Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 264 of 2024

Date of Decision :04.08.2026

M/s City Lights and Equipments,
A Proprietorship firm having its office at
Demseiniong, Polo, Shillong, Meghalaya, PIN-793011
Represented by its Proprietor,
Ms. Meghna Marak,
Residing at Hillview Bungalow,
Kenche's Trace, Shillong 793004

…. Petitioner(s)

Versus

1.State of Meghalaya represented by
Chief Secretary, Shillong
East Khasi Hills District,
Meghalaya, Pin-793001.

2. The Commissioner of Taxes,
Office of the Commissioner of Taxes,
Lachumiere, Shillong, Meghalaya, Pin-793001.

3. Additional Commissioner of Taxes,
Office of the Commissioner of Taxes,
Lachumiere, Shillong, Meghalaya, Pin-793001.

4. The Superintendent of Taxes,
Office of the Superintendent of Taxes, Enforcement Branch,
Shillong, Meghalaya, Pin-793001.

…. Respondent(s)

Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Judge.
Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner(s)	:	Mr. R.B. Phookan, Sr. Adv. with Mr. S. Sen, Adv. Mr. M.U. Ahmed, Adv.
For the Respondent(s)	:	Mr. N. Syngkon, GA with Mr. J.N. Rynjah, GA

i)	Whether approved for reporting in Law journals etc:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

Per. H.S. Thangkhiew, Judge:

JUDGMENT AND ORDER

1. The petitioner a proprietorship firm under the name of M/s City Lights and Equipments, being aggrieved with demand of Tax/Interest/Penalty vide order dated 08.02.2021, and order No. CTA-46/2021/91, dated 26.04.2024 passed by the Additional Commissioner of Taxes, is before this Court by the instant writ petition.

2. The challenge, is essentially based on the ground that the demand by the respondents is on the assumption that the notepads containing the rough estimates seized during an Inspection conducted on 03.06.2020,

are not mere slips but are memo of sales. Further ground taken is that the entire proceedings had been initiated at the behest of the Additional Commissioner, and it was he who had authorized the Superintendent of Taxes to conduct inspection, which culminated into the impugned demand and subsequent appeal heard by him.

3. Mr. R.B. Phookan, learned Senior counsel assisted by Mr. S. Sen, learned counsel for the petitioner submits that after the raid and seizure of various documents including rough estimates, notepads, estimate books and cash memos, show cause notices were issued by the respondent No. 4 (Superintendent of Taxes) dated 18.06.2020 and 29.06.2020, alleging tax evasion. Replies and justifications he submits, were provided by the petitioner, but the respondent No. 4 on 24.08.2020, issued an intimation of liability for payment of Rs. 34,26,901.40p as tax plus interest and penalties, based on the seized records and thereafter a final order of demand amounting to Rs. 59,18,980/- was issued on 08.02.2021. The learned Senior counsel submits that though an appeal was filed under Section 107 of the MGST Act, 2017 against the demand, the respondent No. 3, as the Appellate authority by order dated 26.04.2024, rejected the same.

4. Learned Senior counsel submitted that the petitioner had raised several specific objections and had provided detailed financial evidence to

refute the allegations of tax evasion, and also that the notices, had only stated tax and interest amounts without specifying the exact turnover, on which the tax was being determined. He further argued that explanation had also been requested, as to why the authorities applied a flat 18% GST rate while the majority of items sold by the petitioner's firm fall within the 5 to 12% bracket and further that there was no intention to suppress revenue, inasmuch as, bank deposit details for the financial year 2019-20, had been provided. The GST returns he submits, also showed that both cash and cashless sales had been duly accounted for and that the seized rough estimates notepads, contained mere quotations provided to customers with mostly did not result in actual sales. Tax invoices he submits, are issued only when a sale is finalized and that these are the only accurate records of revenue, and further since most of the goods are purchased from outside the State through legitimate e-way bills and the system generated stock reports showing no deficit, there was no possibility of having unaccounted sale revenue.

5. The learned Senior counsel has reiterated that the actual sales were duly accounted for in the GST returns and tax invoices stored in the computer system, and therefore linking the quotation from rough notebooks to actual sales is illegal and not made on a factual basis. He then submitted that the respondents had failed to adhere to the statutory provisions of

Section 65 and 66 of the Meghalaya GST Act, 2017, inasmuch as, a huge penalty has been imposed without conducting a fair assessment or stock audit, while at the same time ignoring the statutory records provided by the petitioner, and that based on the authority's demand the petitioner would have had to make sales of over 4.74 crores, which is impossible and does not tally with the opening and closing of stock records.

6. Learned Senior counsel has also advanced an argument that there has been a violation of the principles of natural justice, inasmuch as, the respondent No. 3, who had authorized the initial inspection had later acted as the Appellate authority which rejected the petitioner's appeal, which therefore vitiated the proceedings, in spite of the fact that a faceless hearing for fair adjudication had been requested by the petitioner. It has also been submitted that the demand total of Rs. 47,05,688/- later increased to over Rs. 59,18,980/- is arbitrary and perverse, as the said amounts had been demanded without specifying the exact turnover or inspection of actual stocks.

7. Learned Senior counsel has also contended that when a controversy involves a purely legal question rather than disputed question of facts, the High Court could decide the matter even when there is the availability of alternate remedy. In this context, reliance has been placed on

the case of ***Godrej Sara Lee Ltd. vs. Excise and Taxation Officer-cum-Assessing Authorities & Ors. 2023 SCC OnLine SC 95***. Reliance has also been placed on the case of ***CBI vs. V.C. Shukla*** (***Jain Hawala case***) reported in ***(1998) 3 SCC 410*** and ***Principal Commissioner Income Tax, Shillong vs. M/s NEEPCO (ITA No. 2 of 2024)*** with regard to entries made in loose sheets that a hypothetical income recorded in the books of account, should not be taxed simply because an entry exists. He lastly argued that at the time of filing of the writ petition, the GST Tribunal was not constituted, but notwithstanding this aspect, he submits, the jurisdiction of this Court under Article 226 is not subject to any restriction, and as such the instant matter can be entertained and appropriate orders passed thereon.

8. On behalf of the State respondents, Mr. N. Syngkon, learned GA has submitted that there is no question of the writ petition being entertained, as there is adequate alternative remedy provided under Section 109 MGST Act, 2017. The Central Government he submits, vide notification dated 31.07.2024, has constituted the Principal Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) in New Delhi and State Benches including one in Guwahati, and that vide notification dated 17.09.2025, specific timelines for filing appeals before the GSTAT has been notified. By this notification he submits, 30.06.2026, has been fixed as the

final date to file an appeal in cases where the order being appealed against was communicated before 01.04.2026, and for any other orders communicated on or after 01.04.2026, the appeal must be filed before the Appellate Tribunal within 3(three) months from the date the order is communicated. The learned GA then submits that as per Section 117 of the MGST Act, an appeal to the High Court would only be permissible if the matter involves a substantial question of law, while in the instant writ petition he contends, the dispute is factual and not a legal one. Reference has been made to the case of ***Bikram Singh vs. Principal Commissioner Income Tax (SLP (C) No. 31854/2017, dated 29.08.2023)*** to emphasize the fact that writ jurisdiction cannot be used to bypass statutory machinery. He has further reiterated that no substantial question of law has been raised to warrant exercise of jurisdiction under Article-226, and reliance has been placed in the case of ***Thansingh Nathmal vs. A. Mazid, Superintendent of Taxes AIR 1964 SC 1419***.

9. On the other aspect, it has been argued that the burden of proof lies on the petitioner to prove that the irregular documents did not translate into actual sales, inasmuch as, under Rule 56 (10) of the MGST Acts and Rules, 2017, any records found at the said premises are presumed to be maintained by the registered person, more so, as it has been claimed by the

petitioner that the records are mere rough notes. It has also been submitted that the petitioner has failed to adhere to Section 36 of the MGST Act and Rules, which mandates that every registered person must keep and maintain books of accounts for at least 72 months (6 years) from the due date of the annual return for that year, and therefore the petitioner's inability to produce coherent historical records, is also a violation of the established statutory requirements. It has also been contended that though the petitioner claims that the tax invoices were maintained electronically, there were not readily available when requested by the officials and the request made for extension, was but a stalling tactic and a violation Rule 48 of the MGST Acts and Rules, 2017, which govern the maintenance of electronic records.

10. The learned GA has also alluded to the other contentions raised by the petitioner and has submitted that the petitioner's formal reply failed to address the specific questions raised, such as the discrepancies in the seized memos and instead, submitted materials which had no connection to the seized documents. Further it is submitted there is no mention in the seized cash memos with regard to any GST rates or tax components which is a direct violation of Section 33 of the MGST Act. With regard to the levy of 18% rate, he submits that the same was due to the fact that the petitioner did not specify the tax rate on the memos, and as such they were treated as

'goods not specified', which falls under Entry No. 453 of the notification dated 29.06.2017, issued by the ERTS Department Government of Meghalaya. The memos which the petitioner claims to be scribblings, he submits, in fact clearly recorded full sale transactions including specific payment methods, such as paid, swipe, cheque and even tracking of old or previous balance. Further, the learned GA has pointed out other discrepancies in cash memos, which has failed to satisfy the claims as made out.

11. On the question of the role of proper officer and enforcement raised by the petitioner it has been argued that the Superintendent of Taxes (Respondent No. 4) under Section 61 of the CGST Act, is the Proper Officer to scrutinize the return and related particulars furnished by a registered person and to verify the same. In this case he submits, as there was no satisfactory explanation as to the discrepancies, the proper officer is authorised to take further action under various Sections of the CGST Act, such as Section 65, 66, 67, 73 & 74 and that the order of demand issued on 08.02.2021, was a direct consequence of the initial inspection and seizure conducted on 03.06.2020, under Section 67 of the Act. The petitioner he submits failed to take any steps to supply any information to explain the

discrepancies or to rectify the returns as allowed by statute. As such he submits on all counts, the petitioner's case is not sustainable in law.

12. Having heard the learned counsel for the parties, this Court notes that the MGST/CGST Acts, 2017, provide complete self-contained appellate machinery, under Section 107 before the Appellate authority and thereafter under Section 109/117 before the GST Appellate Tribunal (GSTAT), wherein the Principal Seat and Guwahati State Bench, have since been constituted. It is a well settled principle that when a statute itself creates a right and provides a special forum for its enforcement, the machinery so created must ordinarily be resorted to, and recourse be not taken to seek relief under Article-226. In the case cited by the respondent i.e. ***Thansingh Nathmal vs. A. Mazid, Superintendent of Taxes*** (supra), the Supreme Court at Para-7, a portion of which is extracted hereinbelow held as follows: -

> ***"7. ....The jurisdiction of the High Court under Art. 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the Article. But the exercise of the jurisdiction is discretionary: it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the Court will not entertain a petition for a writ under Art. 226, where the petitioner has an alternative remedy, which, without being unduly onerous,***

> ***provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Art. 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under Art. 226 of the Constitution, the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up."***

13. This Court similarly in the case of ***M/s Jorabat Shillong Expressway Ltd., vs. Union of India, 2026 SCC OnLine Megh 423*** declined to entertain the writ petition, wherein the taxpayer had challenged a GST demand questioning the jurisdiction of the officers concerned and the classification and taxability of its services on the ground of availability of alternate remedy when no special grounds on natural justice or jurisdiction could be made out. In the instant case, the petitioner has not been able to show any exceptions to warrant exercise of jurisdiction under Article-226 of the Constitution.

14. The above noted observation has been made in view of the fact that firstly, the allegation of violation of the principles of natural justice has

not been established, inasmuch as, the action of the respondent authorities is as per the statute and authorizing an inspection, is distinct from the adjudicatory functioning apart from the fact that no materials have been placed to show any element of bias. Further, the actions of the respondents being taken by the officers duly empowered as "Proper Officer" under Section 2(91) read with Section 3 & 5 of the CGST Act, the same cannot be held to be irregular or illegal. Secondly, the dispute is essentially one of fact and not law, as the issue raised, is whether the seized notepads and cash memos represent actual suppressed sales, or were mere estimates that were not relevant for the purpose of assessment. Added to this is the question as to whether the goods sold fall within the 5 to 12% slab claimed by the petitioner or the residuary 18% slab, applied by the respondents and also whether the bank deposits and GSTR-3B returns, can be reconciled with the seized materials, which to the mind of this Court require examination and appreciation of documentary and testimonial evidence.

15. The judgments placed by the learned counsel for the petitioner i.e. ***Godrej Sara Lee Ltd. vs. Excise and Taxation Officer-cum-Assessing Authorities & Ors.*** *(supra)*, and ***Principal Commissioner Income Tax, Shillong vs. M/s NEEPCO*** *(supra)* in the circumstances of the instant case which involves disputed facts and not on a pure question of law are

distinguishable, and are of no assistance to the case of the petitioner and as such, are not further elaborated upon.

16. In this view of the matter, as the writ petition does not disclose any jurisdictional error, denial of natural justice, or that the issue concerned is a pure question of law, the same is not entertained and stands dismissed, however by allowing the petitioner to take recourse to alternate remedy for appeal under Section 109 of the MGST Act. Needless to add, as the writ petition had been filed when the GSTAT had not been constituted, the delay if any shall be favourably considered by the Tribunal.

(B. Bhattacharjee)
JUDGE

(H.S. Thangkhiew)
JUDGE

Meghalaya
04.08.2026
"V. Lyndem- AR-PS"