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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4344 of 2025

Modern Traders

vs.

Deputy Commissioner/Joint Commissioner, CGST (Anti Evasion), Nagpur and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. Kapil Hirani, Advocate for the Petitioner.

Mr. R.K. Maheshwari, Advocate for Respondent Nos.1, 3 & 5 to 7 through V.C.

Mr. K.R. Lule, A.G.P. for Respondent Nos.2 & 4/State.

CORAM : ANIL L. PANSARE & NIVEDITA P. MEHTA, JJ.

DATE : 6th FEBRUARY, 2026.

Pursuant to order dated 30/01/2026, Mr. Satish Kumar, Joint Commissioner (Anti Evasion), CGST, Nagpur; Mr. Rajesh Naukaria, Assistant Commissioner (Anti Evasion), CGST, Nagpur and Mr. Pankaj Kumar Paswan, Superintendent (Anti Evasion), CGST, Nagpur are present through Video Conferencing and Mr. Ashutosh P. Zodpey, Assistant Commissioner of State Tax, Nodal- 1 Division, Nagpur and Mr. Tejrao K. Pacharne, Additional Commissioner of State Tax, Nagpur Zone, Nagpur are physically present before the Court.

02. When enquired, Mr. Satish Kumar submits that the statement made by the learned Counsel on 30/01/2026 that the petitioner had submitted documentary evidence to the Department showing ownership of the stock as well as payment of taxes is an incorrect statement. We will examine this aspect in due course. So far as imposition of 100% penalty on tax amount is concerned, we have invited their attention to the judgment of the Division Bench of this Court in the case of **M/. Shiva Structures Pvt. Ltd. vs. Union of India and others (Writ Petition No.8614/2022)**, wherein the Court in paragraph 6 has held thus:

“6. In the light of above, when it is apparently a matter wherein the petitioner either was made to deposit or had deposited the money even before adjudication of its liability to pay the tax, such payment cannot be treated as a voluntary one; more so, when it was made on the very date when the petitioner’s premises was visited by the revenue officials.”

03. Thus, the Court held that the petitioner was made to deposit the money prior to adjudicating the liability to pay tax and such payment cannot be treated as a voluntary payment.

04. In the light of above, we have directed the respondents to justify imposing 100% penalty on the alleged tax payable by the petitioner. The respondents may also take corrective steps before the next date.

05. List on 20th February, 2026.

(Nivedita P. Mehta, J.)

(Anil L. Pansare, J.)

**sandesh*