

11.09.2025
Item No.32
Ct. No. 446
KS

C.R.R. 3746 of 2025

In the matter of: **Shiv Murat Seth & Ors.**

..... Petitioners

Mr. Debasish Ghosh
Mr. Lalit Baid
Ms. Sudeshna Ghosh
Ms. Sanjana Shaw
Ms. S. Chakraborty

....For the Petitioners

1. This instant criminal revisional application has been filed by the petitioners under Section 582 of the of the B.N.S.S., 2023 for quashing of proceeding pending in connection with F.I.R. No.27 dated 5th March, 2024 pending before the Court of learned A.C.J.M. at Sealdah.
2. It is the ground taken by the petitioners that the instant complaint is not maintainable in view of the specific provision of the G.S.T. Act, where as per the provision of Section 3 states that the classes of officers for the purposes of this Act to be appointed by Notification by the Government are mentioned when the complaint has been lodged by an Assistant Commissioner of Police and he has no power, jurisdiction and competence to investigate in respect of an offence as alleged to be in violation of W.B.G.S.T. Act, 2017.
3. The other ground taken by the learned advocate regarding the non-maintainability of this complaint is that the amount involved is much less than that has been mentioned in Section 132 and in this regard, relied upon a decision of *Radhika Agarwal Vs. Union of India & Ors.* reported in (2025) 6 SCC 545 and lastly, it is submitted that if there is any kind of conflict between the special law and the general law, former would take precedence and, in this regard, relied on the decision of *Ashish Bhalla Vs. State & Anr.* reported in 2023 (9) TMI 1104, Delhi High Court.
4. The third point taken that the learned Magistrate in violation of the settled proposition of law mechanically took cognizance without adhering to the basic rule prevailing for taking cognizance.

5. The allegation levelled in the complaint filed by the opposite party no.2 being the Assistant Commissioner of State Tax, Bureau of Investigation, South Bengal Headquarter that an offence has been alleged to have been committed under Section 132(1) (a), (c), (f) & (k) of the W.B.G.S.T. Act, 2017 by carrying out illegal activities from the premises at Manicktala Main Road, Kolkata which resulting loss of Government revenue and in course of enquiry conducted a search of the premises was conducted under Section 67(2) of the W.B.G.S.T. Act, 2017 and found the petitioners is evading taxes payable under the Act.
6. In view of the above facts and circumstances and going through the contents of the complaint and the law prevailing in this regard which is admittedly lodged by the Assistant Commissioner of Police, the issue of maintainability of the complaint followed by investigation is to be heard in presence of the opposite parties to be represented by an advocate.
7. Accordingly, petitioners are directed to serve copy of this criminal revisional application with all annexures upon the State through the office of the learned Public Prosecutor, High Court, Calcutta and also upon the opposite party no.2 by Speed Post with acknowledgement due and file affidavit of service on the next date fixed.
8. Meantime, there shall be an order of interim stay with regard to the investigation in respect of the proceeding pending before the learned Court of Additional Chief Judicial Magistrate at Sealdah till 30th November, 2025.
9. Let the matter be listed in the Combined Monthly List of November, 2025 before the Regular Bench under the heading "Contested Application".
10. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(CHAITALI CHATTERJEE (DAS), J.)