HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

D.B. Civil Writ Petition No. 20189/2025

URN: CW / 44973U / 2025

M/s Ramhari And Brothers, C-22 Naveen Mandi Yard, Hindaun City, Karauli, Rajasthan - 322230, Through Its Authorised Signatory, Bhagwan Sahai Bansal, Aged Around 68 Years, S/o Kalyan Prasad, R/o 2, Shastri Bazar New Mandi, Hindaun City, Karauli (Rajasthan)- 322230

----Petitioner

Versus

1 The Joint Commissioner (State Tax), Circle-Karauli, Ac/cto Ward, Bharatpur, Rajasthan-322241.
2 The Deputy Commissioner (State Tax), Circle-Karauli, Ac/cto Ward, Zone - Bharatpur, Rajasthan-322241.
3 State Of Rajasthan, Finance Department (Tax Division) 1St Floor, Main Building, Gate 2, Government Secretariat, Jaipur, Rajasthan 302005 Through Its Joint Secretary.
4 Union Of India, Through The Revenue Secretary, Ministry Of Finance, North Block, New-Delhi-110001
5 Goods And Service Network (Gstn), Through Its Chairman, Worldmark 1, Aerocity, Indira Gandhi International Airport, New Delhi - 110037, India

----Respondents

For Petitioner(s)	:	Mr. Mihir Jhanwar Mr. Pulkit Arora
For Respondent(s)	:	Ms. Mahi Yadav, AAG with Ms. Chelsi Agarwal Mr. Kamal Parswal

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HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE MANEESH SHARMA

Order(Oral)

Reportable

16/07/2026

Per: Arun Monga, J.

1. The petitioner is before this Court assailing an order dated 22.02.2025 passed by the Deputy Commissioner, State Tax, Circle-Karauli, Bharatpur, whereby GST demand of ₹2,15,468/- was confirmed

on account of alleged excess/incorrect claim of input tax credit and non-payment of applicable tax liability under the provisions of the RGST/CGST Act, 2017.

2. The brief backdrop leading to the filing of the writ petition, shorn of unnecessary detail, is that the petitioner, a sole proprietorship engaged in the business of trading oil, is registered under the Rajasthan Goods and Services Tax Act, 2017 (RGST Act) with GSTIN No. 08ABSPB6431H1ZL, its registered place of business being C-22, Naveen Mandi Yard, Hindaun City, Karauli, Rajasthan. According to the petition, on 16.10.2025 the petitioner received SMS alerts from its banker, Bank of Baroda, informing it that ₹1,56,177 had been debited from its account pursuant to recovery proceedings initiated by the GST Department. On inquiry, the bank stated that the debit had been effected on the basis of a challan submitted by the respondent department, but furnished no further particulars.

2.1 On learning of the recovery, the petitioner accessed the GST portal but found no proceedings under the "Notices and Orders" tab. On the advice of its GST consultant, it then checked the "Additional Notices and Orders" tab, where it claims to have discovered, for the first time, the impugned show cause notice and adjudication order. The petitioner asserts that it received no email or SMS intimation of either the issuance of the show cause notice or the passing of the adjudication order, and became aware of the proceedings only after the recovery from its bank account. The impugned order confirmed a demand comprising GST of ₹1,02,878, interest of ₹92,590, and penalty of ₹20,000 under the RGST Act.

2.2 The show cause notice alleged non-payment of GST on the difference between the turnover reflected in the audited financial statements and that disclosed in GSTR-9C for FY 2020-21, and proposed reversal of input tax credit under Section 17(5) of the CGST Act, 2017. The adjudication order records that scrutiny proceedings under Section 61 of the RGST/CGST Act were undertaken and that the petitioner was afforded an opportunity of hearing. The petitioner disputes both findings, asserting that no notice in Form GST ASMT-10 was ever issued or served, and that no opportunity of hearing preceded the order.

2.3 Hence this writ petition.

3. Learned counsel for the petitioner argues on the lines of the grounds taken in the petition. He submits, inter alia, that the entire proceedings culminating in the impugned show cause notice, adjudication order, and consequential recovery are arbitrary, contrary to the RGST Act, and violative of the principles of natural justice as well as Articles 14, 19(1)(g), 21, 265, and 300A of the Constitution.

3.1. Neither the show cause notice nor the adjudication order, it is urged, was ever duly served in accordance with Section 169 of the RGST Act: although the documents were uploaded under the "Additional Notices and Orders" tab on the portal, no SMS or email intimation was sent to the petitioner's registered mobile number or email address, contrary to the prescribed GST standard operating procedure and user manual. This arbitrary mode of service deprived the petitioner of all knowledge of the proceedings and, consequently, of any effective opportunity to reply or participate in the adjudication.

3.2 Counsel further submits that the adjudication order is non-speaking and unreasoned, in violation of Section 75(6) of the RGST Act, merely reproducing the show cause notice without any independent findings, analysis, or reasons for confirming the demand. Section 75(4), it was contended, mandates an opportunity of hearing wherever an adverse decision is contemplated, whether or not such hearing is specifically sought. The proceedings were thus conducted in complete disregard of the doctrine of audi alteram partem.

3.3 It is also contended that the recovery under Section 78 of the RGST Act is ex facie illegal: the adjudication order was never communicated to the petitioner before its bank account was debited, and the statutory period under Section 78 could not begin to run absent valid service, rendering the recovery premature. Counsel further argued that the respondents failed to follow the mandatory procedure under Section 61 read with Rule 99 of the RGST Rules, 2017, since no notice in Form GST ASMT-10 was ever issued or served before proceedings under Section 73 were initiated. The findings in the impugned order regarding scrutiny of returns and grant of hearing were therefore said to be factually incorrect and unsupported by the record.

3.4 Lastly, counsel submits that the petitioner has throughout been a bona fide and compliant registered dealer, regularly filing returns and discharging its tax liabilities, and had no reason to evade or ignore the proceedings. No prejudice would befall the respondents if the petitioner were permitted to reply to the show cause notice and the matter adjudicated afresh on merits after due hearing. On these grounds, it was prayed that the impugned show cause notice, adjudication order, and consequential recovery — including the debit of ₹1,56,177 — be quashed, or in the alternative, that the petitioner be permitted to submit a reply and the matter be remanded for fresh adjudication in accordance with law.

4. Per contra, learned counsel for the respondents argues that the petition was filed without availing the alternative statutory remedy, and

that, in any event, the petitioner was afforded an opportunity of hearing before the impugned order was passed. No interference, it was urged, is therefore warranted.

5. Having heard the rival contentions and perused the case file, we are unable to accept the stand taken in the respondents' counter-affidavit or the arguments advanced on the same lines. The reasons are not far to seek. Let us see how.

6. First and foremost, reference must be made to Section 61 of the RGST Act, 2017 read with Rule 99 of the Rules framed thereunder, which are reproduced hereinbelow for ready reference:

> *"Section 61. Scrutiny of Returns.*
>
> *(1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.*
>
> *(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.*
>
> *(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74."*
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> *RULE- 99*
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> *"99. Scrutiny of returns.- (1) Where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of section 61 with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in FORM GST ASMT-10, informing him of such discrepancy and seeking his explanation thereto within such time, not exceeding thirty days from the date of service of the notice or such further period as may be permitted by him and also, where possible, quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy.*
>
> *(2) The registered person may accept the discrepancy mentioned in the notice issued under sub-rule (1), and pay the tax, interest and any other amount arising from such discrepancy and inform the same or furnish an explanation for the discrepancy in FORM GST ASMT-11 to the proper officer.*
>
> *(3) Where the explanation furnished by the registered person or the information submitted under sub-rule (2) is found to be acceptable, the proper officer shall inform him accordingly in FORM GST ASMT-12."*

A cumulative reading of the two provisions, ibid, leaves no manner of doubt that the legislative intent behind the notice in Form GST ASMT-10 is twofold i.e. to avoid unnecessary litigation, and to afford the assessee an opportunity to explain any discrepancy noticed in the return filed by him.

7. Needless to say, where such an opportunity is granted and the explanation is found acceptable by the competent authority, no further proceedings are warranted.

8. Against this statutory backdrop, we now examine the respondents' stand on the issuance of the mandatory notice. For proper appreciation, paragraph 17 of the writ petition, along with the corresponding response filed by the respondents, is reproduced hereinbelow:

> *"17. That it is also pertinent to mention herein that Respondent No. 1, at page 2, second last paragraph of the Impugned Order, has erroneously and falsely recorded that, after scrutiny of returns under Section 61 of the RGST/CGST Act, 2017, a notice intimating discrepancies was issued to the Petitioner through the GSTN portal and that full opportunity of hearing was afforded to the Petitioner in accordance with the principles of natural justice. However, the said assertions are wholly incorrect, misleading, and contrary to the record, inasmuch as no notice under Section 61 of the RGST/CGST Act, 2017 in Form GST ASMT-10 was ever issued or served upon the Petitioner, either electronically on the GSTN portal or otherwise. Consequently, the question of filing any reply in Form GST ASMT-11 does not arise. The Impugned Order has thus been passed on patently erroneous assumptions and false averments, without any proof of service of notice and in complete violation of the principles of natural justice, rendering the impugned order illegal, arbitrary, and liable to be quashed."*

Response to above para as per reply :-

> *"45. <u>That the contents of Para (2) to (20) are admitted as stated</u> and denied in light of preliminary objections and other averments made hereinabove. However, Rest of the contracts being contrary to facts and records of the answering respondents are not admitted.*
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> *(Emphasis supplied)"*

9. The aforesaid candid admission by the respondents that no notice was issued leaves us with no option but to quash the impugned order dated 22.02.2025. Since the show cause notice dated 12.11.2024 in Form GST ASMT-10, as contemplated under Section 61 read with Rule

99 ibid, was admittedly not issued by the respondents, the writ petition is allowed with liberty to the respondents to proceed afresh in accordance with law.

10. All pending application(s), if any, stand disposed of.

(MANEESH SHARMA),J **(ARUN MONGA),J**

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