



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8619 of 2024

Date of decision: 07.05.2026

M/s Ishwar Singh Rathore.

...Petitioner.

Versus

State of Himachal Pradesh & Ors.

...Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Rakesh Sharma, Advocate.

For the respondents : Mr. Anup Rattan, Advocate General with
Mr. Sushant Keprate, Additional Advocate
General for respondents No.1 & 3.

: Mr. Vijay K. Arora, Senior Advocate with
Ms. Godawari and Mr. Hitansh Raj,
Advocates, for respondents No.2 & 4.

Vivek Singh Thakur, Judge

Petitioner has approached this Court seeking following

main substantial relief(s):-

“(i) Issue a writ in the nature of certiorari quashing order of demand dated 28.03.2024, passed by the Respondent No. 5, while conducting scrutiny under Section 61 of Centre Goods and Service Tax Act, 2017, without issuing mandatory notice in Form ASMT 10 under Rule 99 of Central Goods & Service Tax Act, 2017. prior to issuance of Show Cause Notice in form DRC 01 dated 28.03.2024

(ii) Issue of a writ in the nature of certiorari quashing order of demand dated 26.06.2024 (**sic**), passed by the Respondent No. 5, under section 73 of Center Goods and Service Tax Act, 2017, without issuing mandatory intimation under Rule 142 (1A), in Form DRC-01A, before issuing show cause notice DRC-01, dated 28.03.2024 in

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes



accordance with amendment Notification No.49/2019 - Central Tax dated 9th October, 2019, (CBIC).

(iii) Issue a writ in the nature of certiorari/mandamus for quashing/reading down the provisions of Section 16(2)(c) read with Rule 36(4) CGST/HP GST Acts & Rule of 2017 which restrict the claim of Input Tax Credit to the extent of value reflected in GSTR 2A(returned by the suppliers in GSTR 1) being violative of Articles 14 and 19(1)(g), 265 and 300A of the Constitution of India

(iv) Issue of writ of certiorari for quashing the proceedings being passed without correctly determining the actual variation of Input Tax Credit, between ITC returned by the supplier in its GSTR-1(Sales detail) and claimed by the petitioner in GSTR-3B (ITC on purchases) and also for not extending the benefit granted by the CBIC vide its Circular No. 183/15/2022-GST dated 27-12-2022 with Circular No.193/05/2023-GST dated 17-07-2023.”

2. Learned counsel for the petitioner submits that, at present, the petitioner does not press Relief No.(iii), reserving the right to agitate the issue in an appropriate petition, if so desired.

3. It has been further submitted that after issuance of and Show Cause Notice DRC-01 dated 28.03.2024 (Annexure P-2), the petitioner had submitted a detailed reply along with documents claiming entitlement to the benefit of Input Tax Credit. However, without considering the same, order-in-original dated 20.06.2024 (Annexure P-1) has been passed, which has been assailed as relief Nos.(ii) in the present petition.

4. Admittedly, while passing impugned order dated 20.06.2024 (Annexure P-1), response of the petitioner contained in the reply as well as documents filed therewith has not been considered.

5. It has been further submitted that the petitioner would be satisfied, if the concerned authorities are directed to consider the



claim/objections afresh along with documents filed/to be filed by or on behalf of the petitioner before the competent authority in response to the aforesaid summary show cause notice specifically dealing that whether payments on purchases in question, along with GST, were actually paid or not to the supplier (RTP) and whether the transactions and purchases in question are genuine and supported by valid documents, and whether transactions and purchase in question were made before or after the cancellation of the supplier's registration, as well as compliance with statutory obligations by the petitioner regarding verification of the identity of the supplier (RTP), in accordance with law, as applicable.

6. It has been further submitted that, if upon consideration of the relevant documents, it is found that all purchases and transactions are genuine and supported by valid documents and were made prior to the cancellation of the supplier's registration, the petitioner be granted the benefit of Input Tax Credit in question.

7. Learned Advocate General submits that, in case, the petitioner files a fresh response to the summary show cause notice before the competent authority along with relevant documents to substantiate the claim of petitioner, the competent authority shall decide the same within a reasonable time.

8. In view of above, order dated 20.06.2024 (Annexure P-1) is set aside and the present petition is disposed of by directing the



competent authority to consider the objections along with documents, if so filed, within 30 days from today in response to the show cause notice dated 28.03.2024 (Annexure P-2), by keeping in view the aforesaid submissions made by the petitioner and to pass an appropriate speaking and reasoned order thereupon within 06 weeks from the date of filing of such objections/response in accordance with law. In case no objections are filed within 30 days in response to the show cause notice, the competent authority shall proceed further in accordance with law, treating that the petitioner has nothing to say in response to the said notice.

9. Petition is disposed of in aforesaid terms along with pending applications, if any.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

7th May, 2026
(Pardeep)