

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(T) No. 1598 of 2024

Sursarita Vanijya Private Limited, a Company registered under the Companies Act, 2013, having its registered office at 6th Floor, 207 MD Road, P.O. & P.S. Jorabagan, District- Kolkata, PIN 700007, through its Power of Attorney Holder and Senior Accountant, namely Vikram Kumar Bhalotia, aged about 35 years, son of Shri Ashok Kumar Bhalotia, resident of Purani Bazar, Jamui, P.O. & P.S. Jamui, District- Jamui (Bihar), PIN 811307. Petitioner

Versus

1. Principal Commissioner of Central Goods & Services Tax, Ranchi, having its office at C.R. Building, 5-A, Mahatma Gandhi Road, P.O. G.P.O & P.S.- Kotwali, District- Ranchi, Jharkhand, PIN- 834001.
2. Assistant Commissioner, Central GST & Central Excise, Division- Deoghar, having its office at Deoghar Palace, 2nd Floor, VIP Chowk, Court Road, P.O & P.S.- Deoghar, District-Deoghar, Jharkhand, PIN- 814112
3. Deputy Commissioner, Central GST & Central Excise, Division- Deoghar, having its office at C.R. Building, 5-A, Mahatma Gandhi Road, P.O.- GPO & P.S.- Kotwali, District- Ranchi, Jharkhand, PIN- 834001. Respondents

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

For the Petitioner : Mr. M.S. Mittal, Sr. Advocate
Mr. Salona Mittal, Advocate
For the Resp.-CGST : Mr. P.S.A. Swaroop Pati, Sr. S.C, CGST

05/ Dated: 2nd September 2024

The instant writ petition has been filed under Article 226 of the Constitution of India by seeking for the following reliefs:

- (i) For issuance of an appropriate writ(s)/order(s)/direction(s) including a writ of Certiorari for quashing/setting aside the order dated 06.12.2023, received on 12.12.2023 issued in Form GST DRC-07 (Annexure-12) by the Respondent No.2 wherein the Petitioner has been directed to pay an amount of Rs.42,58,557/- under Section 73, along with interest at the rate of 18% per annum under Section 50, and penalty of Rs.4,25,856/- under Section 122 (2) (a) and Rs.42,58,557/- under Section 122 (1) on the alleged ground that Input Tax Credit has been availed in contravention of Section 16 (2) (c) of the Central Goods and Services Act, 2017 ('the Act'), especially since the seller has undergone liquidation under the provisions of the Insolvency and bankruptcy Code, 2016 ('IBC'), and which fact was made known to the Respondent Authorities.
- (ii) For issuance of an appropriate writ(s)/ order(s)/ direction(s) including

a writ of Declaration for declaring that once the supplier/seller has undergone liquidation under the provisions of the Insolvency and bankruptcy Code, 2016, their liability under the Act, which were in the nature of Operational Debt have been subsumed in the liquidation process, and have been settled and /or extinguished, which cannot be recovered by the Respondents from the Petitioner in the garb of Section 16 (2) (c) of the Act.

(iii) For issuance of any other appropriate writ(s) order(s) direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case.

2. The various issues have been pointed out regarding the merit as also violation of principle of natural justice.

3. Mr. P.S.A. Swaroop Pati, learned counsel appearing for the respondent CGST has raised the preliminary objection regarding the maintainability of the present petition on the ground of remedy of appeal under Section 107 of the CGST Act, 2017.

4. Upon this, Mr. M.S. Mittal, learned senior counsel appearing for the petitioner is having no objection.

5. Considering the same, this petition is being disposed of with liberty to file appeal within two weeks from the date of receipt of copy of this order, by raising all the issues along with the supported judgments. If such appeal will be filed, the same will be decided by the concern appellate authority within a period of four weeks from the date of receipt of copy of order of this Court, in accordance with law.

6. Accordingly, this writ petition i.e. W.P.(T) No. 1598 of 2024 stands disposed of.

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

(Arun Kumar Rai, J.)