IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 5917 of 2016

Amit Agarwal, Proprietor of M/s Shree Balaji Enterprises, S/o Sri Rameshwar Lal Agarwal, aged about 32 years, who is a citizen of India, having its place of business at R.T. Road, Naya Bazar, P.O.- Jugsalai, P.S.- Jugsalai, Town- Jamshedpur, District- Singhbhum East (Jharkhand).

…. Petitioner

Versus

1. Union of India, Secretary, through the Ministry of Finance Department of Revenue, North Block, New Delhi-110001.
2. The Addl. Director General, Directorate General of Central Excise Intelligence, Kolkata Zonal Unit, 4/2, Karaya Road, Kolkata-700017.
3. The Commissioner, Central Excise & Service Tax, Ranchi II (Bokaro), Central Revenue Building, 5A Main Road, Ranchi, P.O.- GPO & P.S.- Daily Market Thana, District- Ranchi, Jharkhand-834001.

…. Respondents

With

W.P. (T) No. 2816 of 2018

Kishor Kumar Rachh, aged about 63 years, son of Late Bhai Lal Bhai Rachh, resident of 10/ 243, Girdhar Bhawan, Girls School Road, Jugsalai, P.O. & P.S. Jugsalai, Town Jamshedpur, Dist. Singbhum East, being the Proprietor of M/s. Quality Steels, having its place of business at Plot No. 59, Road No. 5, Lala Babu Tube Co., Burma Mines, Jamshedpur, Bistupur, Jamshedpur.

…. Petitioner

Versus

1. Union of India, Secretary, through the Ministry of Finance Department of Revenue North Block, New Delhi - 110 001.
2. The Joint Director, Directorate General of Central Excise Intelligence, Regional Unit, 2nd Floor, Shaurya Trade Center, 159, Dhalbhum Road, Sakchi, P.O & P.S. Sakchi, Town Jamshedpur, Dist. Singbhum East.
3. The Commissioner, Central Excise & Service Tax, Ranchi II (Bokaro), Central Revenue Building, 5A Main Road, Ranchi, P.O-G.P.O & P.S- Daily Market Thana, District- Ranchi Jharkhand -834001.
4. The Deputy Director, Directorate General G.S.T. Intelligence, Zonal Unit Patna, Camp Office: 2nd Floor, Shaurya Trade Center, 159, Dhalbhum Road, Sakchi, P.O & P.S. Sakchi, Town Jamshedpur, Dist. Singbhum East.
5. Additional Commissioner, Office of the Commissioner of CGST & CX, Outer Circle Road, Bistupur, P.O & P.S. Bistupur, Jamshedpur-831001.

….. … Respondents

With

W.P. (T) No. 6624 of 2022

M/s Renu Raj Enterprises, having its office at 7393, Saraswati Nagar, Purulia Road, Chas, through its Proprietor Smt. Renu Singh, Aged about 53 years, Daughter of Shri Kaushal Kishor Singh, Resident of 12 Saraswati Nagar, Purulia Road, Chas, P.O. and P.S. Chas, District Bokaro.

…. Petitioner

Versus

1. Union of India through The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District-Ranchi 834001, Jharkhand.
2. The Additional Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District-Ranchi 834001, Jharkhand.

….. Respondents

With

W.P. (T) No. 05 of 2023

M/s Renu Raj Enterprises, having its office at 7393, Saraswati Nagar, Purulia Road, Chas, through its Proprietor Smt. Renu Singh, aged about 53 years, Daughter of Shri Kaushal Kishor Singh, Resident of 12 Saraswati Nagar, Purulia Road, Chas, P.O. and P.S. Chas, District Bokaro.

…. Petitioner

Versus

1. Union of India through The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.
2. The Assistant Commissioner, Central GST & Central Excise, Division III, Jamshedpur, having his office at Outer Circle Road, Bistupur, P.O. & P.S.- Bistupur, Town- Jamshedpur, District- East Singhbhum- 831001, Jharkhand

….. Respondents

With

W.P. (T) No. 16 of 2023

M/s Renu Raj Enterprises, having its office at 7393, Saraswati Nagar, Purulia Road, Chas, through its Proprietor Smt. Renu Singh, aged about 53 years, Daughter of Shri Kaushal Kishor Singh, Resident of 12 Saraswati Nagar, Purulia Road, Chas, P.O. and P.S. Chas, District Bokaro.

…. Petitioner

Versus

1. Union of India through The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.
2. The Assistant Commissioner, Central GST & Central Excise, Division III, Jamshedpur, having his office at Outer Circle Road, Bistupur, P.O. & P.S.- Bistupur, Town- Jamshedpur, District- East Singhbhum- 831001, Jharkhand.

….. Respondents

With

W.P. (T) No. 17 of 2023

M/s Renu Raj Enterprises, having its office at 7393, Saraswati Nagar, Purulia Road, Chas, through its Proprietor Smt. Renu Singh, aged about 53 years, Daughter of Shri Kaushal Kishor Singh, Resident of 12 Saraswati Nagar, Purulia Road, Chas, P.O. and P.S. Chas, District Bokaro.

…. Petitioner

Versus

1. Union of India through The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.
2. The Assistant Commissioner, Central GST & Central Excise, Division III, Jamshedpur, having his office at Outer Circle Road, Bistupur, P.O. & P.S.- Bistupur, Town- Jamshedpur, District- East Singhbhum-831001, Jharkhand.

….. Respondents

With

W.P. (T) No. 371 of 2023

M/s Jharkhand Steel Manufacturer Pvt Ltd., having its office at NS-81, 6th Phase, Adityapur Industrial Area, Adityapur, Jamshedpur through its Director Sri Kiran Shaw, aged about 53 years, Daughter Shri Jawahar Shaw, Resident of Station Road, Jugsalai, P.O- Tatanagar, P.S.- Jugsalai, District- East Singhbhum-831006. …. Petitioner

Versus

1. Union of India through The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.
2. The Assistant Commissioner, Central GST & Central Excise, Division III, Jamshedpur, having his office at Outer Circle Road, Bistupur, P.O. & P.S.- Bistupur, Town- Jamshedpur, District- East Singhbhum-831001, Jharkhand.

….. Respondents

With

W.P. (T) No. 372 of 2023

M/s Durga Steel, having its office at Foundary Road, Lalbaba, Burmamines, Jamshedpur, through its Proprietor Sri Suresh Sharma, aged about 42 years, Son of Shri B. D. Sharma, Resident of - Near Daisy Jugsalai, District Garden School, Jugsalai, P.O. and P.S.-East Singhbhum-831006, Jharkhand.

…. Petitioner

Versus

1. Union of India through The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.

2. The Assistant Commissioner, Central GST & Central Excise, Division III, Jamshedpur, having his office at Outer Circle Road, Bistupur, P.O. & P.S.- Bistupur, Town- Jamshedpur, District- East Singhbhum-831001, Jharkhand.

….. Respondents

With

W.P. (T) No. 2139 of 2023

M/s Shree Krishna Traders, having its office at 626, Industrial Area, Ashangi, Gamharia, Saraikela-Kharsawan, Jharkhand through its Proprietor Sri Ajay Kumar Agarwal, Son of Sri Om Prakash Agarwal, aged about 47 years, Resident of 47, 54 Naya Bazar, P.O. Jugsalai, P.S. Jugsalai, Town Jamshedpur & Dist.- Singbhum East (Jharkhand).

…. Petitioner

Versus

1. Union of India.
2. The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.

….. Respondents

With

W.P. (T) No. 2184 of 2023

M/s Renu Raj Enterprises, having its office at 7393, Saraswati Nagar, Purulia Road, Chas, through its Proprietor Smt. Renu Singh, aged about 53 years, daughter of Shri Kaushal Kishor Singh, Resident of 12 Saraswati Nagar, Purulia Road, Chas, P.O. and P.S. Chas, District Bokaro.

…. Petitioner

Versus

1. Union of India.
2. The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.

….. Respondents

With

W.P. (T) No. 2499 of 2023

M/s Ridhi Sidhi Enterprises, having its office at Talgaria Road, Budhibinor, Chas, Bokaro, through its Proprietor Shri Nikit Mittal, son of Sri Manoj Kumar Agarwal, aged about 39 years, resident of Banshidih, Purulia Road, Chas, P.O. & P.S.- Chas, District- Bokaro, Jharkhand.

…. Petitioner

Versus

1. Union of India.
2. The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.

….. Respondents

With

W.P. (T) No. 2500 of 2023

M/s Sidhi Vinayak Steel, having its office at ITI More, Purulia Road, Chas, Bokaro, through its Proprietor Smt. Kavita Agarwal @ Kavita Mittal, wife of Sri Manoj Kumar Agarwal, aged about 57 years, resident of 41, Banshidih, near Sidhi Vinayak Steel, P.O.& P.S.- Chas, Town and District- Bokaro (Jharkhand). …. Petitioner

Versus

1. Union of India.
2. The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.

….. Respondents

With

W.P. (T) No. 2960 of 2023

M/s Shree Krishna Traders, having its office at 626, Industrial Area, Ashangi, Gamharia, Saraikela-Kharsawan, Jharkhand through its Proprietor Ajay Kumar Agarwal, aged about 47 years, Son of Sri Om Prakash Agarwal, Resident of 47, 54 Naya Bazar, P.O. Jugsalai, P.S. Jugsalai, Town Jamshedpur & Dist.- Singbhum East (Jharkhand).

…. Petitioner

Versus

1. Union of India through The Principal Commissioner, Central GST & Central Excise, Ranchi, having his office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.
2. The Assistant Commissioner, Central GST & Central Excise, Division III, Jamshedpur, having his office at Outer Circle Road, Bistupur, P.O. & P.S.- Bistupur, Town- Jamshedpur, District- East Singhbhum-831001, Jharkhand.

….. Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioners : Mr. Nitin Kr. Pasari, Advocate
For the Resp.-UoI: Mr. Prashant Pallav, A.S.G.I
Mr. Kumar Vaibhav, C.G.C
Mr. Ayush, A.C to A.S.G.I
For the Resp.-CGST: Mr. P.A.S. Pati, Advocate
[W.P(T) Nos. 5917/16, 2139/23, 2184/23, 2499/23, 2500/23 & 2960/23]
Mr. Amit Kumar, Advocate [W.P(T) Nos. 6624/22, 5/23, 16/23, 17/23, 371/23, 372/23]

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14 / **20.01.2026** Heard learned counsel for the parties.

2. I.A. No. 8872 of 2019 in W.P (T) No. 5917 of 2016 and I.A. No. 8904 of 2019 in W.P (T) No. 2816 of 2018 to challenge the orders impugned pursuant to the impugned show-cause notice are allowed. Amendments to be carried out forthwith.

3. In the balance writ petitions, apart from the show-cause notices, orders made therein have already been challenged. In some of these writ petitions, it transpires that the petitioners did file a response and participated in the proceedings. However, it appears that such participation was restricted to the challenge to the *vires* of Rule 26(2) of the Central Excise Rules, 2002, a point that could not have been raised before the Adjudicating Authority.

4. The petitioners have filed these petitions to challenge the impugned orders by inter alia contending that these orders were based on Rule 26(2) of the Central Excise Rules, 2002, which was *ultra vires* the parent Act.

5. After arguing the matters for some time, the learned counsel for the petitioners submitted that, in most of these petitions, the orders impugned in these writ petitions were passed mainly because the petitioners failed to respond to the show-cause notices and did not participate in the adjudicating proceedings. He submitted that this was because the petitioners were advised that, since they were to challenge the *vires* of Rule 26(2), filing of any reply or participating in the proceedings would be construed as acquiescence or waiver**.** He now submitted that if the impugned orders are set aside and an opportunity is granted to the petitioners to file their reply and participate in the proceedings, they would do so without prejudice to their contentions that Rule 26(2) is indeed *ultra vires*. He submitted that the issue of *ultra vires* may be left open if any adverse orders are passed against the petitioners. He submitted that some reasonable costs could be imposed that would mitigate the inconvenience, if any, to the respondents.

6. In the connected writ petition, i.e., W.P. (T) No. 2889 of 2019, we have allowed the petitioner therein to withdraw the petition with liberty to file a reply to the show-cause notice. We have left the issue of vires open to raise if and when the occasion arises.

7. In these petitions, while we do not propose to examine the merits and demerits of the impugned orders, we think that the interest of justice would require granting the petitioners an opportunity to file their reply and contest the show-cause notices. The petitioners will, of course, have to pay some costs for not participating in the proceedings and still having the orders made therein set aside. Besides, the issue of vires can always be kept open and will be kept open.

8. The petitioners could have always participated in the proceedings without prejudice to their contentions on the issue of vires. However, the petitioners chose to go by the advice given to them, and now that we have granted an opportunity to the petitioners in W.P (T) No. 2889 of 2019, we think that interest of both parties would be substantially balanced if an opportunity is granted to the petitioners to file their reply and contest the show-cause notices on merits.

9. For the above reasons, we set aside the impugned orders and grant the petitioners four weeks' time to file their responses to the show-cause notices. If no responses are filed within four weeks, the Adjudicating Authorities are free to pass fresh orders without awaiting such responses. The Adjudicating Authority, no doubt, would have to comply with the principles of natural justice and fair play and hear the petitioners, as is required under the law, before the show-cause notices are disposed of.

10. The issue of vires of Rule 26(2) of Central Excise Rules, 2002 is kept open. In fact, all parties' contentions on the merits are explicitly kept open.

11. The petitioners will have the benefit of the above order only if they pay the costs of Rs. 50,000/- (Rupees Fifty Thousand) each in each of the writ

petitions, in favour of the Armed Forces Flag Day Fund (for the welfare of Ex-Service Men), maintained in Union Bank of India (IFSC- UBIN0530778), bearing A/c No. 520101236373338. If no costs are paid, these petitions shall be deemed dismissed without further reference to this Court.

12. After the costs are paid within two weeks from today and the petitioners file their reply within four weeks thereafter, the petitioners will then appear before the Adjudicating Authorities on 18.03.2026 at 11.00 A.M to pursue their appeals. The petitioners will not be entitled to take any advantage of their non-participation or raise any limitation issues for the disposal of the show-cause notices.

13. With the aforesaid observations and directions, these writ petitioners are disposed of.

14. All concerned may act on an authenticated copy of this order.

(M.S. Sonak, C.J)

(Rajesh Shankar, J)

January 20, 2026
Ranjeet/R. Kr.
Uploaded on 27.01.2026