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

**Case No. : WP(C)/4183/2026**

M/S RAGHAV TRADING
PRINCIPAL PLACE OF BUSINESS AT ROOM NO 206, 2NDFLOOR, CENTRAL PLAZA, MS ROAD, FANCY BAZAR, GHY, ASSAM, REPRESENTED BY ITS PARTNER SRI RAVINDRA PRASAD DWIVEDI, SO LATE DWARKA PRASAD DWIVEDI, RO H 12, RAJDEV COLONY, NAYAPUR, HUZUR, KOLAR ROAD, BHOPAL

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY, FINANCE DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE PRINCIPAL COMMISSIONER OF STATE TAXES
ASSAM
KAR BHAWAN
GANESHGURI
GHY 781006

3:THE ASSISTANT COMMISSIONER OF TAXE
ASSAM
UNIT B
CIRCLE 2
KAR BHAWAN
DISPUR
GUWAHATI- 781006

4:THE ASSISTANT COMMISSIONER OF STATE TAX
ASSAM
UNIT D
CIRCLE 2
KAR BHAWAN
DISPUR
GUWAHATI- 781006

5:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVT OF INDIA
FINANCE AND TAXATION DEPARTMENT
NEW DELH

**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, DY.S.G.I.

**BEFORE**
**HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

**Date : 10.08.2026**

Heard Dr. A. Saraf, learned Senior Counsel assisted by Mr. A. Kaushik, learned counsel for the petitioner; Mr. B. Choudhury, learned Standing Counsel, Finance and Taxation Department for the respondent nos. 1 – 4; and Mr. V.K. Chopra, learned Central Government Counsel [CGC] for the respondent no. 5.

2. The petitioner was initially served with a Show Cause Notice under Section 74 of the Assam Goods and Services Tax [AGST]/Central Goods and Services Tax [CGST], 2017 on 13.03.2025. By the said Show Cause Notice, the petitioner was asked inter alia to show cause as to why tax amounting to Rs. 21,43,69,099.09 and a penalty of equivalent amount under Section 74[1] should not be imposed upon it. Subsequent to the Reply submitted by the petitioner, a Demand Order came to be passed on 09.10.2025 inter alia limiting the amount of tax to Rs. 1,17,03,171.20 with imposition of similar amount as penalty under Section 74[9]. In the said Demand Order, the other amount out of Rs. 21,43,69,099.09 along with the penalty sought to be imposed came to be dropped with an observation that for the said amount, separate proceedings would be initiated under Section 122. A Show Cause Notice under Section 122[1] came to be issued to the petitioner on the same date, that is, on 09.10.2025. In the said Show Case Notice issued under Section 122[1], the final amount was mentioned as Rs. 20,22,79,191.90 towards tax and an equivalent amount towards penalty

under Section 122[1] and the petitioner was asked to submit his reply within 30 days from the date of receipt of the said notice. Thereafter, on 03.12.2025, the Order of imposition of penalty came to be passed making a demand for Rs. 20,22,79,192.90 towards tax with imposition of equivalent amount towards penalty under Section 122[1]. A rectification application submitted by the petitioner against the Order dated 03.12.2025 on 02.01.2026 came to be rejected on 26.06.2026.

3. Assailing primarily the Show Cause Notice dated 09.10.2025 issued under Section 122[1] and Order of imposing penalty dated 03.12.2025 as well as the Order of rejection of the rectification application, the present writ petition is preferred.

4. Dr. Saraf, learned Senior Counsel appearing for the petitioner has contended that for issuance of the Show Cause Notice under Section 122[1] and the Order imposition of penalty, the condition precedents required as per the provisions of Section 74, 122[1][i] and Section 127 were absent. The Adjudicating Authority did not levy the tax amounting to Rs. 22,22,79,191.90 and therefore, the Proper Officer who issued the Show Cause Notice under Section 122[1] could not have the power, authority and jurisdiction to pass such an Order imposing penalty.

5. Mr. Choudhury, learned Standing Counsel, Finance and Taxation Department appearing for the respondent nos. 1 – 4 has submitted that he needs some time to respond to the above contention and the other contentions advanced on behalf of the petitioner in this writ petition.

6. The matter would require further examination.

7. Issue notice, returnable on 14.09.2026.

8. As Mr. Choudhury has appeared and accepted notices on behalf of the respondent nos. 1 – 4; and Mr. Chopra has appeared and accepted notice on behalf of the respondent no. 5, issuance of formal notices to the said respondents stand dispensed with. The learned counsel

for petitioner shall serve requisite nos. of extra copies of the writ petition along with annexures, to Mr. Choudhury and Mr. Chopra within 2 [two] working days from today.

9. Having regard to the projections made in this writ petition and considering the manner in which the Show Cause Notice under Section 122[1] dated 09.10.2025 and the Order imposing penalty dated 03.12.2025 came to be passed qua the provisions contained in Section 74, Section 122[1][i] and Section 127, this Court is of the considered view that the petitioner has been able to make out a prima facie case for an interim order. Accordingly, it is ordered, in the interim, that there shall not be any coercive steps action against the petitioner on the basis of the Show Cause Notice dated 09.10.2025 and the Order imposing penalty dated 03.12.2025 till the returnable date.

10. The name of Mr. V.K. Chopra, learned Central Government Counsel [CGC] is to be reflected in the respondents' side in the Cause-List.

**JUDGE**

**Comparing Assistant**