

GAHC010249982025



undefined

THE GAUhati HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6430/2025

PATANJALI FOODS LIMITED

A COMPANY INCORPORATED UNDER THE PROVISIONS OF COMPANIES ACT, AND IS A REGISTERED PERSON UNDER THE GOODS AND SERVICES TAX LAWS BEARING GSTIN 18AAACR2892L1ZX, HAVING ITS PRINCIPAL PLACE OF BUSINESS AT C/O K. K. WAREHOUSE, GODOWN NOS. 1, 3 AND 7, JATIN TAMULI PATH, NH-37, NEAR MARUTI SERVICE, NALAPARA, SARUSAJAI, GUWAHATI, KAMRUP METROPOLITAN, ASSAM 781040 AND IN THE INSTANT PROCEEDING REPRESENTED BY MR. MADHVKUMAR VADODARIYA, MANAGER (TAX LITIGATION) OF THE PETITIONER COMPANY.

VERSUS

THE STATE OF ASSAM AND 4 ORS.

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, DEPARTMENT OF FINANCE AND TAXATION, ASSAM SECRETARIAT, DISPUR, GUWAHATI - 781 006.

2:PRINCIPAL COMMISSIONER OF STATE TAX

ASSAM
KAR BHAWAN
BISHNU PRASAD RAVA FLYOVER
DISPUR
GANESHGURI
GUWAHATI
ASSAM - 781006

3:THE ASSISTANT COMMISSIONER OF STATE TAX

ASSAM
KAR BHAWAN

BISHNU PRASAD RAVA FLYOVER
DISPUR
GANESHGURI
GUWAHATI
ASSAM-781006

4:UNION OF INDIA
THE SECRETARY
MINISTRY OF FINANCE DEPARTMENT OF REVENUE
GOVERNMENT OF INDIA
NORTH BLOCK
CENTRAL SECRETARIAT
NEW DELHI 110001

5:THE CHAIRPERSON
GOODS AND SERVICES TAX COUNCIL

5TH FLOOR
TOWER II
JEEVAN BHARTI BUILDING
JANPATH ROAD
CONNAUGHT PLACE
NEW DELHI-11000

Advocate for the Petitioner : MR. ASHWARYA SHARMA, MR. P DAS,MR. VAIBHAV
VYAS,MR. KESHAV JATWANI,MS. BANSHIKA PODDER

Advocate for the Respondent : SC, FINANCE AND TAXATION, DY.S.G.I.,SC, GST

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

14.11.2025

Heard Mr. Arvind P. Datar, learned Senior Counsel assisted by Mr. Ashwarya Sharma, learned counsel for the petitioner; Mr. B. Choudhury, learned Standing Counsel, Finance & Taxation Department for the respondent nos. 1, 2 & 3; Mr. B. Chakravarty, learned Central Government Counsel [CGC] for the respondent no. 4; and Mr. S.C. Keyal, learned Standing Counsel, CGST for the respondent no. 5.

2. The petitioner is a public limited company and it has registration under the provisions of the Central Goods and Services Tax [CGST] Act. It has its principal place of business at Guwahati. According to the petitioner, it engages in the fast moving consumer goods [FMCG] sector and carries on the business in trading, job work and distribution of edible oils, food products and allied consumer goods in the State of Assam.

3. In this writ petition instituted under Article 226 of the Constitution of India, assail is made to four Show Cause Notices, all dated 22.09.2025, issued to the petitioner company by the respondent no. 3 whereby the petitioner has been asked to show cause for availing Input Tax Credit [ITC] inspite of being not eligible for the same as per the provisions of the Assam Industries [Tax Reimbursement for Eligible Units] Scheme, 2017 [‘the Reimbursement Scheme, 2017’, for short]. The Show Cause Notices are issued under Section 73 and Section 74A[1] read with Section 74A[5][i] of the State Goods and Services Tax Act, 2017 17 [‘SGST Act’, for short] observing that as per the provisions of Clause 8 of the Reimbursement Scheme, the petitioner was not eligible for ITC and despite that, it availed ITC for the reference period and the amounts of ITC availed by the petitioner are mentioned in the Show Cause Notices.

4. Mr. Datar, learned Senior Counsel appearing for the petitioner has submitted that in this writ petition, the vires of Clause 8 of the Reimbursement Scheme has been challenged.

5. Clause 8 of the Reimbursement Scheme reads as under :-

8. Blocked input tax credit on inter-State supplies. –

A registered supplier other than a unit availing tax reimbursement under this Scheme, who supplies goods in the course of inter-State trade or commerce taxable under the Integrated Goods and Services Tax Act, 2017 [Act No. 13 of 2017], shall not be entitled to avail the input tax credit on inward supply of goods for utilizing the same for payment of IGST if the goods so supplied by him are manufactured by a unit eligible under the Reimbursement Scheme and the proportionate amount of

input tax credit, if any, would lapse. Such registered supplier supplying goods manufactured by an eligible unit shall maintain legible records of intra-State suppliers and inter-State suppliers of such goods.

6. Basing his submissions on Article 246A & Article 279A of the Constitution of India; and Section 16 & Section 164 of the CGST Act read with Section 2[87], Mr. Datar has submitted that such a provision, as contained in Clause 8 of the Reimbursement Scheme to deny ITC by the State respondents, is beyond jurisdiction qua the provisions of the Constitution of India and the CGST Act wherein the petitioner has placed reliance.

7. On the other hand, Mr. Choudhury, learned Standing Counsel, Finance & Taxation Department appearing for the respondent nos. 1, 2 & 3 has submitted that the challenge is made only to show cause notices and the petitioner can respond such show cause notices at first. If any decision is made after submission of the reply to the show cause notices which the petitioner finds prejudicial to it, the petitioner still has a remedy of preferring an appeal under Section 107 of the CGST or the SGST Act. Such an approach to challenge a show cause notice in a writ petition is not to be entertained.

8. The matter would require consideration.

9. Issue notice, returnable on 15.12.2025.

10. As Mr. Choudhury, learned Standing Counsel, Finance & Taxation Department has appeared and accepted notices on behalf of the respondent nos. 1, 2 & 3; Mr. Chakravarty, learned CGC has appeared and accepted notice on behalf of the respondent no. 4; and Mr. Keyal, learned Standing Counsel, CGST has appeared and accepted notice on behalf of the respondent no. 5, issuance of formal notice to the respondents is dispensed with. Mr. Ashwarya, learned counsel for the petitioner shall furnish requisite nos. of extra copies of the writ petition along with the annexure to the learned counsel for the respondents within 3 [three] working days from today.

11. The learned counsel for the parties are also heard on the interim prayer.
12. Having gone through the provisions of Article 246A & Article 279A of the Constitution of India; and Section 16 & Section 164 of the CGST Act read with Section 2[87] vis-à-vis Clause 8 of the Reimbursement Scheme, this Court prima facie finds force in the submissions made on behalf of the petitioner that framing of such a provision like Clause 8 in the Reimbursement Scheme, 2017 runs against the afore-mentioned Constitutional and Statutory provisions. It is, ordered, in the interim, that the operation of the impugned Show Cause Notices, all dated 22.09.2025, which are annexed as Annexure-3 to the writ petition, shall remained suspended till the returnable date.
13. The respondents shall ensure that the counter affidavit is filed before 15.12.2025 with a copy to the learned counsel for the petitioner.
14. List the case on 15.12.2025.

JUDGE

Comparing Assistant