(2025) 11 SIK CK 0043

Sikkim HC

Case No: Writ Petition (C) No. 09 Of 2025

Hotel Green Residency LLP		APPELLANT
	Vs	
Assistant Commissioner Of Central Good And Services Tax And Central Excise, Gangtok Division And Others		RESPONDENT

Date of Decision: Nov. 14, 2025

Hon'ble Judges: Meenakshi Madan Rai, J

Bench: Single Bench

Advocate: Ankit Kanodia, Passang Tshering Bhutia, Sangita Pradhan, Abir Phukan, Rachhita Rai

Final Decision: Disposed Of

Judgement

Meenakshi Madan Rai, J

1. In the instant Writ Petition, the Petitioner sought the following reliefs;

(a) A writ of and/or order and/or direction in the nature of Mandamus and/or Writ of *Certiorari* and/or any other appropriate writ, order or direction, quashing and setting aside the Order-in-Original No.34/Adj/GST/Green Residency/Gtk-Div/2024-25/ 1665-1666 dated 22.01.2025 along with summary of the order in three numbers of DRC 07 all dated 05.02.2025 for the period 2017-18 to 2019-20 passed by the Ld. Assistant Commissioner, Gangtok Division, CGST & CX, Siliguri Commissionerate, with all consequential and incidental relief in favour of the petitioner;

(b) A writ of and/or order and/or direction in the nature of Prohibition restraining the respspondents and each of their servants and/or agents and/or assignees from giving any effect and/or further effect to and/or acting on the basis of and/or in furtherance of the impugned Order-in-Original No.34/Adj/GST/Green Residency/Gtk-Div/2024-25/ 1665-1666 dated 22.01.2025 along with summary of the order in three numbers of DRC 07 all dated 05.02.2025 for the period 2017-18 to 2019-20 passed by the Ld. Assistant Commissioner, Gangtok Division, CGST & CX, Siliguri Commissionerate and/or any purported proceedings thereunder and/or relating thereto and/or in pursuance thereof;

(c) Rule NISI in terms of prayers (a) and (b) above;

(d) Injunction restraining the respondents and each of their servants and/or agents and/or assignees from giving any effect and/or further effect to and/or acting on the basis of and/or in furtherance of the impugned Order-in-Original No.34/Adj/GST/ Green Residency/Gtk-Div/2024-25/1665-1666 dated 22.01.2025 along with summary of the order in three numbers of DRC 07 all dated 05.02.2025 for the period 2017-18 to 2019-20 passed by the Ld. Assistant Commissioner, Gangtok Division, CGST & CX, Siliguri Commissionerate and/or any purported proceedings thereunder and/or relating thereto and/or in pursuance thereof pending disposal of this application;

(e) Ad interim order in terms of the prayer

(d) above;

(f) Costs of and incidental to this application be paid by the respondents;

(g) Such further or other order or orders be made and/or directions are made, as would afford complete relief to your Petitioner.

2. The said prayers were put forth in the Petition on account of the impugned Order, dated 22-01-2025 issued by the Respondent No.1, which alleged that investigation conducted against M/s. OYO Group revealed that they had been facilitating evasion of GST by their partner hotels, one such being the Petitioner. The Petitioner was said to have contravened the provision of GST Law, as discussed in detail in the impugned Order and was liable to pay GST along with interest and penalty as proposed in the Notice.

3. It is submitted by Learned Counsel for the Petitioner that in terms of the Order of this Court dated 22-08-2025, the Petitioner appeared before the Respondent No.1 on 19-09-2025. Supplementary documents were submitted by the Petitioner to enable re-adjudication proceedings before the Respondent No.1. That in view of the said circumstances, the Respondent No.1 was of the view that the matter can be heard before the concerned authority in terms of the prayers of the Petitioner. It is further submitted by Learned Counsel that in view of the above circumstances the impugned Order dated 22-01-2025 may be set aside to enable the parties to re-consider the matter.

4. Learned Counsel for the Respondent No.4 has no specific submissions to advance as no reliefs are required from them.

5. Learned Deputy Solicitor General has no objection to the foregoing submissions of the Petitioner.

6. Relevantly, it may be stated here that this Court on 22-08-2025, ordered as follows;

I.A. No.01 of 2025 is an application filed by the Petitioner for placing additional documents on record, duly supported by an Affidavit.

As Learned Counsel for Respondent No.4 has entered appearance today, Learned Counsel for the Petitioner undertakes to make over copy of the additional documents to the Counsel for Respondent No.4.

I.A. No.01 of 2025 is not opposed by any of the Respondents, the additional documents are taken on record and I.A. disposed of accordingly.

Learned Counsel for the Petitioner submits that he may be afforded an opportunity to approach the concerned authority to explain the matter.

This is strongly objected to by Learned Deputy Solicitor General for the Respondent No.1 to 3 on grounds that in the first instance there is provision for statutory appeal which authority the Petitioner ought to have approached instead of invoking the extraordinary jurisdiction of this Court.

Having considered the submissions advanced and the facts and circumstances involved, I am of the considered view that an opportunity may be afforded to the Petitioner to approach the Respondent No.1 on any date found feasible by both parties. Should the explanation extended by the Petitioner be accepted, then the matter would attain a quietus.

I.A. No.03 of 2025 is an application filed by the Petitioner seeking stay of the Order of the Respondent No.1.

Learned Deputy Solicitor General objects to the Petition for stay.

However, in view of the foregoing circumstance, the impugned Order of the Respondent No.1, the Assistant Commissioner, Gangtok Division, CGST & CX, Siliguri Commissionerate, dated 22-01-2025, addressed to the Petitioner, along with three summary of the Order, dated 05-02-2025, for the period 2017-18 to 2019-20, is stayed until further Orders of this Court.

7. Due consideration is afforded to the submissions advanced today, consequently the impugned Order dated 22-01-2025 is set aside, in view of the Respondent No.1 being amenable to giving the Petitioner a hearing, based on all supplementary documents furnished by them before the Respondent No.1.

8. Suffice it to clarify that, the matter has not been heard on merits.

9. Writ Petition stands disposed of accordingly.

10. Pending applications, if any, also stand disposed of.