PEI Industries & Ors. vs. Union of India & Ors.

Whether a writ petition is maintainable challenging an Order in Original passed by Central GST Authorities under Section 74 of CGST Act, 2017, when State GST Authorities had already closed proceedings on the same set of documents under Section 73, and whe

Date of Order: May 29, 2026
Case Law No: GIB-DHC-2026-65
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CASE DESCRIPTION / SUMMARY

BACKGROUND

The Petitioners challenged an Order in Original dated 30th March, 2026, passed by the Additional Commissioner (Adjudication), CGST, Delhi East Commissionerate, primarily on the ground that the Central GST proceedings are barred under Section 6(2)(b) of the CGST Act, 2017. The State GST Authorities, exercising powers under Section 73 of the Act, had previously closed proceedings against the Petitioners on the very same set of documents. Thereafter, the Central GST Authorities initiated proceedings under Section 74 of the Act based on the very same evidence and passed an adverse Order in Original.

RELEVANT FACTS

The Petitioners contended that the documents submitted in response to the Show Cause Notice were the identical set of documents which had formed the basis for closure of proceedings by the State GST Authorities under Section 73; however, the Central GST Authorities refused to accept the same. It was further urged that no notice was issued to the Petitioners for producing additional documents which the respondents intended to obtain. Out of four dates for personal hearing as noted in the impugned order, hearing was effectively granted only on two days. The Petitioners also contended the impugned order is discriminatory and violates Article 14 of the Constitution as the Central GST Authorities passed an indifferent order on the same set of documents on which the State GST Authorities had granted closure. The Petitioners further contended that material found sufficient by the State GST Authorities was binding on the Central GST Authorities for closure of proceedings under Section 74.

The Respondents raised a preliminary objection on maintainability, urging that an efficacious alternate statutory remedy of appeal is available. It was further contended by the Respondents that Section 73 and Section 74 operate in entirely different arenas, that appreciation of evidence is the domain of the Appellate Authority, and that a speaking order was duly passed after grant of hearing. In rejoinder, the Petitioners urged that relegation to alternate remedy would burden them with the obligation of statutory pre-deposit.

COURT OBSERVATIONS *(Verbatim — Crucial Paragraphs)*

Para 9: "*It is apparent that Section 73 and Section 74 of the Act operates in different arenas. The language of said sections, recourse to be taken in regard to said sections, can very well be looked into by its face value.*"

Para 10: "*Just because the petitioner was exonerated in the proceedings under Section 73, by itself, cannot lead to the petitioner being proceeded against by the Central GST Authorities under Section 74 of the Act. Both these sections operate on altogether different considerations.*"

Para 11: "*Apart from above, the material that was placed on record by petitioner in response to Show Cause Notice is very much independently available for scrutiny and appreciation.*"

Para 13: "*Appreciation, re-appreciation of evidence in regard to same are vested with the competent authorities. It is not in dispute that jurisdiction of Appellate Authority is restricted, rather it can be inferred from the very language of the jurisdiction vested in the Appellate Authority that it can reappreciate the entire evidence and if so required, may permit the petitioner to produce additional evidence.*"

Para 14: "*Merely because the petitioner shall be burdened with the satisfaction of condition of statutory pre-deposit, that by itself, cannot give leverage to the petitioner to claim before this Court that inappropriate appreciation of evidence or non-grant of sufficient opportunity to produce additional evidence to the satisfaction, amounts to denial of personal hearing. Re-appreciation and production of additional evidence can be very well looked into by the Appellate Authority.*"

Para 15: "*In that eventuality, we see no reason to exercise writ jurisdiction in the present matter, particularly, when the proceedings are barred by statutory remedy of appeal.*"

FINAL VERDICT

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The Writ Petition stands dismissed. The Court declined to exercise writ jurisdiction holding that an efficacious alternate statutory remedy of appeal is available, the Appellate Authority is fully empowered to re-appreciate evidence and permit production of additional evidence, and the burden of statutory pre-deposit alone is not a ground to bypass the appeal mechanism.

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