IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

The Hon'ble The Chief Justice Sri Aparesh Kumar Singh
and
The Hon'ble Sri Justice G.M.Mohiuddin

Writ Petition No.15156 of 2026

Dated: 21.07.2026

Between:

M/s. Bhavani Industries,
Rep. by its Proprietor Basanthlal Sah,
Chegunta, Chinna Shivanoor, Medak,
Telangana.

… Petitioner

AND

The State of Telangana,
Represented by its Principal Secretary,
Commercial Taxes, Secretariat,
Hyderabad and 3 others

… Respondents

ORDER:

Heard Mr. S.V. Pranav Ram, learned counsel for the petitioner appearing in virtual mode; Mr. K. Sai Akarsh, learned Assistant Government Pleader for State Tax, appearing for respondent Nos.1 to 3 and Mr. Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC), appearing for respondent No.4.

2. Petitioner-firm, registered with GSTIN No. 36BEFPS6699M1ZE, under the Telangana State Tax Department has been proceeded against under Section 74 of the State Goods and Services Tax (SGST) Act, 2017/Central Goods and Services Tax (CGST) Act, 2017, *vide* summary of show-cause notice in Form GST DRC-01 dated 29.11.2024, on two charges *i.e.*, (i) discrepancy in GSTR-3B of the petitioner and GSTR-1 of the supplier and (ii) During the audit, on comparison of GSTR-1 and GSTR-3B, the petitioner was found to have underreported the tax liability at Rs.5,11,346/- as against Rs.6,58,326/- comprising of Integrated Goods and Services Tax (IGST), CGST and SGST. As per the Assessment Order dated 12.05.2025 for the financial year 2020-21, both the charges were adjudicated, without any reply or submission of documents by the petitioner, confirming the demand of Rs.1,90,14,794/- towards IGST/CGST/SGST, on disallowance of the irregularly availed Input Tax Credit (ITC). For underreporting of the tax liability by the petitioner, turn over tax to the tune of Rs.6,58,326/- was also imposed on all the three heads. Penalty equivalent to 50% of the tax amount on the amount confirmed was

imposed under Section 74(9) of the CGST Act with applicable interest as per Section 50 of the CGST Act.

3. The petitioner has assailed the Assessment Order dated 12.05.2025 on the ground that for the tax period 2017-18 to 2020-21, the CGST authorities have also undertaken adjudication proceedings on the basis of summary of show-cause notice in Form GST DRC-01 dated 29.07.2022 on the charges that the petitioner availed ITC without receipt of goods and against fake invoices issued by the non-existent firms in violation of Section 16(2)(b) and 16(2)(c) of the CGST Act. By Order-in-Original dated 03.02.2025, the demand of Rs.3,11,42,470/- covering IGST/CGST/SGST was confirmed along with interest at applicable rates on the demand of Rs.3,11,42,470/- under Section 50(3) of the CGST Act read with Rule 88B of the CGST Rules read with Section 20 of the IGST Act and similar provisions of the SGST Act, with an equivalent amount of penalty under Section 74(9) of the CGST Act read with Section 20 of the IGST Act and similar provisions of the SGST Act. The petitioner has preferred an appeal against the said Order-in-Original, which has been dismissed.

4. Learned counsel for the petitioner submits that the petitioner is in the process of filing an appeal before the Goods and Services Tax Appellate Tribunal (GSTAT).

5. In these background facts, petitioner has taken a plea that the adjudication proceedings conducted by the SGST authorities for the financial year 2020-2021 not only overlap the CGST proceedings for the financial years 2017-18 to 2020-21 in respect of certain period, but also overlap the charge against the petitioner of having irregularly availed ITC on comparison of its GSTR-3B with that of GSTR-1 of the supplier. The difference in demand on disallowance of ITC in both the adjudication proceedings is for the reason that the CGST proceedings covered a larger period. The CGST proceedings were based on investigation.

6. It is also evident that the SGST proceedings were also based on another charge of underreporting of tax liability by the petitioner, as found during the audit.

7. Both the learned counsel for the petitioner and learned counsel appearing for the CGST and the SGST authorities rely upon a

decision of the Apex Court in **M/s. Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate and another**[1] (paras 96 and 97).

8. On the part of the petitioner, it is submitted that the adjudication proceedings initiated by the SGST authorities after issuance of show cause notice by the CGST authorities was not permissible in view of Section 6(2)(b) of the CGST Act. The issue in both the proceedings and the periods having overlapped, the Assessment Order dated 12.05.2025, passed by the SGST authorities, be set aside.

9. Both the learned counsel for CGST and SGST have tried to draw a distinction between the aforesaid two proceedings.

10. Learned Senior Standing Counsel for CGST has pointed out that while the Assessment Order dated 12.05.2025 was of different demand and covered other charge of underreporting of tax liability by the petitioner, based on the audit report, the CGST proceedings were initiated on the basis of the investigation, which revealed irregular availment of ITC by the petitioner without receipt of goods and

[1] (2025) 177 taxmann.com 478 (SC)

against fake invoices issued by the non-existent firms, which is in contravention of Section 16(2)(b) and 16(2)(c) of the CGST Act. However, in substance, the demand relating to irregular availment of ITC was for the same reason *i.e.,* discrepancy between GSTR-1 of the supplier and GSTR-3B of the petitioner. It also appears that the second charge in the SGST proceedings was for underreporting of the tax liability by the petitioner based on audit report. From perusal of the Assessment Order dated 12.05.2025, it is evident that the petitioner has neither furnished documents nor sought time to file reply to the show-cause notice.

11. Learned counsel for the petitioner, by referring to paragraph 15 of the writ affidavit, contends that the petitioner had filed reply on 18.01.2025 and had also brought to the notice of respondent No.3 at the time of personal hearing to the show-cause notice contained in DRC-01, the fact of commencement of parallel proceedings. Though the petitioner had furnished the details in its rectification application filed on 01.08.2025, which was acknowledged by respondent No.3, but no finding has been recorded with regard to the same in the order dated 20.11.2025, rejecting the rectification application.

12. It therefore appears that as per the twofold test laid down by the Apex Court in **M/s. Armour Security (India) Ltd.** (supra) (para 96(x)), the charges for disallowance of ITC in both the proceedings appear to be for irregular availment of ITC on account of discrepancy between GSTR-1 of the supplier and GSTR-3B of the petitioner. The demand appears to be different on account of the larger tax period covered under the CGST proceedings.

13. In such circumstances, if the SGST authorities have proceeded on the charge of disallowance of ITC on account of irregular or illegal availment of ITC for certain period overlapping the period covered under the CGST proceedings, in the fitness of things, the matter deserves to be remanded.

14. Accordingly, the Assessment Order dated 12.05.2025 is set aside and the matter is remanded to the SGST authorities to pass a fresh order, after giving an opportunity to the petitioner and on consideration of its reply and documents, if any, furnished by it.

15. Needless to say, if the SGST authorities are satisfied that the disallowance of ITC is on the same issue as that of the proceedings

initiated by the CGST authorities, it would be open for the SGST authorities to drop the said charge. If the other charge relating to underreporting of tax liability by the petitioner based on the audit report is found to be sustainable, the Proper Officer would proceed to adjudicate the same as per law.

16. Since the matter is being remanded, the observations, if any, made in this order would not influence the Proper Officer from taking a decision strictly on merits in accordance with law.

17. The Writ Petition is accordingly disposed of. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

APARESH KUMAR SINGH, CJ

G.M.MOHIUDDIN, J

Date: 21.07.2026
MD