India And Anr.***[2] The said judgments, in our view, are apposite and applicable to the given factual matrix.

15. We find force in the submission of Mr. Kumar to the effect that the Petitioner has nowhere, in the pleadings on record or otherwise, set out as to which documents, the Petitioner has allegedly not been provided with. Accordingly, in the absence of such statements/pleadings it is difficult to ascertain what prejudice is caused to the Petitioner, if at all/any, which cannot be presumed, merely on the basis of bald averments by the Petitioners.

16. We find it pertinent to note that, there is a growing tendency in matters before us, to surpass the appellate statutory remedy by directly approaching the Writ Court. It is possible that such recourse is at times, taken routinely, without the gravitas it would

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1. Civil Appeal No. 6719 of 2012 dated 12.11.2025

2. Writ Petition No. 14616 of 2025 dated 24.11.2025 so warrant, with a view to circumvent the mandatory pre-deposit under the statute. In this context, we are fortified by similar observations made by the co-ordinate Bench of this Court in ***Ascensia Diabetes Care India Pvt. Ltd. Vs. Union of India***[3] and ***Nikhil Garg S/o Vishnu Prasad Garg*** *(supra).*

17. The Hon'ble Supreme Court in a recent decision in ***Shaik Arif Vs. Commissioner of Customs and Ors.***[4] was confronted with SLP filed against the order of the High Court of Telangana on two counts i.e. (i) the Order in Original came to be passed in violation of principles of natural justice and (ii) the authority which passed Order in Original, had no jurisdiction. The Writ Petition was preferred instead of challenging the order passed by the Adjudicating Authority by preferring an Appeal. The Supreme Court held that under the provisions of the Customs Act, there is no error, not to speak of any error of law, that could have been committed by the said High Court while passing the Impugned Order. The Supreme Court in fact, permitted the Petitioners to file a statutory Appeal under Section 128 of the Customs Act within a period of four weeks. Such provisions being *pari materia,* in our considered view, would apply to the given factual complexion. In view thereof, we are not persuaded to deviate therefrom, by accepting the submissions of the learned Counsel for Petitioner herein.

18. Taking refuge under natural justice in every case, as a sheet anchor would not justify filing of a Writ Petition under Art 226,

3. Writ Petition No. 14082 of 2024 dated 09.04.2026

4. SLP (Civil) Diary No. 48495/2025

sans justification in the manner the law mandates. This more particularly where statute clearly provides for orders that are appealable. In such situations, it thus becomes incumbent upon the Court to separate the 'grain from the chaff' and judiciously exercise discretion conferred under Article 226 of the Constitution, in an exceptional case, under compelling circumstances. We are conscious that extraordinary jurisdiction conferred under the Constitution ought not to be exercised in a routine matter, deviating from settled judicial principles in this regard. Section 107 of the CGST Act prescribes an appellate remedy. In the given factual complexion, we are not persuaded to accept the Petitioner's case, by adopting a course which would water down the legislative intent, purport and purpose of the said section.

19. For the above reasons, we hold that the Petition is not maintainable. In our view, there is no exceptional case made out by the Petitioner in the given facts and circumstances to warrant or justify exercise of our extra ordinary jurisdiction under Article 226 of the Constitution of India, in the given factual complexion.

20. Before parting with the record, in the interest of justice, we deem it appropriate to grant liberty to the Petitioner to approach the Appellate Authority under Section 107 of the CGST Act. In case such Appeal is preferred within a period of four weeks from the date of uploading of this order, the Appellate Authority shall consider the same on its own merits and in accordance with law, subject to the Petitioner complying with all statutory requirements including the mandate of pre-deposit.

21. We clarify that we have not delved into the merits of rival contentions, which are left open to be urged in the appropriate proceedings, as the law would permit.

22. Writ Petition is Disposed Of in the above terms. No Costs.

23. All concerned parties to act upon an authenticated copy of this Judgment.

(ADVAIT M. SETHNA, J.) **(SUMAN SHYAM, J.)**