

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(T) No. 4395 of 2024

M/s Rewinder Techno Electricals, a partnership firm, duly incorporated under the Partnership Act, 1932, having its place of business at 1, Naya Para, Dumka-814101, P.O. and P.S.- Naya Para, District- Dumka, Jharkhand, through its one of the Partners Sanjay Gupta, son of S.B. Gupta, aged 56 years, resident of C-709, Vardhman apartments, Mayur Vihar Phase-1 Extension, Delhi, East Delhi, P.O. & P.S.-Mayur Vihar, District- East Delhi-110091.

..... **Petitioner**

Versus

1. Union of India through the Principal Commissioner, Central Goods and Services Taxes and Central Excise, Ranchi having its office at 5-A, Income Tax Building, Main Road, Ranchi, P.O. and P.S.- Hindpiri, District:- Ranchi 834001
2. Deputy Commissioner, Central Goods and Services Taxes and Central Excise, Dumka Range, P.O. and P.S.-Dumka, District-Jharkhand
3. Assistant Commissioner Central Goods and Services Taxes and Central Excise, Dumka Range, P.O. and P.S.- Dumka, District- Dumka, Jharkhand.
4. Superintendent, Central Goods and Services Taxes and Central Excise, Dumka Range, P.O. and P.S. Dumka, District- Dumka, Jharkhand

..... **Respondents**

**CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN KUMAR RAI**

For the Petitioner	: Ms. Amrita Sinha, Advocate Ms. Madhavi Nikunj Horo, Advocate
For the Respondents	: Mr. Parth S.A. Swaroop Pati, Sr. SC, CGST Mr. Anurag Vijay, Jr. SC, CGST Mr. Ms. Malsi Pathak, Advocate Mr. Om Prakash, Advocate

04/ Dated: 9th August 2024

Heard the learned counsel for the parties.

2. The petitioner in this writ application is seeking to issue a direction and declare section 16 (4) of the Central Goods and Services Act, 2017 as ultra vires, in as much as it seeks to impose a time limit for the availment of Input Tax Credit being violative of Article 14, Article 19(1) (g) and Article 300 A of the Constitution of India and also being violative of the basic structure of the Central Goods and Services Tax Act, 2017 *and* further seeks a direction to declare the amendment carried under Rule 61 (5) of the Central Goods and

Services Rules, 2017 inserted vide Notification 49/2019-CT dated 09.10.2019 (Annexure-11), as ultra vires under which GSTR-3B has been declared to be a valid return under Section 39 of the Central Goods and Services Act, 2017 with retrospective effect from 1.07.2017 as being wholly violative of Article 14, Article 19 (1) (g) and Article 300 A of the Constitution of India as it has an effect of interfering with the vested right of the petitioner to avail Input Tax Credit *and* further to issue direction a writ of certiorari for quashing /setting aside the Order-in-Appeal no. 32/CGST/RAN/2024 dated 26.02.2024 (Annexure-9), passed by Additional Commissioner (Appeals), Central Goods & Services Tax, Ranchi wherein, he has been pleased to confirm the ex-parte Order-in-Original dated 23.03.2023 (Annexure-7) *and* further to issue a direction including Writ of Certiorari for quashing /setting aside the ex-parte Order-in-Original dated 23.03.2023 along with corrigendum dated 25.04.2023 and DRC-07 dated 25.04.2023 passed under section 73 of the CGST Act, 2017 (Annexure-7, 7/1 and 7/2 respectively) and all other consequential notices issued by the Respondent no. 4 to the petitioner wherein the petitioner has been directed to reverse the amount so availed as Input Tax Credit for discharging its output tax liability for the Financial Year 2018-19 along with interest u/s 50 (3) and Penalty u/s 122 (2) (a) of the CGST Act, 2017, total amounting to Rs.6,54,214/-, as being arbitrary, unreasonable and against the scheme of the Central Goods and Service Tax Act, 2017 read with the prescribed rules under Central Goods and Services Tax Rules, 2017.

3. At the outset, it has been brought to our notice, that the questions which were involved in the present writ applications has been considered by the G.S.T. Council Meeting and there is a recommendation made by 53rd

G.S.T. Council Meeting on 22nd of June, 2024, wherein the G.S.T. Council has taken note of the claim made in the present writ applications. Consequent thereon, the recommendation of the G.S.T. Council has to be given due weightage in accordance with law, as a result of which, these writ applications stand disposed of in view of the recommendations of 53rd G.S.T. Council Meeting and, if any, other matter remaining for consideration, it is open to the petitioners to pursue the remedy in accordance with law before the appropriate Forum. With the aforesaid liberty, this writ application stands disposed of.

(Sujit Narayan Prasad, A.C.J.)

(Arun Kumar Rai, J.)

Pramanik/

