# HIGH COURT OF JUDICATURE FOR RAJASTHAN
# AT JODHPUR

D.B. Civil Writ Petition No. 13743/2026
CNR: RJHC010619882026 | URN: CW / 25038U / 2026



M/s Marudhar Food Products, Having Its Registered Premises At F-202, Industrial Growth Centre, Khara, Bikaner - 334601 Through Its Proprietor Smt. Sarita Devi Karnani D/o Shri Laxmi Narayan Lakhotia, Aged 56 Years, Resident Of 5-C Sadul Ganj, Opposite Moomal Hotel, Near L.i.c. Office, Bikaner, District- Bikaner, Rajasthan, Pin- 334001.

----Petitioner

Versus

1. Assistant Commissioner, Central Goods And Services Tax Division-F, Bikaner, Office Of The Assistant Commissioner Central Goods And Services Tax Division- F, Bikaner, Opposite Chetanmahadev Mandir, Jaipur Road, Bikaner- 334003.
2. Commissioner (Appeals) Central Gst And C. Ex., Jodhpur Office Of The Commissioner (Appeals) Central Gst And C. Ex, Jodhpur, G-105, New Jodhpur Industrial Area, Jodhpur- 342003.
3. Joint Commissioner Of Central Gst And C. Ex./st, Jodhpur Office Of The Commissioner Of Central Gst And C. Ex./st, Jodhpur, G-105, New Industrial Area Basni, New Industrial Area Near Diesel Shed, Jodhpur- 342003.
4. Union Of India, Through Its Secretary Department Of Revenue, Ministry Of Finance, North Block, New Delhi- 110001.
5. Central Board Of Indirect Taxes And Customs, Through The Chairman, North Block, New Delhi- 311001.
6. Commissioner Of Central Gst And C. Ex./st, Jodhpur Office Of The Commissioner Of Central Gst And C. Ex./st, Jodhpur, G-105, New Industrial Area Basni, New Industrial Area Near Diesel Shed, Jodhpur- 342003.

----Respondents

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| For Petitioner(s) | : | Mr. Siddharth Dubey, with<br>Mr. Shubhankar Johari &<br>Mr. Rishi Kapoor. |
| For Respondent(s) | : | Mr. Rajat Arora. |

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**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI**
**HON'BLE MR. JUSTICE PRAVEER BHATNAGAR**

**O R D E R**

**03/08/2026**



1. Heard learned counsel for the parties.

2. Learned counsel for the petitioner has drawn the attention of this Court towards paragraph 2.2 of the circular dated 01.08.2023, which is reproduced hereunder:

> "2.2 Further, in view of the prevailing genuine doubts regarding the applicability of GST rate on the un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion, the issue for past period upto 27.7.2023 is hereby regularized on "as is" basis."

2.1 Learned counsel further submits that the circular has clarified that the GST rate on the un-fried or un-cooked snack pellets manufactured through the process of extrusion, the issue of the past period upto 27.07.2023 was regularized on an "as is" basis.

2.2 Learned counsel also submits that the present dispute pertains to the GST rate on the admitted product of the petitioner for the period from 01.07.2017 to 31.07.2019.

2.3 Learned counsel further submits that on a similar issue, wherein a Division Bench of this Hon'ble Court decided the question of alternate remedy, the petitioner has filed a Special Leave Petition bearing SLP No.12316/2025, which is pending before the Hon'ble Apex Court.

2.4 Learned counsel also submits that in the case of ***Union of India v. Arviva Industries India Ltd. : (2014) 3 Supreme***

***Court Cases 159***, in paragraph 4(3), the Hon’ble Apex Court observed as under:

> “4. This Court in Commr. of Customs v. Indian Oil Corpn. Ltd., after examining the entire case law, culled out the following principles: (SCC p. 497, para 12)
>
> "(1) Although a circular is not binding on a court or an assessee, it is not open to the Revenue to raise a contention that is contrary to a binding circular by the Board. When a circular remains in operation, the Revenue is bound by it and cannot be allowed to plead that it is not valid nor that it is contrary to the terms of the statute.
>
> (2) Despite the decision of this Court, the Department cannot be permitted to take a stand contrary to the instructions issued by the Board.
>
> (3) A show-cause notice and demand contrary to the existing circulars of the Board are ab initio bad.
>
> (4) It is not open to the Revenue to advance an argument or file an appeal contrary to the circulars."”

In light of the aforesaid law laid down by the Hon’ble Apex Court, it is submitted that the present petition is maintainable and the respondents ought not to press for the alternate remedy.

2.5 Learned counsel further submit that, to demonstrate the *bona fides* of the petitioner, he is prepared to furnish an auto-renewable Fixed Deposit to the extent of 10% of the demand, which would otherwise have been required to be deposited before the Tribunal.

3. *Per contra,* learned counsel appearing on behalf of the respondents, opposes the submissions made on behalf of the petitioner on the ground that no interim order has been granted in the SLP preferred by the petitioner before the Hon'ble Apex Court and, moreover, the learned Tribunal is functional; therefore, the petitioner ought to avail the alternate remedy before the Tribunal.

4. However, upon being asked by this Court as to how he would defend or construe paragraph 2.2 reproduced herein-above, which, on the face of it, appears absolutely applicable to the facts of the present case without any doubt in the present perspective, the learned counsel for the respondents could not furnish any satisfactory answer.



5. The matter requires consideration.

6. Admit.

7 No fresh notice need be issued, as the respondents are already represented through Counsel.

8. List the matter after four weeks.

9. In the meanwhile, effect and operation of the impugned demands from 01.07.2017 to 31.07.2019 shall remain stayed. However, the petitioner shall be required to submit an auto-renewable Fixed Deposit to the extent of 10% of the demand before the Registrar (Judicial) of this Hon'ble Court.

(PRAVEER BHATNAGAR),J (DR.PUSHPENDRA SINGH BHATI),J

6/Zeeshan