

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(T) No. 3471 of 2025

M/s. Pratik Enterprises, a proprietorship concern, having its registered office address at 341, Rafi Ahmed Kidwai Road, P.O. and P.S.- Park Street, District-Kolkata, West Bengal, 700055, through its Proprietor, Mr. Yogesh Vyas, aged about 56 years, son of Mohan Lal Vyas, residing at 258 Mallick Para, dumdum park, Bangur Avenue, P.O. and P.S.-Lake Town, District- North 24 Parganas, West Bengal, 700055.

... Petitioner

Versus

1. Principal Commissioner, CGST and Central Excise (Headquarters), Ranchi, Prevention Cell Camp, Hazaribagh, having its office at Ward No. 24, Near NTPC Transit Camp, Zullu Park, P.O. and P.S. - Hazaribagh, District - Hazaribagh, 825 301, Jharkhand.
2. Assistant Commissioner, CGST and Central Excise (Headquarters), Ranchi, Prevention Cell Camp, Hazaribagh, having its office at Ward No. 24, Near NTPC Transit Camp, Zullu Park, P.O. and P.S. - Hazaribagh, District - Hazaribagh, 825 301, Jharkhand.
3. Superintendent, CGST and Central Excise (Headquarters), Ranchi, Prevention Cell Camp, Hazaribagh, having its office at Ward No. 24, Near NTPC Transit Camp, Zullu Park, P.O. and P.S. - Hazaribagh, District - Hazaribagh, 825 301, Jharkhand.

... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner : Mr. Arup Dasgupta , Advocate
 Ms. Amrita Singh, Advocate
 Mr. Yashdeep Kanhai, Advocate
 For the Respondents: Mr. P.A.S. Pati, Advocate

02/Dated: 25.07.2025

Tarlok Singh Chauhan, C.J.(Oral)

1. The instant civil writ application has been filed for grant of following reliefs:

- (i) For the issuance of an appropriate writ/order/ direction or a writ in the nature of *certiorari* quashing and setting aside the order dated 17.3.2025 passed in GST MOV-09 under Section

129(3) of the Central Goods and Services Tax Act, 2017 ("the Act"), whereby penalty of Rs. 3,43,075/- has been levied, specifically for the reason that the said order fails to prove any intent to evade on part of the Petitioner and further because all requisite documents for conveyance of the goods were admittedly available with the petitioner.

(ii) For the issuance of an appropriate writ/ order/ direction or a writ in the nature of *mandamus* directing the Respondents to refund a sum of Rs. 3,43,075/- along with interest to the petitioner as the demand for penalty is completely arbitrary, illegal and unreasonable.

2. The undisputed facts leading to filing of the present writ application is that the goods of the petitioner which were in transit was inspected under the provision of sub-section (3) of section 68 of the Central Goods and Services Tax Act, 2017 and sub section (1) of section 129 of CGST Act, 2017 read with sub section (3) of section 68 of the State/Union Territory Goods and Services Tax Act, 2017 on 09.03.2025 and the following discrepancies were noticed.

- (a) Loading point of the goods loaded in said vehicle was found to be different as declared in E- Way Bill and as per the statement of the driver and GPS location shared by the transporter/driver resulting violation of Rule 138 of CGST Rules, 2017.
- (b) The Supplier of the loaded goods i.e. the petitioner had declared 27 additional places of business and to be in primary business of Pet Bottle Scrap.

3. It is the case of the respondent that as per intelligence, the modus operandi of the petitioner was to purchase the pet bottle scrap from local/un-registered persons and store the same at 27 additional places of business and thereafter to supply the pet bottle scrape to different purchaser from the said places of business. In the whole process of its business activities, there was no occasion to avail and utilize Input Tax Credit but the petitioner had been claiming huge input tax credit for payment of GST only to avoid the payment of GST. Further, during the course of verification, it was noticed that the said supplier had declared inwards/purchases which appears to be fake or not related in furtherance of its business and only meant for availing irregular Input Tax Credit during the Financial Year 2023-2024 & 2024-2025, which are as under:

FINANCIAL YEAR	2023-2024							
GSTIN	19ABQPV4628 NIZK							
TYPE	Supplier							
GSTIN	Legal Name	Trade Name	Registration Status	Registered with	Taxable value	ITC Amount	ITC Payment Ratio	Remarks
19AALFJ1476E127	JWALAJI DISTRIBUTORS	JWALAJI DISTRIBUTORS	Suspended	CENTER	14756621	2656191.78	99.83%	Registered in 7204/7214/2523
19BTDPI7095R2ZN	BIKASH JAISWAL	R.P. ENTERPRISE	Cancelled	CENTER	8037290	1446712.2	99.96%	7204
19AJTPJS340A1ZB	MANISH JOSHI	ADITYA RIBBONS	Suspended	CENTER	7988458	1437922.44	99.31%	Telephone/Plastic/Paper/Iron
19CMHPM3940G1ZV	SUBHODIP MODAK	MODAK ENTERPRISE	Cancelled	CENTER	3861520	695073.6	100.00%	Cancelled
19COOPS7026C1ZL	GAUTAM SHARMA	GAUTAM ENTERPRISE	Cancelled	CENTER	2813060	506350.8	99.53%	Cancelled
19AAZFA2689J1Z1	A & J CORPORATION	A&J CORPORATION	Active	STATE	2540517	457293.06	100.00%	Cement/Iron
19CJVPM7386M1ZU	SUKESH MONDAL	MONDAL ENTERPRISE	Cancelled	CENTER	2389395	430091.1	100.00%	Cancelled
19AMGP80820P1Z1	RAVI BHAWSINGKA	PARA SARA TEXTILE	Active	CENTER	2295555	413199.9	99.69%	7204/7214/7219/7602
19AVNPH4546G1ZA	SHARIFQUE HASSAN	SHATRADER S	Active	STATE	2279139	410245.02	100.00%	Footwear/Trunk/Briefcase
19ECRPG9282D1Z1	TANISH GUPTA	MURUGAN SALES	Cancelled	STATE	1988930	358007.4	99.87%	Cancelled
19QGYPS5866N1ZF	BHAGESH SINGH	BHAGIRATHI TRADERS	Suspended	CENTER	1433738	258072.84	99.87%	Suspended
19ABDFP0428M1Z0	PIONEER ENTERPRISE	PIONEER ENTERPRISE	Suspended	CENTER	661760	119116.8	99.80%	Suspended
19ATFPK1808C1Z0	VARUN KUMAR	JAGANNATH ENTERPRISE	Cancelled	STATE	647200	116496	99.70	Back cancelled Date
19AAJCB5836D1ZL	BRAHSAM	BRAHSA	Cancelled	CENTER	643840	115891.2	100.00%	Cancelled

	SCRAP SOLUTION PRIVATE LIMITED	M SCRAP SOLUTION PRIVATE LIMITED							
19CAUPB1618P1Z4	RUKSANA BIBI	SK ENTERPRISE	Cancelled	CENTER	633300	113994	100.00%	Cancelled	
19IKQPD7200F1Z2	PRASHANT DEOMANI	SCOPE INDUSTRIES	Cancelled	STATE	621743	111913.74	99.85%	Cancelled	
19CRIPJ3681D1ZN	VISHAL JAISWARA	JAI SWARA ENTERPRISE	Cancelled	CENTER	577920	104025.6	99.89%	Cancelled	
19FHGPM0557N1ZQ	RAJNISH MEHTA	RAM TRADERS	Cancelled	CENTER	561580	101084.4	99.97%	Back cancelled	Date
19FSTPM0575C1ZB	BADAL MALLICK	B M TRADERS	Cancelled	CENTER	559220	100659.6	100.00%	Back cancelled	Date
19CKIPT2580A1Z1	JATIN TRIPATHI	SILICON INDUSTRIES	Cancelled	CENTER	521889	93940.02	99.88%	Cancelled	
19CKHPT5709C1ZX	ANSH THAKUR	PRITHVI ENTERPRISES	Suspended	CENTER	328610	59149.8	99.91%	Cancelled	
19HIPP0462P129	BABLU PATIL	PATIL ENTERPRISES	Cancelled	STATE	219240	39463.2	99.97%	Cancelled	
					56360525	10144894.5			

FINANCIAL YEAR								
GSTIN TYPE								
GSTIN	Legal Name	Trade Name	Registration Status	Registered with	Taxable value	Tax amount	ITC payment Ratio	Remarks
19AGIPY5293K1ZE	KAILASH YADAV	KAILASH TRADING CO	ACTIVE	CENTER	11899958	2141992.44	99.52%	All suppliers cancelled
19AFJFS2504M1ZM	STERLITE INDUSTRIES	STERLITE INDUSTRIES	Cancelled		7918103	1425258.54	99.88^	Cancelled
19ERQPGS582J1Z	PRANAY GUPTA	POWER PLUS	Cancelled		6340287	1141251.66	99.93%	Cancelled
190DQPK6806R1Z5	ANIL KUMAR	SKY ENTERPRISE	Cancelled	STATE	4616980	831056.4	99.92%	Back date cancelled
19ABFFP9260K1ZM	P C SALES	P C SALES	Cancelled		4411484	794067.12	0.00%	Cancelled
19ESAPG2872L1ZE	PRANAY GUPTA	SCRAVY SALES	Cancelled		4058833	730589.94	99.89%	Cancelled
19ACBFM4805G1ZB	MADE EASY COMPANY	MADE EASY COMPANY	Cancelled		3929160	707248.8	99.89%	Cancelled
19AAKFI3512K1Z7	INPAT TRADING CO	ISPAT TRADING CO	Cancelled	STATE	3790968	682374.24	99.99%	Cancelled/Registered in 84
19AALFJ1476E1Z7	JWALAJI DISTRIBUTORS	JWALAJI DISTRIBUTORS	Suspended	CENTER	3533666	636059.88	98.21%	Registered in 7214/2523/7602/7204
19ENSPG7302E1ZU	AMBAR GHOSH	GHOSH ENTERPRISE	Cancelled		2311361	416044.98	99.90%	Cancelled
19AAWFN3268M129	NARASIMHA TRADING CO	NARASIMHA TRADING CO	Cancelled		2283682	411062.76	99.92%	Cancelled/7204
19HQMPB7156K127	PARU BALA	ZILLION AUTOMOBILES	Cancelled	STATE	898780	161780.4	99.87%	Cancelled
19ABIFR2602Q1ZP	R G TRADING CO	R G TRADING CO	Cancelled	STATE	642879	115718.22	99.93%	Cancelled
19DDDPN2403M1ZF	VIRAAJ NAHATA	APPLE VALLEY AUTOMOTIVE	Cancelled	CENTER	407930	73427.4	99.92%	Back Cancelled
19AJTPJ5340A1Z8	MANISH JOSHI	ADITYA RIBBONS	Suspended	CENTER	368080	66254.4	98.99%	Suspended
TOTAL					57412151	1033418.2		

4. Further, it was noticed that the petitioner had availed and utilized ITC amounting to Rs. 1.01 Crore in Financial Year 2023-2024 and Rs. 1.03 Crore in Financial Year 2024-2025 which did not appear to be proper and appeared to be fake/suspicious as most of the suppliers of the petitioner was suspended/cancelled and also registered in other

items which are not related to the furtherance of business resulting in contravention of section 16 of the CGST Act, which required proper investigation.

5. It was for this precise reason that the goods and the conveyance used for the movement of goods were detained by the respondents and accordingly notice in FORM GST MOV 07 dated 12.03.2025 was issued to the person in charge/driver of the said vehicle.

6. The petitioner replied to the same, vide reply dated 17.03.2025, wherein it is submitted that before dispatch of the said goods, (one) e-Tax Invoice bearing No. 1126 (IRN:-8ada38572fb1f512917c674d3fed241c74e013c2b47f3480febdfc673ccc7750) dated 08.03.2025 had been generated from the GST Portal and an E-Way Bill was also generated from the portal bearing number-871506739013 dated 08.03.2025 having validity upto 16.03.2025 at 03:40 PM for covering a distance of 1485 KM. The said goods were dispatched through vehicle No. HR-38X-1195 belonging to M/s. Rajasthan Haryana Road lines. The vehicle was intercepted on 09.03.2025 around 02:30 PM by the Assistant Commissioner (Prev.) of CGST&CX (Hqrs.), Ranchi as there was huge accumulation of Input Tax Credit in the ITC Credit ledger of the petitioner and the goods had been purchased from mostly unregistered persons or from suppliers whose GST Registration Certificate had either been cancelled or had been suspended and the noticee had availed and utilized ITC to the tune of Rs. 1.01 Crore and Rs. 1.03 Crore as mentioned above that on fake invoices during financial year 2023-2024 and 2024-2025. Accordingly, penalty under section 129(1)(a) and 129(1)(b) of the CGST Act, amounting to Rs.

3,43,075/- and Rs. 9,52,985/- were imposed for the violation of Rule 138 of the CGST Rules,2017.

7. However, in the reply filed by the petitioner it was averred that in order to invoke the provisions of Section 129(1)(a) or section 129(1)(b) there should be violation of Rule 138 of the CGST Rules, 2017. In the instant case there was no violation as the noticee before movement of its goods from its warehouse located at Village-Sakui, Kharagpur, District-Pashim Medinipur, West Bengal had generated the e-Invoice and E-Way Bill from the Common portal and the driver of the said vehicle was carrying with him both the e-Invoice and E-Way Bill along with the consignment Note bearing number:-9201 dated 08.03.2025 issued by the Rajasthan Haryana Roadlines and weighment slip bearing no. 44692 dated 08.03.2025 issued by Maa Kali Weigh Bridge. This is the precise contention raised even in this petition while assailing the order passed by the respondents.

8. We have heard the learned counsel for the petitioner and have gone through the documents placed on record and find that no doubt the petitioner had generated the e-Invoice and E-Way Bill from the common portal but the loading point of the goods located in the said vehicle has been found to be different from the one declared in the E-Way Bill and the same has been corroborated by the statement of the driver as well as the GPS location shared by the transporter/driver. The actual loading point of the said goods has been found to be Rupnarayanpur, West Medinipur, West Bengal as per the GPS location shared by the transporter/driver which is different from the place of dispatch mentioned in E-Way Bill i.e. Village-Sakui, Post:- Matkatpur,

Kharagpur, District:-Pashim Medinipur, West Bengal. Further, as per the GPS location, the said vehicle also stayed about six hours on 08.03.2025 at Rupnarayanpur, West Medinipur, West Bengal from 08:46 AM to 14:50 PM which confirms the goods were loaded at this location which is different as per E-Way Bill resulting in violation of Rule 138 of GST Rules, 2017. Not only this, the petitioner did not assail the action of the respondents and paid the penalty amount and got the goods and conveyances released. Such deposit was made without any protest.

9. We are conscious of the fact that the petitioner even by election cannot be treated to have waived his right or acquiesced to the demand by paying the amount in question, but given the fact that the adjudicating authority was adequately armed with material adverse to the petitioner, we have no doubt in our mind that the instant petition is clearly an afterthought besides being devoid of any merit.

10. Accordingly, for the reasons stated above, we find no merit in this petition and the same is dismissed, *in limine*.

(Tarlok Singh Chauhan, C.J.)

(Sujit Narayan Prasad, J.)

N.A.F.R.

Sharda/-