Avik Televentures Private Limited v. Office of the GST Officer,

Whether an Order-in-Original confirming a substantial GST demand is liable to be quashed where the Adjudicating Authority issued a

Date of Order: March 30, 2026
Case Law No: GIB-DHC-2026-66
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The Petitioner, engaged in trading and export of branded mobile phones, was subjected to a Special Audit for Financial Year 2021-22 appointed under Section 66 of the CGST/DGST Act, 2017 vide email dated 06.12.2024. Upon completion of the audit, observations were communicated on 03.03.2025, to which the Petitioner filed a detailed response on 02.04.2025. Thereafter, a demand notice dated 11.09.2025, based on the special audit report dated 27.03.2025, raised a demand of Rs. 33,54,21,609/- requiring discharge within 7 days. A Show Cause Notice dated 24.09.2025 was subsequently issued proposing a demand of Rs. 58,02,79,384/-, with a reply deadline and personal hearing fixed for 28.10.2025. The Petitioner filed a detailed reply along with supporting documents on 24.10.2025, having sought a short adjournment of the hearing. Then, on 27.12.2025 at 05:20 PM, a communication styled as "Reminder-1" was issued calling for additional documents by 29.12.2025 and fixing a personal hearing for 30.12.2025 — the intervening 28.12.2025 being a Sunday. Despite a request for a 7-day extension made on 29.12.2025, the Order-in-Original was passed on 31.12.2025 confirming a demand of Rs. 26,72,64,497/- (including tax, interest and penalty) — on the very same day as the last personal hearing.

Critical Timeline

27.12.2025 — 05:20 PM

Reminder-1 issued demanding voluminous documents including certified bank statements by 29.12.2025; personal hearing fixed for 30.12.2025

28.12.2025

Sunday — no working day available

29.12.2025

Petitioner sought 7-day adjournment — request not considered

30.12.2025 & 31.12.2025

Personal hearings held; petitioner's authorised representative participated; additional reply filed on 31.12.2025

31.12.2025 — same day

OIO passed confirming demand of Rs. 26,72,64,497/- on the very day the hearing concluded — the last date under Section 73(10) limitation

Separate SCN dated 04.07.2025 for the same FY 2021-22, also adjudicated on 31.12.2025, resulted in the Petitioner being discharged on all counts — including the very same ITC issues — creating a directly contradictory finding in the impugned OIO.

Relevant Facts

The Petitioner raised three distinct grounds: first, that the opportunity of hearing was illusory and not real — Reminder-1 was issued at 05:20 PM on 27.12.2025, with 28.12.2025 being a Sunday, leaving less than one effective working day to collate voluminous documents including certified bank statements and records running into several hundred pages; second, that the OIO was passed with undue haste — the personal hearing concluded and the OIO was signed on the very same date (31.12.2025), the last date permissible under Section 73(10), raising a legitimate apprehension that material placed on record was not adequately considered; and third, that parallel proceedings were run on the same subject matter for the same FY, with a separate SCN dated 04.07.2025 having been adjudicated on the same date resulting in complete discharge of the Petitioner, rendering the impugned OIO internally contradictory. Additionally, a complete copy of the OIO was not furnished, only a partial copy having been placed on record. The Revenue contended that the petition was not maintainable given an appeal remedy under Section 107, that the petitioner had appeared and filed an additional reply, that the two SCNs pertained to distinct transactions, and that the order was reasoned.

Court Observations (Verbatim)

"*Reminder-1 was issued on 27.12.2025 at 05:20 PM, calling upon the petitioner to furnish additional documents by 29.12.2025 and to appear for personal hearing on 30.12.2025. Admittedly, 28.12.2025 was a Sunday. The petitioner, therefore, had less than one effective working day to collate the material and respond.*"

— Para 28

"*The nature of documents sought, including certified bank statements and voluminous records running into several hundred pages, could not have been reasonably procured and furnished within such a truncated timeline. The petitioner, in fact, sought a short adjournment of seven days on 29.12.2025. The record does not indicate that the said request was duly considered.*"

— Para 29

"*Though it is the stand of the respondent that the petitioner participated in the personal hearing on 30.12.2025 and 31.12.2025, mere participation cannot be constructed as compliance with the requirement of affording a fair and effective opportunity. The opportunity contemplated under Sections 66(4) and 75(4) of the CGST/DGST Act is not a mere formality but must be real, reasonable and effective.*"

— Para 30

"*The timeline, as notice hereinabove, clearly demonstrates that the opportunity afforded to the petitioner was illusory. The petitioner was neither granted adequate time to place the requisite material on record nor to effectively respond to the issues raised in the special audit and the SCN.*"

— Para 31

"*The submission of the respondent that the petitioner had earlier filed a reply to the SCN does not dilute the requirement of granting a reasonable opportunity when additional material is sought to be relied upon. Once further documents were called for and a hearing was fixed, the respondent was under an obligation to ensure that sufficient time was afforded.*"

— Para 32

"*This Court also finds merit in the contention of the petitioner that the OIO has been passed with undue haste. The personal hearing concluded on 31.12.2025 and the OIO has been passed on the very same date, confirming a substantial liability. In the facts of the present case, such haste raises a legitimate apprehension that the material placed on record may not have been adequately considered by the Adjudicating Authority.*"

— Para 33

"*The contention of the respondent regarding availability of an alternate remedy under Section 107 of the Act does not merit acceptance in the present case. It is well settled that where an order is passed in violation of the principles of natural justice the existence of an alternate remedy would not operate as a bar to the exercise of writ jurisdiction.*"

— Para 34

Final Verdict

Petition allowed. OIO dated 31.12.2025 confirming demand of Rs. 26,72,64,497/- quashed and set aside. Matter remanded for fresh adjudication as a "last chance" — Petitioner to appear before the Adjudicating Authority on 06.04.2026 with written submissions and required documents. Authority directed to grant real opportunity of hearing, consider all contentions, and pass an expeditious reasoned order. Court has not gone into the merits; all rights and remedies of both parties kept open.