

GAHC010098502026



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

Case No. : WP(C)/2899/2026

KIRANSHREE HOTELS PVT LTD
OPPOSITE SOS VILLAGE, NEW AIRPORT ROAD, MIRZA, KAMRUP, ASSAM,
PIN 781015, AND REPRESENTED BY ONE OF ITS DIRECTOR, SRI DILIP
KUMAR SIPANI, AGED ABOUT 62 YEARS, SON OF SHREE CHAND SIPANI,
RESIDENT OF 6TH FLOOR, GOLDEN ENCLAVE, KUMARPARA, NARAYAN
NAGAR, GUWAHATI-781009.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
FINANCE AND TAXATION DEPARTMENT, ASSAM SECRETARIAT, DISPUR,
GUWAHATI - 781 006

2:PRINCIPAL COMMISSIONER OF STATE TAXES
KAR BHAWAN
DISPUR
GUWAHATI
ASSAM-781006.

3:THE ASSISTANT COMMISSIONER OF STATE TAXES
KAR BHAWAN
DISPUR
GUWAHATI
ASSAM-78100

Advocate for the Petitioner : DR. ASHOK SARAF, MR. A. KAUSHIK, B SARMA, MR P K
BORA, MR S J SAIKIA, MR. N N DUTTA, MR P BARUAH

Advocate for the Respondent : SC, FINANCE AND TAXATION,

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 17.06.2026

Heard Dr. A. Saraf, learned Senior Counsel assisted by Mr. P.K. Deka, learned counsel for the petitioner; and Mr. B. Chowdhury, learned Standing Counsel, Finance and Taxation Department, Government of Assam for all the respondents.

2. The petitioner, an assessee under the Central Goods and Services Tax [CGST] Act, 2017, has put to challenge of an Order-in-Original dated 10.04.2026 passed purportedly in exercise of powers under Section 74 of the CGST Act. The primary grounds of challenge, apart from other grounds, is that the Assessment Officer has proceeded to pass the Order-in-Original on the basis of best judgment whereas the provisions of the CGST Act do not empower the Assessment Officer to make assessment on best judgment basis. Projecting so, the petitioner has assailed that the Order-in-Original on the ground that it has suffered from gross jurisdictional error.

3. Mr. Chowdhury, the Standing Counsel, Finance and Taxation Department has raised a preliminary point that against such Order-in-Original, an adequate, statutory and alternative remedy in the form of an appeal under Section 107 of the CGST Act is available and therefore, the writ petition is not to be entertained. Otherwise also, the Assessment Officer has passed the impugned Order-in-Original in a manner permissible under the provisions of the CGST Act.

4. The matter would require consideration.

5. Issue notice, returnable on 24.07.2026.

6. As Mr. Chowdhury has appeared and accepted for all the respondents, issuance of formal notice to the respondents stand dispensed with. The learned counsel for the petitioner shall serve an extra copy of the writ petition along with annexures, to Mr. Chowdhury within 2

[two] working days from today.

7. Heard the learned counsel on the interim prayer. It is submitted by the learned Senior Counsel for the petitioner that in connection with a similarly situated writ petitioner in W.P.[C] no. 1632/2023, a coordinate bench of this Court has already passed an interim order. Whether the Order-in-Original has suffered from error of jurisdiction would require an examination. Considering the fact that a coordinate bench has already passed an interim order in a case of similarly situated person, this Court is of the prima facie view that the interest of justice would be better sub-served if a direction not to take coercive action against the petitioner is passed. Accordingly, it is directed, keeping the point of entertainability of the writ petition open, that till the returnable date, no coercive action shall be taken against the petitioner pursuant to the impugned Order-in-Original dated 10.04.2026.

JUDGE

Comparing Assistant