2025:CGHC:51354

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 147 of 2025

1 - Golden Cargo Movers Proprietorship Firm Through- Its Proprietor Shri Manoj Kumar Jhawar, Aged 50 Years S/o Kishan Kumar Jhawar, R/o House No. 29/9, Rani Sati Mandir Lane Raja Talab Raipur, Behind Forest Office, Raipur District- Raipur (C.G.).

... Petitioner

versus

1 - State Of Chhattisgarh Through- Secretary, Department Of Commercial Tax Gst, North Block Sector 19, Atal Nagar, Raipur (C.G.).

2 - The Assistant Commissioner State Tax Circle 5, Raipur, District- Raipur (C.G.)

3 - Axis Bank Limited Through- Its Branch Manager, Tagore Nagar Branch Raipur, District- Raipur (C.G.).

4 - Icici Bank Limited Through- Its Branch Manager, Bhanpuri Branch Raipur, District- Raipur (C.G.).

5 - State Bank Of India Through- Its Branch Manager, Sme Branch Of Balod, District- Balod (C.G.). 491226

6 - IndusInd Bank Through- Its Branch Manager Dm Towers Birgona Branch, Raipur, District- Raipur (C.G.). 492001

7 - Bank Of India, Through- Its Branch Manager Jharsuguda Branch, Jharsuguda (Odisha)- 768201

... Respondent(s)

(Cause title taken from Case Information System)

For Petitioner	:	Mr. Vikram Sharma, Advocate
For State/Respondents No.1 & 2	:	Mr. Dilman Rati Minj, Govt. Advocate
For Respondent No.4/ICICI	:	Mr. Aman Saxena, Advocate
For Respondent No.5/SBI	:	Ms. Vartika Shrivastava, Advocate appears on behalf of Mr. P. R. Patankar, Advocate
For Respondent No.7	:	Ms. Shruti Jha, Advocate appears on behalf of Mr. Anand Shukla, Advocate

Hon'ble Shri Justice Naresh Kumar Chandravanshi

Order on Board

15/10/2025

1. Heard.

2. This petition is directed against the order (Annexure P/11) dated 24.04.2024 passed by respondent No.2, for the period from 01.04.2018 to 31.03.2019, whereby a demand to the tune of Rs.5,00,11,112/- has been raised against the petitioner.

3. The petitioner was issued a show-cause notice (Annexure P/10) dated 19.12.2023 under Section 73 of Goods and Services Tax Act, 2017 (henceforth, 'the Act') in GST DRC-01. The notice, *inter alia,* called upon the petitioner, as to why tax and interest to the tune of Rs.1,32,92,796/- be not imposed. It is stated that as the said notice was uploaded on the portal under the tab 'Additional Notice and Order' and it was also communicated to the petitioner. Since the petitioner did not deposited the aforesaid amount, therefore, respondent No.2 has passed final order (Annexure P/11) dated 24.04.2024 under Section 73 of the Act in GST-DRC-

07 against the petitioner imposing tax and penalty to the tune of Rs.5,00,11,112/-.

4. Learned counsel for the petitioner would further submits that final assessment order was passed for aforesaid amount which is higher than the amount mentioned in the DRC-01/demand notice (Annexure P/10), which is against the provisions of Section 75(7) of the Act. He further submits that in pursuance of final order (Annexure P/11) dated 24.04.2024, respondent No.2 has issued attachment orders of Bank Account vide (Annexure P/12) dated 11.07.2025 as well as attachment order of Immovable property vide (Annexure P/16) dated 11.09.2025. Since, final assessment order (Annexure P/11) is against the aforesaid provision of the Act, hence, he prays that impugned assessment order may be set-aside/quashed along with other attachment orders.

5. Per contra, learned counsel appearing for respondent No.1 & 2, who is main contesting party would submits that the petitioner has filed Annual GST Return for the financial year 2018-19, under Heading 9965 (Goods transport services), claiming his services to be Goods Transport Service, but when Annual GST Return was scrutinized, then it was found that service provided by him falls under Heading 9967 (Supporting services in transport), which is supporting service in transport. He further submits that in the Annual GST Return filed by him, he had sought complete exemption for the payment of GST, but since services provided by the petitioner was found to be under Heading 9967 (Supporting services in transport), therefore, the GST was leviable @ 18% (9%CGST and 9% SGST). Therefore, in the final assessment order (Annexure P/11) GST payable by the petitioner was mentioned as Rs.5,00,11,112/-, as he failed to file any document to substantiate exemption claimed by him. He further submits that since final assessment order has not been complied with by the petitioner, therefore, attachment order of Bank Account vide (Annexure P/12) dated 11.07.2025 as well as attachment order of Immovable property vide (Annexure P/16) dated 11.09.2025 have been passed.

6. I have heard learned counsel for the parties and perused the material available on record.

7. Provisions of Section 75(7) of the Act, reads as under :

> “(7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.”

8. A perusal of the above provision shows that Section 75 deals with general provisions relating to determination of tax and sub-section (7) specifically stipulates that the amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

9. In the instant case, show-cause notice issued by the respondent No.2 was claiming tax amount coupled with interest to the tune of Rs.1,32,92,796/-, but final assessment order (Annexure P/11) dated 24.04.2024 was passed for total tax amount including interest and penalty to be paid by the petitioner is of Rs.5,00,11,112/-, thus, it is clear that final assessment order of tax amount payable by the petitioner was more than the amount as stated in the DRC-01/demand notice (Annexure P/10), which is contrary to the provisions under Section 75(7) of the Act.

10. In view of above discussion, on account of violation of provisions of Section 75(7) of the Act, the orders impugned dated (Annexure P/11) dated 24.04.2024 as well as consequential orders of attachment of Bank Account vide (Annexure P/12) dated 11.07.2025 and Immovable property (Annexure P/16) dated 11.09.2025 are set-aside/quashed. Thus, this petition stands allowed. However, liberty is left with the respondents No.1 & 2 to proceed afresh in accordance with law, after providing due opportunity of hearing to the petitioner.

11. Pending interim applications, as if any, shall also stands disposed of.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Ravi Mandavi