Manoj Ramkishan Agrawal & Anr. vs. Union of India & Anr.

Whether a separate penalty under Section 122(1A) of the CGST Act, 2017 can be imposed on partners of a firm for fraudulent availment/passing on of ITC, and whether a writ under Article 226 is maintainable where an efficacious appellate remedy under Sectio

Date of Order: June 17, 2026
Case Law No: GIB-GUJHC-2026-63
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The petitioners are partners of M/s. Maa Renuka Trading Company, Indore. Along with the firm and other noticees — 23 persons/firms in all — they were investigated for generating fake invoices and e-way bills without any actual supply of goods for F.Y. 2020-21 and 2021-22. Acting on specific intelligence, the Department carried out a search under Section 67(2), recorded statements, drew panchnamas, and issued summons.

In his statement (25.11.2021), Petitioner No. 2 (Yash Goyal), when confronted with vehicle numbers and the corresponding e-way bills, admitted that the e-way bills were incorrectly generated, as the vehicles could not have covered the distances in the time reflected. He admitted that the firm (and Shree Sanwariya Trading Company, Vadodara) received invoices from Delhi-based firms through broker Shri Ankur Kanda — firms that had made no genuine purchases of bitumen and existed only to pass on ITC through paper transactions.

On forensic examination of Petitioner No. 1 (Manoj Agrawal)'s phone and WhatsApp chats, he admitted transferring amounts into bank accounts as instructed by Ankur Kanda, who then returned the cash through angadia after deducting commission. A specific instance dated 13.03.2022 showed Rs. 25 lakhs deposited (Rs. 15 lakhs to M/s. Bholenath, Rs. 10 lakhs to M/s. Shri Shyam) with Rs. 23 lakhs returned in cash after commission. He further admitted sending images of currency notes as coded signals for routing cash through hawala, and shared hawala details for Indore and Mumbai.

On these findings, the Order-in-Original dated 30.01.2026 imposed penalty under Sections 122(1A) and 122(3). The petitioners challenged it before the High Court, electing to invite an order on merits rather than file an appeal under Section 107. They contended that (i) no finding established their liability under Section 122(1A); (ii) the order violated natural justice by not considering their reply dated 15.05.2025; and (iii) once penalty was imposed on the firm, no separate penalty could be levied on the partners. They relied on Kranti Associates (requirement of a reasoned order) and the Bombay HC ruling in Amit Manilal Haria (retrospective applicability of Section 122(1A), in force w.e.f. 01.01.2021).

Court Observations (verbatim)

On the adjudicating authority's finding, quoted by the Court (Para 7.5): "Partners of M/s Maa Renuka Trading, Indore by operating and managing M/s Sanwariya Trading, Vadodara for wrongly and fraudulently availing and utilizing input tax credit have rendered themselves liable for penalty under Section 122(1A) & Section 122(3) of CGST Act' 2017."

On merits (Para 22): "Thus, the findings recorded by the adjudicating authority unequivocally establish the complicity of the present petitioners in the generation of fake invoices and e-way bills without any actual supply of goods, as well as their involvement in hawala transactions... We are, therefore, not inclined to interfere with the impugned Order-in-Original merely on the grounds canvassed before us."

On natural justice and alternative remedy (Para 23): "...We also do not find that the impugned order is in any sense an unreasoned order; additionally, we also do find any violation of the principles of natural justice warranting interference in the exercise of our writ jurisdiction under Article 226... The petitioners have an efficacious statutory remedy of appeal under Section 107 of the CGST Act, 2017, and all factual findings including the applicability of the provisions of Section 122(1A) of the CGST Act, 2017 retrospectively could have been examined by the appellate authority, more particularly in wake of the fact that there appears to be widespread network involving numerous transactions by various entities of defrauding the revenue, which was not the case before Bombay High Court..."

Final Verdict

The writ petition was rejected and Rule discharged, with no order as to costs. The Court declined to interfere with the Order-in-Original, holding the petitioners' complicity in fake invoicing and hawala transactions to be unequivocally established, the order to be reasoned and not in breach of natural justice, and the retrospective applicability of Section 122(1A) to be a matter that could, in any event, have been tested before the appellate authority.

Cases Referred by the Court

1. Kranti Associates Pvt. Ltd. & Anr. vs. Sh. Masood Ahmed Khan & Ors. — Supreme Court, dated 08.09.2010, Civil Appeal No. 7472 of 2010 (arising out of SLP (Civil) No. 20428 of 2007). Cited by petitioners on the need for a reasoned order; held inapplicable as the

impugned order was not unreasoned.

2. Amit Manilal Haria & Ors. vs. Joint Commissioner, CGST and Central Excise & Anr. — Bombay High Court, Writ Petition No. 5001 of 2025, dated 25.02.2026. Cited by petitioners on retrospective applicability of Section 122(1A); distinguished, as no widespread fraud network was involved there.