

GAHC010039522026



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1116/2026

M/S R S COOLING APPLIANCES
A PARTNERSHIP FIRM HAVING ITS REGISTERED OFFICE AT 1ST FLOOR,
HOUSE P.B. ROAD, SUHAGPUR, REHABARI, DIST. KAMRUP (M), ASSAM-
781008, REPRESENTED BY ITS MANAGING PARTNER SRI BIJIT
CHAKRABORTY.

VERSUS

THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE SECRETARY OF GOVERNMENT OF INDIA
MINISTRY OF FINANCE, NEW DELHI-110001.

2:THE PRINCIPAL COMMISSIONER
OF CENTRAL GOODS AND SERVICE TAX
GUWAHATI-I DIVISION
GST BHAWAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001.

3:THE ASSISTANT COMMISSIONER

OF GOODS AND SERVICE TAX AND CENTRAL EXCISE
GUWAHATI-I DIVISION
GST BHAWAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001.

4:THE SUPERINTENDENT

CENTRAL GOODS AND SERVICE TAX

RANGEIA
GUWAHATI GST BHAWAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001

Advocate for the Petitioner : MR. R S MISHRA, MS. M DEY,MS B SARMA

Advocate for the Respondent : DY.S.G.I., SC, GST

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

06.03.2026

Heard Shri R. S. Mishra, learned counsel for the petitioner. Also heard Shri S. C. Keyal, learned Senior Standing Counsel, CGST and Ms. M. Barman, learned counsel appearing on instructions of Ms. A. Gayan, learned CGC.

2. Considering the subject matter involved and as agreed to by the learned counsel for the parties, this writ petition is taken up for disposal at the motion stage. Suffice it to mention that on the previous occasion i.e. on 27.02.2026 when the matter had come up for consideration, time was granted to Shri Keyal, learned Senior Standing Counsel to obtain the instructions which he has done.

3. The grievance of the petitioner pertains to a recovery notice dated 03.01.2026 which has been signed on 03.02.2026 with the contention that prior to such notice, no intimation of any nature was served upon him. For ready reference, the relief prayed for is extracted herein below:

“ In the premises aforesaid, it is therefore prayed that Your Lordships may be pleased to consider the above, call for the records, issue a rule calling upon the respondents to show cause as to why;

(I) The recovery proceeding initiated vide Notice issued under C.

No.IV(16)188/Misc/SCN-RSCA /Ghy-I/Tech-II/19-20/1375 dated 03.01.2026 (signed on 03.02.2026) by Respondent No.4 (ANNEXURE-A);

(II) The Order adjudication passed if any against the Petitioner including the Order-in-Original No. 133/DC/Audit/CGST/2021-22 dated 05.04.2022 as stated in the said notice dated 03.02.2026 shall not be set aside and further as to why

(III) The respondent authorities shall not be directed to furnish the copy of the show cause notice to the Petitioner and adjudicate the show cause notice after granting an opportunity of submitting reply to the said show cause notice and also upon hearing the matter adjudicate the matter afresh and upon such cause or causes that may be shown hearing the parties perusing the records further be pleased to make the rule absolute and/or pass any other order or orders as Your Lordship deem fit and proper.

--AND--

It is further prayed that pending disposal of this rule, the Recovery Notice issued under C.No.IV(16) 188/Misc/SCN-RSCA /Ghy-I/Tech-II/19-20/1375 dated 03.01.2026 (signed on 03.02.2026) issued by Respondent No.4 (ANNEXURE-A) as well as Order-in-Original bearing No.133 /DC/Audit /CGST/2021-22 dated 05.04.2022 may be stayed and/or the respondent authorities may be directed not to take any steps for recovery of impugned demand.

And for this act of grace, the Petitioner as in duty bound shall ever pray."

- 4.** Shri Mishra, the learned counsel by drawing the attention of this Court to the averments made in the petition has submitted that for the first time, the petitioner was aware of a proceeding on receipt of the recovery notice.
- 5.** On the other hand, Shri Keyal, the learned Standing Counsel has submitted that as per instructions received, the final order was indeed issued to the petitioner by registered post. However, he is not equipped with further instructions with regard to the aspect of actual service of notice.
- 6.** Considering the aforesaid factual position, this Court is of the opinion that

instead of keeping this writ petition pending, interest of justice would be served if the proceeding is directed to be done afresh whereby the petitioner would get an opportunity to submit his show cause reply.

7. Accordingly, the Recovery Notice dated 03.01.2026 (signed on 03.02.2026) is interfered with and the proceeding is directed to be initiated afresh by issuance of a copy of the original show cause notice. Since the petitioner is already represented and as undertaken by Shri Mishra, the learned counsel the show cause notice would be collected by the petitioner from the office of the respondent no. 3 within a period of 1 week from today, whereafter he will file reply within the time prescribed in the said notice. It is made clear that the present interference is only on the aspect of not granting any opportunity and will not influence either of the parties in the adjudication of the dispute.

8. It is needless to state that the original order dated 05.04.2022 is also interfered with.

9. Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant