COMPENDIUM - RESEARCH NOTE NO. 01

Compendium of Judgments

Service of Notice under Section 169 of the CGST Act

Upload on the common portal, the 'Additional Notices' tab and e-mail service - thirty-four judgments and orders of the Supreme Court and High Courts, arranged in five groups, with full text

Not Effective Service	Remand on Deposit	Appeal Remedy	Notice Defects	Supreme Court

BASED ON SUPREME COURT AND HIGH COURT DECISIONS OF JANUARY 2023 TO OCTOBER 2026

Supreme Court, and the Madras, Delhi, Telangana, Allahabad, Rajasthan, Himachal Pradesh, Punjab and Haryana and Andhra Pradesh High Courts

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COMPENDIUM OF JUDGMENTS

Service of Notice under Section 169 of the CGST Act

Upload on the common portal, the 'Additional Notices' tab and e-mail service · Supreme Court and High Court decisions, January 2023 to October 2026 · Thirty-four judgments and orders, reproduced in full

About this compendium

This compendium brings together thirty-four judgments and orders of the Supreme Court of India and of the High Courts of Madras, Delhi, Telangana, Allahabad, Rajasthan, Himachal Pradesh, Punjab and Haryana and Andhra Pradesh, delivered between 3 January 2023 and 28 October 2026, on the service of show cause notices and orders under Section 169 of the CGST Act, 2017. It shows how the courts have treated notices and orders that were uploaded on the common portal (including under the 'Additional Notices and Orders' tab), sent by e-mail or served by other means, and what relief they have given. For a taxpayer, it helps to judge when an order can be challenged for want of effective notice, what the courts usually require (a pre-deposit, a reply within a fixed time, a fresh hearing) and when the remedy is the statutory appeal under Section 107; for a tax consultant, it supplies full copies of the authorities for drafting a reply, an appeal or a writ petition. It is a companion to Research Note No. 01 (*Service of Notice, Section 169*).

What the decisions establish

- **Upload under the 'Additional Notices' tab is not safe service.** The Delhi High Court set aside orders passed on notices shown only under that tab and gave a fresh hearing (*Satish Chand Mittal*, *Anant Wire Industries*, *Neelgiri Machinery*); the Himachal Pradesh High Court quashed a notice not placed in the proper tab (*Alder Crafts*); the Punjab and Haryana High Court held that mere upload does not deem a notice served (*Luxmi Traders*).
- **Upload and e-mail as valid service.** The Madras High Court held upload on the common portal a valid mode under Section 169 (*Poomika Infra*, *Axiom Gen Nxt*); the Delhi High Court held e-mail a valid mode and allowed one consolidated notice for several years (*Ambika Traders*, *Suresh Kumar*, *Mathur Polymers*); a Full Bench of the Telangana High Court held that a notice uploaded on the portal is valid service, with limitation running from the date of upload (*Gudla Vanaja*).
- **Relief usually given.** Where the plea of non-service was not accepted outright, courts often allowed a one-time remand on a deposit of 25% of the disputed tax (*Vels Constructions*, *Axiom Gen Nxt*, *Tvl. Sri Mathuru Eswarar Traders*), or sent the taxpayer to file the appeal under Section 107 with a direction that it not be dismissed on limitation (*Ambika Traders*, *Rishi Enterprises*).
- **Signature, DIN and limitation of the notice.** Unsigned notices and orders were set aside in *Bigleap Technologies*, but the Telangana Full Bench in *Gudla Vanaja* held that *Bigleap Technologies* does not lay down the correct position and that documents lacking a DIN/RFN are invalid; the Delhi High Court quashed a notice and order challenged as time-barred, holding the time limit to be a matter of jurisdiction (*Sikka Motors*).
- **Status to watch.** The Supreme Court has stayed the Allahabad High Court judgment in *Bambino Agro Industries* and issued notice on the Rajasthan High Court order in *GVK Jaipur Expressway*; the challenge to the Section 168A notifications was left to the Supreme Court in *Kurlon Retail*, *Ess Dee Industries* and *Perfect Industries*. Check later developments before citing.

How the compendium is arranged

- Cases are placed in five groups (A to E) and, within each group, by date of decision. A separator page before each judgment gives its details, a short holding and its status.
- The judgments are reproduced as supplied in the folder, unchanged. The only additions are the separator pages, the compendium page number at the foot of each page and the Back to Index button.
- Details on the separator pages are taken from the Case Details tracker for this folder. This is a research aid and not legal advice.

INDEX OF CASE LAWS

Page numbers are compendium page numbers (separator page, then the judgment). Cases are grouped A to E, and arranged by date of decision within each group.

No.	Case, court and bench	Date	Case no. / citation	Page
A. Not effective service: orders set aside or remanded without condition				
1	**Satish Chand Mittal (Trade name National Rubber Products) v. Sales Tax Officer SGST, Ward 25 - Zone 1** *High Court of Delhi — Vibhu Bakhru and Sachin Datta, JJ.* *Section 73*	09.09.2024	W.P.(C) 12589/2024	[p. 5]
2	**M/s Anant Wire Industries v. Sales Tax Officer Class II/AVATO, Ward 83 & Anr.** *High Court of Delhi — Prathiba M. Singh and Amit Sharma, JJ.* *Section 169*	23.12.2024	W.P.(C) 17867/2024	[p. 9]
3	**Neelgiri Machinery v. Commissioner Delhi Goods and Service Tax and Others** *High Court of Delhi — Prathiba M. Singh and Rajneesh Kumar Gupta, JJ.*	20.03.2025	W.P.(C) 13727/2024 and W.P.(C) 13752/2024	[p. 14]
4	**M/s GMT Garments v. Union of India & Ors.** *High Court of Delhi — Prathiba M. Singh and Rajneesh Kumar Gupta, JJ.* *Sections 107 and 168A*	25.04.2025	W.P.(C) 5304/2025	[p. 20]
5	**Kurlon Retail Limited v. Sales Tax Officer & Ors.** *High Court of Delhi — Prathiba M. Singh and Shail Jain, JJ.* *Sections 73 and 168A*	28.08.2025	W.P.(C) 13121/2025	[p. 26]
6	**Ess Dee Industries v. Commissioner of DGST & Ors.** *High Court of Delhi — Prathiba M. Singh and Shail Jain, JJ.* *Sections 73 and 168A*	29.10.2025	W.P.(C) 16373/2025	[p. 37]
7	**M/s Perfect Industries v. Goods and Service Tax Officer, Ward 63, DGST & Anr.** *High Court of Delhi — Prathiba M. Singh and Shail Jain, JJ.* *Sections 73 and 168A*	10.11.2025	W.P.(C) 15975/2025	[p. 47]
8	**M/s Bambino Agro Industries Ltd. v. State of U.P. and Another** *High Court of Judicature at Allahabad — Saumitra Dayal Singh and Indrajeet Shukla, JJ.* *Sections 73, 74, 107 and 169*	19.12.2025	2025:AHC:179271-DB; WRIT TAX No. 2707 of 2025 and connected writs	[p. 58]
9	**Alder Crafts v. State of Himachal Pradesh & Others** *High Court of Himachal Pradesh — Vivek Singh Thakur and Ranjan Sharma, JJ.* *Section 169*	02.07.2026	2026:HHC:26117; CWP No. 15378 of 2025	[p. 144]
10	**Luxmi Traders v. Union Territory of Chandigarh and Others** *High Court of Punjab and Haryana — Ashwani Kumar Mishra, A.C.J. and Rohit Kapoor, J.* *Sections 73, 74, 74A, 75, 107, 146, 160 and 169*	21.07.2026	CWP-27139-2025 (O&M) and connected cases (lead case)	[p. 149]
11	**M/s. BSN Life Sciences v. Assistant Commissioner ST, Gajuwaka Circle, Visakhapatnam and Others** *High Court of Andhra Pradesh — Ninala Jayasurya and T.C.D. Sekhar, JJ.* *Sections 79, 161 and 169*	01.10.2026	Writ Petition No. 27647 of 2026	[p. 185]
12	**M/s Manoj Kumar Yadav v. State of U.P. and Another** *High Court of Judicature at Allahabad — Saumitra Dayal Singh and Swarupama Chaturvedi, JJ.* *Section 74*	06.10.2026	WRIT TAX No. 4061 of 2026	[p. 193]

No.	Case, court and bench	Date	Case no. / citation	Page
B. Service held valid: one-time remand on deposit				
13	**M/s. Poomika Infra Developers v. State Tax Officer, Roving Squad-VI, Erode** *High Court of Madras — Mohammed Shaffiq, J.* *Sections 73, 74, 146 and 169*	09.04.2025	W.P. Nos. 33562 of 2024 and batch	[p. 197]
14	**M/s. Axiom Gen Nxt India Private Limited v. Commercial State Tax Officer, T.Nagar Assessment Circle** *High Court of Madras — Krishnan Ramasamy, J.* *Sections 73 and 169*	22.04.2025	W.P.No.1114 of 2025 and batch	[p. 238]
15	**Tvl. Sri Mathuru Eswarar Traders v. Deputy State Tax Officer-I, Udumalpet South Assessment Circle** *High Court of Madras — N. Mala, J.* *Section 169*	08.05.2025	WP No. 16787 of 2025	[p. 338]
16	**Chirag Garg v. Commissioner State Tax, Delhi GST** *High Court of Delhi — Prathiba M. Singh and Rajneesh Kumar Gupta, JJ.*	22.05.2025	W.P.(C) 6978/2025	[p. 347]
17	**M/s Vels Constructions v. State Tax Officer, Tiruverkadu Assessment Circle** *High Court of Madras — Krishnan Ramasamy, J.* *Sections 73 and 169*	09.06.2025	W.P.No.20374 of 2025	[p. 351]
18	**M/s Riya Construction v. State of U.P. and 3 Others** *High Court of Judicature at Allahabad — Saumitra Dayal Singh and Indrajeet Shukla, JJ.* *Section 73*	09.10.2025	WRIT TAX No. 3964 of 2025	[p. 360]
C. Service held valid: statutory appeal is the remedy				
19	**M/s. New Grace Automech Products Pvt. Ltd. v. State Tax Officer, Hosur (North)-2 Circle** *High Court of Madras — M. Sundar, J.* *Sections 107 and 169*	03.01.2023	W.P.No.35115 of 2022	[p. 364]
20	**M/s. Brunda Infra Pvt. Ltd. and Others v. Additional Commissioner of Central Tax, Hyderabad GST Commissionerate and Others** *High Court for the State of Telangana — Sujoy Paul and G. Radha Rani, JJ.* *Sections 73, 75 and 168A*	02.01.2025	Writ Petition No. 1154 of 2024 & batch	[p. 371]
21	**M/s D.R. Hotels Pvt. Ltd. v. Deputy Commissioner, Sector 20, State GST, Lucknow** *High Court of Judicature at Allahabad — Alok Mathur and Arun Kumar Singh Deshwal, JJ.* *Sections 73, 107 and 169*	25.06.2025	2025:AHC-LKO:36334-DB; WRIT TAX No. 575 of 2025	[p. 450]
22	**Ambika Traders v. Additional Commissioner, Adjudication DGGSTI, CGST Delhi North** *High Court of Delhi — Prathiba M. Singh and Rajneesh Kumar Gupta, JJ.* *Sections 20, 73, 74, 107 and 122*	29.07.2025	2025:DHC:6181-DB; W.P.(C) 4853/2025	[p. 462]
23	**Atlantis Intelligence Ltd. v. Union of India and 2 Others** *High Court of Judicature at Allahabad — Shekhar B. Saraf and Praveen Kumar Giri, JJ.* *Sections 74 and 107*	11.08.2025	2025:AHC:135383-DB; WRIT TAX No. 3608 of 2025	[p. 510]
24	**Suresh Kumar v. Commissioner CGST Delhi North** *High Court of Delhi — Prathiba M. Singh and Shail Jain, JJ.* *Sections 2, 73, 74, 107 and 169*	13.08.2025	W.P.(C) 12199/2025	[p. 528]

No.	Case, court and bench	Date	Case no. / citation	Page
25	**Rishi Enterprises v. Additional Commissioner Central Tax Delhi North & Anr.** *High Court of Delhi — Prathiba M. Singh and Shail Jain, JJ.* *Sections 73, 74, 107, 122 and 169*	20.08.2025	W.P.(C) 4374/2025	[p. 537]
26	**M/s Mathur Polymers v. Union of India & Ors.** *High Court of Delhi — Prathiba M. Singh and Shail Jain, JJ.* *Sections 73, 74 and 169*	26.08.2025	W.P.(C) 2394/2025	[p. 561]
27	**GVK Jaipur Expressway Pvt. Ltd. v. Deputy Commissioner of State Tax, Zone-III, Jaipur and Others** *High Court of Judicature for Rajasthan — Sanjeev Prakash Sharma, A.C.J. and Baljinder Singh Sandhu, J.* *Section 74*	18.03.2026	2026:RJ-JP:11573-DB; D.B. Civil Writ Petition No. 3636/2026	[p. 573]
28	**M/s Aparna Collection v. Union of India & Ors.** *High Court of Delhi — Anil Kshetarpal and Bharat Parashar, JJ.* *Sections 73, 74, 76, 107, 122, 123, 124 and 125*	05.10.2026	W.P.(C) 3449/2026 and W.P.(C) 3501/2026	[p. 577]
29	**M/s Rajkalpana Travels Pvt. Ltd. v. Commissioner CGST, Delhi North Commissionerate** *High Court of Delhi — Anil Kshetarpal and Bharat Parashar, JJ.* *Sections 74, 75, 107 and 169*	28.10.2026	W.P.(C) 6040/2026	[p. 597]
D. Signature, DIN and limitation of notices				
30	**M/s. Bigleap Technologies and Solutions Pvt. Ltd. and Others v. State of Telangana and Others** *High Court for the State of Telangana — Sujoy Paul, A.C.J. and Renuka Yara, J.* *Sections 73, 74, 129 and 160*	28.02.2025	Writ Petition No. 21101 of 2024 & batch	[p. 607]
31	**Gudla Vanaja and Others v. Assistant Commissioner (ST), Saroor Nagar-I Circle, Telangana and Others (includes M/s Minttu Sarna)** *High Court for the State of Telangana — Aparesh Kumar Singh, C.J., N. Tukaramji, J. and G.M. Mohiuddin, J.* *Sections 73, 74, 75, 146 and 169*	30.09.2026	W.P.Nos.20397 of 2025 and batch (lead: Gudla Vanaja and Others)	[p. 637]
32	**M/s Sikka Motors Pvt. Ltd. v. Union of India & Anr.** *High Court of Delhi — Anil Kshetarpal and Bharat Parashar, JJ.* *Sections 73 and 168A*	27.10.2026	W.P.(C) 5076/2025	[p. 821]
E. Supreme Court: pending and interim orders				
33	**State of Uttar Pradesh & Anr. v. M/s Bambino Agro Industries Ltd. & Anr.** *Supreme Court of India — Aravind Kumar and Prasanna B. Varale, JJ.*	29.05.2026	SLP(C) Diary No. 11683/2026	[p. 832]
34	**GVK Jaipur Expressway Pvt. Ltd. v. Deputy Commissioner of State Tax & Ors.** *Supreme Court of India — Manoj Misra and Vijay Bishnoi, JJ.*	10.08.2026	SLP(C) No. 25965/2026 (with 26973/2026 and 26582/2026)	[p. 834]

CASE 1 OF 34 · GROUP A

Satish Chand Mittal (Trade name National Rubber Products) v. Sales Tax Officer SGST, Ward 25 - Zone 1

Court	High Court of Delhi
Bench	Vibhu Bakhru and Sachin Datta, JJ.
Date	09.09.2024
Case no. / citation	W.P.(C) 12589/2024

Holding in brief

An order passed on a SCN not effectively visible to the taxpayer cannot stand; taxpayer must be given an opportunity to reply. Petition allowed; impugned order set aside.

Provisions involved

CGST Act, 2017: Section 73

Status

Remanded; held in favour of the taxpayer. Directions: Petitioner to reply to the SCN within two weeks; Adjudicating Authority to decide after hearing.

The judgment begins on compendium page 6.

$~78

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision : 09.09.2024***

\+ **W.P.(C) 12589/2024, CM APPLs.52373/2024 & CM APPL. 52374/2024**

SATISH CHAND MITTAL (TRADE NAME NATIONAL RUBBER PRODUCTS) .....Petitioner

Through: Mr. Wahaj Ahmad Khan, Advocate.

versus

SALES TAX OFFICER SGST, WARD 25- ZONE 1 .....Respondent

Through: Mr. Avishkar Singhvi and Mr. Shubham Kumar, Advocates (GNCTD).

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE SACHIN DATTA

VIBHU BAKHRU, J. (*ORAL*)

1. Issue notice.

2. The learned counsel for the respondent accepts notice.

3. The petitioner has filed the present petition, *inter alia*, impugning the order dated 30.12.2023 (hereafter the *impugned order*) passed by the Adjudicating Authority under Section 73 of the Central Goods and Services Tax Act, 2017 / the State Goods and Services Tax Act, 2017 (hereafter *the CGST Act/ SGST Act*), in respect of period from July 2017 to March 2018.

Signature Not Verified
Digitally Signed
By:DUSHYANT
RAWAL

The said order was passed pursuant to the Show Cause Notice dated 29.09.2023 (hereafter *the impugned SCN*). In addition to the impugned SCN, the Adjudicating Authority had also issued a Reminder dated 23.11.2023.

4. It is the petitioner's case that he had not received the impugned SCN and, therefore, he had no opportunity to respond to the same. For the same reason, the petitioner claims that he had not appear for a personal hearing before the Adjudicating Authority, which was scheduled on 17.10.2023 and later rescheduled to 30.11.2023 as per the Reminder.

5. The petitioner also states that the impugned SCN, the Reminder and the impugned order are unsigned.

6. Mr. Singhvi, the learned counsel appearing for the respondent, on advance notice, fairly states that the principal issue involved in the present case is squarely covered by the decisions of this Court in ***M/s ACE Cardiopathy Solutions Private Ltd. v. Union of India & Ors.: Neutral Citation No. 2024:DHC:4108-DB*** as well as in ***Kamla Vohra v. Sales Tax Officer Class II/ Avato Ward 52 : Neutral Citation No.2024:DHC:5108-DB***.

7. He states that possibly, the petitioner did not had the access of the Notices as they were projected on the GST Portal under the tab 'Additional Notices & Orders'. He submits that the said issue has now been addressed and the 'Additional Notices & Orders' tab is placed under the general menu and adjacent to the tab 'Notices & Orders'.

8. In view of the above, the present petition is allowed and the impugned order is set aside.

9. The respondent is granted another opportunity to reply to the

impugned SCN within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass such order, as it deems fit, after affording the petitioner an opportunity to be heard.

10. The present petition is disposed of in the aforesaid terms.

11. All pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 09, 2024/*r*

CASE 2 OF 34 · GROUP A

M/s Anant Wire Industries v. Sales Tax Officer Class II/AVATO, Ward 83 & Anr.

Court	High Court of Delhi
Bench	Prathiba M. Singh and Amit Sharma, JJ.
Date	23.12.2024
Case no. / citation	W.P.(C) 17867/2024

Holding in brief

Uploading under a less visible 'Additional Notices' tab is not effective service; the taxpayer must be heard afresh. Impugned order set aside; matter remanded.

Provisions involved

CGST Act, 2017: Section 169

Status

Remanded; held in favour of the taxpayer. Directions: Reply to SCN within 30 days; hearing to be given; order within three months of hearing.

The judgment begins on compendium page 10.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 17867/2024 & CM APPL. 76030/2024**

M/s ANANT WIRE INDUSTRIES .....Petitioner

Through: Mr. Pulkit Verma and Mr. Akhil Gupta, Advocates (M-9716694879).

versus

SALES TAX OFFICER CLASS II/AVATO, WARD 83 & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal, ASC with Mr. Shubham Goel and Mr. Mayank Kamra, Advocates (M-9654298599).

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE AMIT SHARMA

O R D E R

% **23.12.2024**

1. This hearing has been done through hybrid mode.

2. The present petition under Articles 226 and 227 of the Constitution of India has been filed by the Petitioner challenging the impugned order dated 21st February, 2024, on the ground that the said order has been passed pursuant to the Show Cause Notice dated 5th September, 2023 *(hereinafter, the 'Show Cause Notice')* which was not received by the Petitioner.

3. It is the case of the Petitioner that the Show Cause Notice appears to have been uploaded on the Goods and Services Tax portal under the category of 'Additional Notices and Orders' and therefore, the same was never received by him.

4. Ld. Counsel appearing on behalf of the Petitioner submits that benefit ought to be given to the Petitioner on the ground that the Show Cause Notice

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Compendium: Service of Notice (Sec. 169) | page 10 of 836 Back to Index

was not received by the Petitioner. He relies on a Division Bench judgment of this Court in ***Kamla Vohra v. Sales Tax Officer Class II [W.P. (C) No. 9261/2024 dated 10th July, 2024]*** wherein it was held that uploading of notices under the heading of 'Additional Notices' would not be sufficient service of notice in terms of Section 169 of the CGST Act. The ld. Counsel further relies on the judgment of ***ACE Cardiopathy Solutions (P.) Ltd. v. Union of India [W.P. (C) No. 6758/2024 dated 10th May, 2024].***

5. In the aforesaid cases this Court had given the benefit to the Petitioner so long as an affidavit was filed to the effect that the notice was not received on the registered email ID.

6. The relevant portion of the judgment, ***Kamla Vohra v. Sales Tax Officer Class II*** *(Supra)* reads as under:

> *"3.* ***The impugned SCN was uploaded on the portal in the category of 'Additional Notices' which the petitioner claims was not easily accessible. It is contended that the show cause notices were required to be placed under the heading of 'Notices' but the same was not done.***
> *4. Learned counsel for the parties submit that the issue involved in the present petition is covered by earlier decisions of this Court, including in* ***ACE Cardiopathy Solutions (P.) Ltd. v. Union of India: [2024] 163 taxmann.com 17 (Delhi****).*
>
> *5. In the said decision, this Court had rejected the contention that uploading of the notices under the heading 'Additional Notices' would be sufficient service in terms of Section 169 of the CGST Act. The relevant extract of the said decision is set out below :-*
>
> > *"4. Learned counsel for respondent submits that in terms of Section 169 of the*

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Compendium: Service of Notice (Sec. 169) | page 11 of 836 Back to Index

Central Goods and Services Tax Act, 2017, uploading of a notice on the portal is sufficient compliance with regard to intimation to the taxpayer.

5. We are unable to accept the contention of the learned counsel, reference may be had to the judgment of the High Court of Madras in W.P. No. 26457/2023, titled M/s East Coast Constructions and Industries Ltd. v. Assistant Commissioner (ST) dated 11-9-2023, wherein the High Court of Madras has noticed that communications are placed under the heading of "View Notices and Orders" and "View Additional Notices and Orders". The Madras High Court had directed the respondents to address the issue arising out of posting of information under two separate headings. As per the petitioner, the Menu "View Additional Notices and Orders" were under the heading of "User Services" and not under the heading "View Notices and Orders".

6. The GST Authorities had addressed the issue and had re-designed the portal to ensure that 'View Notices' tab and 'View Additional Notices' tab were placed under one heading. The impugned SCN was issued before the portal was re-designed.

7. ***In view of the above, the present petition is allowed and the impugned order is set aside****.*

8. The matter is remanded to the concerned authority to adjudicate the SCN afresh. The petitioner is at liberty to file a response to the impugned SCN within a period of

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Compendium: Service of Notice (Sec. 169) | page 12 of 836 ▲ Back to Index

two weeks from date.

*9. **The concerned authority shall adjudicate the impugned SCN after considering the petitioner's response and after affording the petitioner an opportunity to be heard**. "*

7. In the present case, the affidavit dated 19th December, 2024 has been filed by Shashank Mittal, S/o Anil Mittal to the effect that the Show Cause Notice and the order dated 21st February, 2024 were not received on the registered email ID or physically.

8. After having perused the said affidavit, this Court is of the view that following the earlier decisions passed by this Court, the Petitioner herein also deserves to be given an opportunity to reply to the Show Cause Notice.

9. Accordingly, in the facts of this case, the impugned order dated 21st February, 2024 is set aside.

10. The matter is remanded back to the concerned Department for fresh consideration after providing an opportunity of hearing to the Petitioner.

11. In the Show Cause Notice dated 5th September, 2023, let the Petitioner file a reply within a period of 30 days and a hearing shall be afforded to the Petitioner. Order be passed within three months from the date of said hearing.

12. The present petition is disposed of. All pending applications are disposed of.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

DECEMBER 23, 2024/*sn*

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Compendium: Service of Notice (Sec. 169) | page 13 of 836 Back to Index

CASE 3 OF 34 · GROUP A

Neelgiri Machinery v. Commissioner Delhi Goods and Service Tax and Others

Court	High Court of Delhi
Bench	Prathiba M. Singh and Rajneesh Kumar Gupta, JJ.
Date	20.03.2025
Case no. / citation	W.P.(C) 13727/2024 and W.P.(C) 13752/2024

Holding in brief

Orders passed on SCNs placed under the additional tab without effective notice are set aside and the taxpayer is heard afresh. Demand orders set aside; petitions disposed of.

Status

Remanded; held in favour of the taxpayer. Directions: Replies within 30 days; hearing notices to be uploaded and e-mailed; SCNs to be adjudicated.

The judgment begins on compendium page 15.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20th March, 2025

\+ **W.P.(C) 13727/2024 & CM APPL. 57468/2024**

NEELGIRI MACHINERY THROUGH ITS PROPRIETOR MR. ANIL KUMAR .....Petitioner

Through: Mr. Rakesh Kumar and Mr. Parveen Gambhir, Advocates.

versus

COMMISSIONER DELHI GOODS AND SERVICE TAX AND OTHERS .....Respondent

Through: Mr Aditya Singla, SSC CBIC, Ms. Medha Navami and Ms. Arya Suresh Advocates.
Mr. Raj Kumar Yadav and Mr. Vaibhav Bhardwaj, Advocates for UOI.
Mr. Abhinav Sharma and Ms. Aakriti Jain, Advocates for R-2.

12

\+ **W.P.(C) 13752/2024 & CM APPL. 57567/2024**

NEELGIRI MACHINERY THROUGH ITS PROPRIETOR MR. ANIL KUMAR .....Petitioner

Through: Mr. Rakesh Kumar and Mr. Parveen Gambhir, Advocates.

versus

COMMISSIONER DELHI GOODS AND SERVICE TAX AND OTHERS .....Respondent

Through: Mr Aditya Singla, SSC CBIC, Ms. Medha Navami and Ms. Arya Suresh Advocates.
Mr. Raj Kumar Yadav and Mr. Vaibhav Bhardwaj, Advs. for UOI
Mr. Abhinav Sharma and Ms. Aakriti Jain, Advocates for R-2.

Signature Not Verified
Signed By:MANJEET KAUR
Signing Date:24.03.2025 18:33:51

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petitions are filed by the Petitioner- M/s Neelgiri Machinery (hereinafter 'the Company') assailing -

(i) the Show Cause Notices dated 4th December, 2023 and Demand Order dated 23rd April 2024 in ***W.P.(C) 13727/2024***

(ii) the Show Cause Notices dated 23th September, 2023 *('SCN')* and Demand Order dated 5th December, 2023 in ***W.P.(C)* 13752/2024**

on the grounds that the same were never served upon it. The Petitioner has filed ***W.P.(C) 13727/2024*** with respect to Assessment Year 2018-19 and ***W.P.(C) 13752/2024***with respect to Assessment Year 2017-18.

3. The case of the Petitioner is that although the SCNs were uploaded on the portal, they were placed under the category of *"Additional Notices and Orders,"* rendering them not directly visible.

4. Vide order dated 26th November, 2024 the Court had directed the Department to file a status report in this regard. Today, a short status report has been handed across on behalf of Respondent No. 2 as per which, the SCNs and the hearing notices were uploaded under the *"Notices"* tab. However, Mr. Sharma, ld. Counsel for Respondent no.2 fairly submits that as per the said status report itself, the manner in which the notices will appear on the Department's side and on the tax payer's side is different. Para 1 of the status report reads as under :-

> *"1. It is humbly submitted that* ***the GST Portal works differently on the taxpayers side than the***

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> ***department side***. *Therefore no information is available in ward or on the officer GST portal id regarding the query raised by the Hon'ble Court. Only information that arose while issuing the SCN-DRC01 (Notice) on the department GST portal was that "Notice or order will be mailed to the Taxpayer and will also be available on his dashboard."*
>
> *Copy of the submission received from the department dated 03.1.2025 is attached herewith and marked as Annexure - R/1."*

5. A perusal of the above would show that the Department concedes that the portal works differently from the Department's side and the tax payer's side. Insofar as the Petitioner is concerned, the Department was not being able to viewthem on the *Notices* tab.The Petitioner, in support of its case, has placed on record the print out from the portal which shows that the same was viewable only on *Additional notice and orders*Tab and hence, may have been missed by the Petitioner.

6. Be that as it may, the intention is to ensure that the Petitioner is given an opportunity to file its reply and is heard on merits and that orders are not passed in default. Since there is no clarity on behalf of the Department, this Court follows the order dated 9th September, 2024 in ***Satish Chand Mittal (Trade Name National Rubber Products) vs. Sales Tax Officer SGST, Ward 25-Zone 1 (W.P.(C) 12589/2024; DHC)***as also order dated 23rd December, 2024 in ***Anant Wire Industries vs. Sales Tax Officers Class II/Avato, Ward 83 & Anr. (W.P.(C) 17867/2024; DHC)*** where the Court under similar circumstances remanded back the matter to ensure the Noticee/Petitioners get a fair opportunity to be heard. The relevant portion of the order in ***Sathish Chand Mittal (Supra)*** reads as under:

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"4. It is the petitioner's case that he had not received the impugned SCN and, therefore, he had no opportunity to respond to the same. *For the same reason, the petitioner claims that he had not appear for a personal hearing before the Adjudicating Authority, which was scheduled on 17.10.2023 and later rescheduled to 30.11.2023 as per the Reminder.*

5. The petitioner also states that the impugned SCN, the Reminder and the impugned order are unsigned.

6. Mr. Singhvi, the learned counsel appearing for the respondent, on advance notice, fairly states that the principal issue involved in the present case is squarely covered by the decisions of this Court in M/s ACE Cardiopathy Solutions Private Ltd. v. Union of India & Ors.: Neutral Citation No. 2024:DHC:4108-DB as well as in Kamla Vohra v. Sales Tax Officer Class II/ Avato Ward 52 : Neutral Citation No.2024:DHC:5108-DB.

7. He states that possibly, the petitioner did not had the access of the Notices as they were projected on the GST Portal under the tab 'Additional Notices & Orders'. He submits that the said issue has now been addressed and the 'Additional Notices & Orders' tab is placed under the general menu and adjacent to the tab 'Notices & Orders'.

8. In view of the above, the present petition is allowed and the impugned order is set aside.

9. The respondent is granted another opportunity to reply to the impugned SCN within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass such order, as it deems fit, after affording the petitioner an opportunity to be heard.

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Signing Date:24.03.2025 18:33:51

Compendium: Service of Notice (Sec. 169) | page 18 of 836 Back to Index

10. The present petition is disposed of in the aforesaid terms.

11. All pending applications are also disposed of."

7. The impugned demand orders dated 23rd April, 2024 and 5th December, 2023 are accordingly set aside. In response to show cause notices dated 04th December, 2023 and 23th September, 2023, the Petitioner shall file its replies within thirty days. The hearing notices shall now not be merely uploaded on the portal but shall also be e-mailed to the Petitioner and upon the hearing notice being received, the Petitioner would appear before the Department and make its submissions. The show cause notices shall be adjudicated in accordance with law.

8. The petitions are disposed of in the above terms. The pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 20, 2025/*nd/Ar.*

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CASE 4 OF 34 · GROUP A

M/s GMT Garments v. Union of India & Ors.

Court	High Court of Delhi
Bench	Prathiba M. Singh and Rajneesh Kumar Gupta, JJ.
Date	25.04.2025
Case no. / citation	W.P.(C) 5304/2025

Holding in brief

Where the SCN was in the additional tab before the portal change, delay in appeal deserves condonation. Appeal AD0709240005076 restored to its number and to be heard on merits.

Provisions involved

CGST Act, 2017: Sections 107 and 168A

Status

Allowed; held in favour of the taxpayer. Directions: Appellate Authority to adjudicate the appeal on merits considering the cited judgments.

The judgment begins on compendium page 21.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 25th April, 2025

\+ **W.P.(C) 5304/2025& CM APPL. 24182/2025, 24183/2025**

M/S GMT GARMENTS .....Petitioner

Through: Mr. Prem Kandpal, Ms. Shruti Garg & Mr. Chetan Kumar Shukla, Advs. (M: 9968768840)

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Harpreet Singh, Sr. SC with Ms. Suhani Mathur and Mr. Jai Ahuja, Advs.
Mr. Sumit K. Batra, Adv. (M: 9911211000)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- M/s GMT Garments under Article 226 and 227 of the Constitution of India, *inter alia,* challenging the validity of ***Notification Nos. 09/2023- Central Tax*** dated 31th March 2023 and ***56/2023- Central Tax*** dated 28th December 2023. This Court has had the opportunity to consider a large number of similar matters where such a challenge has been raised. In ***W.P.(C) 16499/2023*** titled ***'DJST Traders Private Limited vs. Union of India & Ors.'*** which was the lead matter, vide order dated 23rd April, 2025, this Court has observed as under:

> *"5. As observed by this Court in the order dated 22nd April, 2025 as well, since the challenge to the above*

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mentioned notifications is presently under consideration before the Supreme Court in S.L.P No 4240/2025 titled M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax & Ors., the challenge made by the Petitioner to the notifications in the present proceedings shall also be subject to the outcome of the decision of the Supreme Court."

3. Accordingly, insofar as the challenge to the Notifications is concerned, the same shall be governed by the decision of the Supreme Court in ***S.L.P No 4240/2025*** titled '***M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax & Ors'***.

4. Coming to the facts, however, the show cause notice (hereinafter, '*SCN*') was issued on 23rd December, 2023, prior to the change in the portal, which came into effect on 16th January, 2024. The SCN was uploaded on the additional notices tab on the portal.

5. According to the Petitioner, the SCN was not in the knowledge of the Petitioner, hence no reply was filed. The order dated 3rd April 2024 was, thus, passed without hearing the Petitioner and without any opportunity of filing the reply.

6. The Petitioner then approached the Appellate Authority under Section 107 of the Central Goods and Service Tax Act, 2017 which has, however, dismissed the said appeal on 11th November, 2024 on the ground that the same is barred by limitation. The relevant portion of the order of the Appellate Authority is set out below:

"*I have gone through the documents made available by the Appellant and considered the facts and circumstances of the case as well as the relevant legal provisions. The demand was raised vide impugned order dated 03.04.2024. As per section 107 (1) of the*

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DGST/CGST Act, 2017, appeal against any decision or order passed under the Act by an adjudicating authority may be filed by a person before the Appellate Authority within three months from the date on which the said decision or order is communicated to such person. Further, as per section 107 (4), the Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period of three months, allow it to be presented within a further period of one month. ***In this case, the impugned order is dated 03.04.2024 and the present appeal has been filed only on 02.09.2024, which is beyond the prescribed time-limit as per the above mentioned legal provisions.***

In view of above provisions and facts, the present appeal is time-barred and hence rejected."

7. This Court has already held that the notice if uploaded on the additional notices tab of the portal, the same would not be proper in as much as the party would not have even acquired knowledge of the same. This issue has been dealt in various decisions including in –

- order dated 9th September, 2024 in ***W.P.(C) 12589/2024*** titled ***'Satish Chand Mittal (Trade Name National Rubber Products) vs. Sales Tax Officer SGST, Ward 25-Zone 1'*** ,
- order dated 23rd December, 2024 in ***W.P.(C) 17867/2024*** titled ***'Anant Wire Industries vs. Sales Tax Officers Class II/Avato, Ward 83 & Anr'***
- order dated 20th March, 2025 in ***W.P.(C) 13727/2024*** titled ***'Neelgiri Machinery Through its Proprietor Mr. Anil Kumar v. Commissioner Delhi Goods and Service Tax and Others'.***

The order of the Court in ***Satish Chand Mittal (Supra)*** reads as under:

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"4. It is the petitioner's case that he had not received the impugned SCN and, therefore, he had no opportunity to respond to the same. *For the same reason, the petitioner claims that he had not appear for a personal hearing before the Adjudicating Authority, which was scheduled on 17.10.2023 and later rescheduled to 30.11.2023 as per the Reminder.*

5. The petitioner also states that the impugned SCN, the Reminder and the impugned order are unsigned.

6. Mr. Singhvi, the learned counsel appearing for the respondent, on advance notice, fairly states that the principal issue involved in the present case is squarely covered by the decisions of this Court in M/s ACE Cardiopathy Solutions Private Ltd. v. Union of India & Ors.: Neutral Citation No. 2024:DHC:4108-DB as well as in Kamla Vohra v. Sales Tax Officer Class II/ Avato Ward 52 : Neutral Citation No.2024:DHC:5108- DB.

7. He states that possibly, the petitioner did not had the access of the Notices as they were projected on the GST Portal under the tab 'Additional Notices & Orders'. He submits that the said issue has now been addressed and the 'Additional Notices & Orders' tab is placed under the general menu and adjacent to the tab 'Notices & Orders'.

8. In view of the above, the present petition is allowed and the impugned order is set aside.

9. The respondent is granted another opportunity to reply to the impugned SCN within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass such order, as it deems fit, after affording the petitioner an opportunity to be heard.

10. The present petition is disposed of in the aforesaid terms.

11. All pending applications are also disposed of."

8. Under such circumstances, this Court is of the opinion that the delay in filing the appeal deserves to be condoned and the appeal deserves to be heard

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Signing Date:28.04.2025
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on merits.

9. Accordingly, the Appeal No. AD0709240005076 is restored to its original number before the Appellate Authority.

10. The Appellate Authority shall consider the judgments mentioned above as also the Petitioner's case and adjudicate the appeal on merits.

11. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 25, 2025
dj/ck

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CASE 5 OF 34 · GROUP A

Kurlon Retail Limited v. Sales Tax Officer & Ors.

Court	High Court of Delhi
Bench	Prathiba M. Singh and Shail Jain, JJ.
Date	28.08.2025
Case no. / citation	W.P.(C) 13121/2025

Holding in brief

Remand to give a hearing; notification challenge to follow the final decision of the Supreme Court. Petition disposed of; matter remitted for fresh orders.

Provisions involved

CGST Act, 2017: Sections 73 and 168A

Status

Remanded; held in favour of the taxpayer. Directions: Reply and hearing as directed; portal access within one week; fresh orders on both SCNs.

The judgment begins on compendium page 27.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 28th August, 2025

\+ **W.P.(C) 13121/2025, CM APPL. 53682/2025 & CM APPL. 53683/2025**

KURLON RETAIL LIMITED .....Petitioner
Through: Mr. Manish Mishra, Ms. Joybrata Misra and Mr. Sameer Samal, Advs.

versus

SALES TAX OFFICER & ORS. .....Respondents
Through: Mr. Sumit K. Batra, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present petition has been filed, *inter alia,* challenging the impugned order dated 21st August, 2024 passed in respect of Financial Year 2019-20 by the office of Sales Tax Officer Class II/ AVATO, Delhi, raising a demand of Rs. 31,58,436/- under the head of 'net access ITC availed'. The petition also challenges the *vires* of ***Notification No. 56/2023-Central Tax*** dated 28th December, 2023 and ***Notification No. 56/2023-State Tax*** dated 7th July, 2024 (hereinafter *'impugned notifications').*

3. The validity of the impugned notifications was under consideration before this Court in a batch of petitions with the lead petition being ***W.P.(C)***

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16499/2023 titled ***'DJST Traders Pvt. Ltd. vs. Union of India and Ors.'*** In the said batch of petitions, on 22nd April 2025, the parties were heard at length *qua* the validity of the impugned notifications and accordingly, the following order was passed:

> *"4. Submissions have been heard in part. The broad challenge to both sets of Notifications is on the ground that the proper procedure was not followed prior to the issuance of the same. In terms of Section 168A, prior recommendation of the GST Council is essential for extending deadlines. In respect of Notification no.9, the recommendation was made prior to the issuance of the same. However, insofar as Notification No. 56/2023 (Central Tax) the challenge is that the extension was granted contrary to the mandate under Section 168A of the Central Goods and Services Tax Act, 2017 and ratification was given subsequent to the issuance of the notification. The notification incorrectly states that it was on the recommendation of the GST Council. Insofar as the Notification No. 56 of 2023 (State Tax) is concerned, the challenge is to the effect that the same was issued on 11th July, 2024 after the expiry of the limitation in terms of the Notification No.13 of 2022 (State Tax).*
>
> *5. In fact, Notification Nos. 09 and 56 of 2023 (Central Tax) were challenged before various other High Courts. The Allahabad Court has upheld the validity of Notification no.9. The Patna High Court has upheld the validity of Notification no.56. Whereas, the Guwahati High Court has quashed Notification No. 56 of 2023 (Central Tax).*
>
> *6. The Telangana High Court while not delving into the vires of the assailed notifications, made certain observations in respect of invalidity of Notification No. 56 of 2023 (Central Tax). This judgment of the Telangana High Court is now presently under consideration by the Supreme Court in S.L.P No 4240/2025 titled M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State*

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By:DEVANSHU JOSHI
Signing Date:01.09.2025
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Compendium: Service of Notice (Sec. 169) | page 28 of 836 Back to Index

Tax & Ors. The Supreme Court vide order dated 21st February, 2025, passed the following order in the said case:

> *"1. The subject matter of challenge before the High Court was to the legality, validity and propriety of the Notification No.13/2022 dated 5-7-2022 & Notification Nos.9 and 56 of 2023 dated 31-3-2023 & 8-12-2023 respectively.*
>
> *2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 respectively.*
>
> *3. These Notifications have been issued in the purported exercise of power under Section 168 (A) of the Central Goods and Services Tax Act. 2017 (for short, the "GST Act").*
>
> *4. We have heard Dr. S. Muralidhar, the learned Senior counsel appearing for the petitioner.*
>
> *5. The issue that falls for the consideration of this Court is whether the time limit for adjudication of show cause notice and passing order under Section 73 of the GST Act and SGST Act (Telangana GST Act) for financial year 2019-2020 could have been extended by issuing the Notifications in question under Section 168-A of the GST Act.*
>
> *6. There are many other issues also arising for consideration in this matter.*
>
> *7. Dr. Muralidhar pointed out that there is a cleavage of opinion amongst different High Courts of the country. 8. Issue notice on the SLP as also on the prayer for interim relief, returnable on 7-3-2025."*

7. In the meantime, the challenges were also pending before the Bombay High Court and the Punjab and Haryana High Court. In the Punjab and Haryana High Court vide order dated 12th March, 2025, all the writ petitions have been disposed of in terms of the interim orders passed therein. The operative portion of the said order reads as under:

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By:DEVANSHU JOSHI
Signing Date:01.09.2025
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"65. Almost all the issues, which have been raised before us in these present connected cases and have been noticed hereinabove, are the subject matter of the Hon'ble Supreme Court in the aforesaid SLP.

66. Keeping in view the judicial discipline, we refrain from giving our opinion with respect to the vires of Section 168-A of the Act as well as the notifications issued in purported exercise of power under Section 168-A of the Act which have been challenged, and we direct that all these present connected cases shall be governed by the judgment passed by the Hon'ble Supreme Court and the decision thereto shall be binding on these cases too.

67. Since the matter is pending before the Hon'ble Supreme Court, the interim order passed in the present cases, would continue to operate and would be governed by the final adjudication by the Supreme Court on the issues in the aforesaid SLP-4240-2025.

68. In view of the aforesaid, all these connected cases are disposed of accordingly along with pending applications, if any."

8. The Court has heard ld. Counsels for the parties for a substantial period today. A perusal of the above would show that various High Courts have taken a view and the matter is squarely now pending before the Supreme Court.

9. Apart from the challenge to the notifications itself, various counsels submit that even if the same are upheld, they would still pray for relief for the parties as the Petitioners have been unable to file replies due to several reasons and were unable to avail of personal hearings in most cases. In effect therefore in most cases the adjudication orders are passed ex-parte. Huge demands have been raised and even penalties have been imposed.

10. Broadly, there are six categories of cases which

Signature Not Verified
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By:DEVANSHU JOSHI
Signing Date:01.09.2025
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Compendium: Service of Notice (Sec. 169) | page 30 of 836 Back to Index

are pending before this Court. While the issue concerning the validity of the impugned notifications is presently under consideration before the Supreme Court, this Court is of the prima facie view that, depending upon the categories of petitions, orders can be passed affording an opportunity to the Petitioners to place their stand before the adjudicating authority. In some cases, proceedings including appellate remedies may be permitted to be pursued by the Petitioners, without delving into the question of the validity of the said notifications at this stage.

11. The said categories and proposed reliefs have been broadly put to the parties today. They may seek instructions and revert by tomorrow i.e., 23rd April, 2025."

4. Thereafter, on 23rd April 2025, this Court, having noted that the validity of the impugned notifications is under consideration before the Supreme Court, had disposed of several matters in the said batch of petitions after addressing other factual issues raised in the respective petitions. Additionally, while disposing of the said petitions, this Court clearly observed that the validity of the impugned notifications therein shall be subject to the outcome of the proceedings before the Supreme Court.

5. However, in cases where the challenge is to the parallel State Notifications, the same have been retained for consideration by this Court. The lead matter in the said batch is ***W.P.(C) 9214/2024*** titled '***Engineers India Limited v. Union of India & Ors'***.

6. In the present case, the submission of the Petitioner, on facts, is that the SCN dated 17th May, 2024, from which the impugned order arises, was uploaded on the *'Additional Notices Tab'*. Thereafter, reminders were issued to the Petitioner on 16th July, 2024 and 30th July, 2024 and the same are also

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By:DEVANSHU JOSHI
Signing Date:01.09.2025
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stated to be uploaded on *'Additional Notices Tab'*. Therefore, the same was not brought to the knowledge of the Petitioner due to which no reply was filed. Hence, the impugned order was passed without providing the Petitioner with an opportunity to challenge the case on merits.

7. Further, it is submitted on behalf of the Department that the SCN dated 17th May, 2024, was uploaded after the issue with the *'Additional Notices Tab'* was fixed and thus, the argument is not sustainable. Further, it is submitted that the opportunity for personal hearing was also afforded to the Petitioner. However, the same was not attended and thus, the impugned order was passed.

8. The Court has heard the parties. In fact, this Court in ***W.P.(C) 13727/2024*** titled ***'Neelgiri Machinery through its Proprietor Mr. Anil Kumar V. Commissioner Delhi Goods And Service Tax And Others'***, under similar circumstances where the SCN was uploaded on the *'Additional Notices Tab'* had remanded the matter in the following terms:

> *"6. Be that as it may, intention is to ensure that the Petitioner is given an opportunity to file its reply and is heard on merits and that orders are not passed in default. Since there is no clarity on behalf of the Department, this Court follows the order dated 9th September, 2024 in Satish Chand Mittal (Trade Name National Rubber Products) vs. Sales Tax Officer SGST, Ward 25-Zone 1 as also order dated 23rd December, 2024 in Anant Wire Industries vs. Sales Tax Officers Class II/Avato, Ward 83 & Anr (W.P.(C) 17867/2024; DHC) where the Court under similar circumstances has remanded back the matter to ensure the Noticee/Petitioners get a fair opportunity to be heard. The order of the Court in Sathish Chand Mittal (Supra) reads as under:*

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By:DEVANSHU JOSHI
Signing Date:01.09.2025
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"4. It is the petitioner's case that he had not received the impugned SCN and, therefore, he had no opportunity to respond to the same. For the same reason, the petitioner claims that he had not appear for a personal hearing before the Adjudicating Authority, which was scheduled on 17.10.2023 and later rescheduled to 30.11.2023 as per the Reminder.

5. The petitioner also states that the impugned SCN, the Reminder and the impugned order are unsigned.

6. Mr. Singhvi, the learned counsel appearing for the respondent, on advance notice, fairly states that the principal issue involved in the present case is squarely covered by the decisions of this Court in M/s ACE Cardiopathy Solutions Private Ltd. v. Union of India & Ors.: Neutral Citation No. 2024:DHC:4108-DB as well as in Kamla Vohra v. Sales Tax Officer Class II/ Avato Ward 52 : Neutral Citation No.2024:DHC:5108- DB.

7. He states that possibly, the petitioner did not had the access of the Notices as they were projected on the GST Portal under the tab 'Additional Notices & Orders'. He submits that the said issue has now been addressed and the 'Additional Notices & Orders' tab is placed under the general menu and adjacent to the tab 'Notices & Orders'.

8. In view of the above, the present petition is allowed and the impugned order is set aside.

9. The respondent is granted another opportunity to reply to the impugned SCN within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass such order, as it deems fit, after affording the petitioner an opportunity to be heard. 10. The present petition is disposed of in the aforesaid terms. 11. All pending applications are also disposed of."

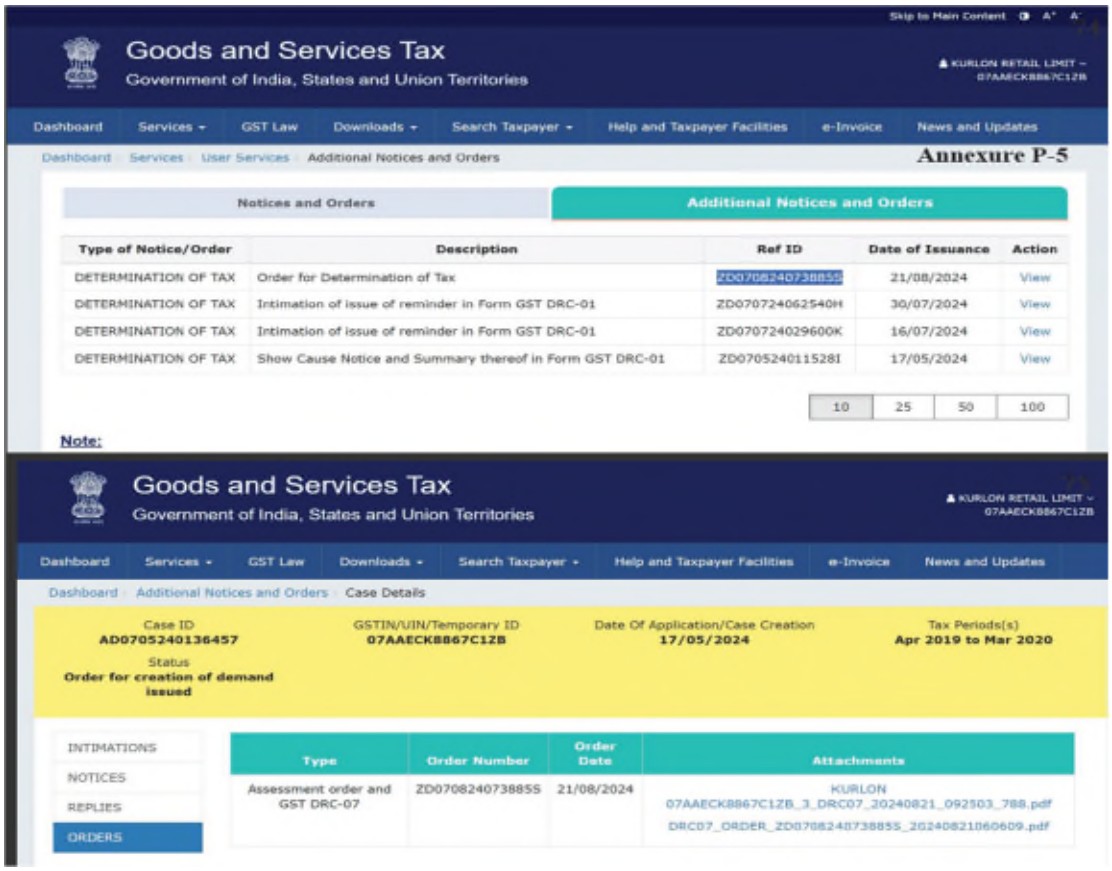
7. The impugned demand orders dated 23rd April, 2024 and 5th December, 2023 are accordingly set aside. In response to show cause notices dated 04th December, 2023 and 23th September, 2023, the Petitioner shall file

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By:DEVANSHU JOSHI
Signing Date:01.09.2025
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its replies within thirty days. The hearing notices shall now not be merely uploaded on the portal but shall also be e-mailed to the Petitioner and upon the hearing notice being received, the Petitioner would appear before the Department and make its submissions. The show cause notices shall be adjudicated in accordance with law.

8. The petitions are disposed of in the above terms. The pending application(s), if any, also stand disposed of."

9. There is no doubt that after 16th January 2024, changes have been made to the GST portal and the '*Additional Notices Tab'* has been made visible. In the present case, the SCN was issued on 17th May, 2024. A perusal of the screenshot of the GST Portal of the Petitioner also clearly shows that the '*Additional Notices Tab'* is clearly visible and accessible to the Petitioner. The same is extracted herein below:



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Signing Date:01.09.2025
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10. Hence, the argument of the Petitioner pertaining to *'Additional Notices Tab'* is not tenable in the present case. However, considering the fact that the impugned order was passed without hearing the submissions and contentions of the Petitioner and since the impugned notifications are under challenge before the Supreme Court, as also this Court, the Court deems it appropriate to set aside the impugned order.

11. Accordingly, the impugned order is set aside. The Petitioner is granted time till 30th September, 2025 to file the reply to the SCN. Upon filing of the reply, the Adjudicating Authority shall issue a notice for personal hearing to the Petitioner. The personal hearing notice shall be communicated to the Petitioner on the following mobile no. and e-mail address:

- ***Email:*** *manish.mishra@jsalaw.com*
- ***Mobile No.:*** *9818776660*

12. The reply filed by the Petitioner to the SCN along with the submissions made in the personal hearing proceedings shall be duly considered by the Adjudicating Authority and fresh orders with respect to both the SCNs shall be passed accordingly.

13. However, it is made clear that the issue in respect of the validity of the impugned notifications is left open. Any order passed by the Adjudicating Authority shall be subject to the outcome of the decision of the Supreme Court in ***S.L.P No 4240/2025*** *titled* ***M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax & Ors.*** and of this Court in ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

14. All rights and remedies of the parties are left open. Access to the GST Portal, shall be provided within one week, to the Petitioner to enable

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By:DEVANSHU JOSHI
Signing Date:01.09.2025
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Compendium: Service of Notice (Sec. 169) | page 35 of 836 Back to Index

uploading of the reply as also access to the notices and related documents.

15. The present writ petition is disposed of in above terms. All the pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 28, 2025
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CASE 6 OF 34 · GROUP A

Ess Dee Industries v. Commissioner of DGST & Ors.

Court	High Court of Delhi
Bench	Prathiba M. Singh and Shail Jain, JJ.
Date	29.10.2025
Case no. / citation	W.P.(C) 16373/2025

Holding in brief

Remand where no reply or hearing; notification challenge subject to Supreme Court outcome. Impugned order set aside; petition disposed of.

Provisions involved

CGST Act, 2017: Sections 73 and 168A

Status

Remanded; held in favour of the taxpayer. Directions: Reply by 30.11.2025; personal hearing notice by e-mail/mobile; fresh order to be passed.

The judgment begins on compendium page 38.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision:29th October, 2025

\+ **W.P.(C) 16373/2025 & CM APPL. 67010/2025**

ESS DEE INDUSTRIES THROUGH ITS PARTNER SHAMBHU DAYAL SHARMA .....Petitioner

Through: Ms. Sanya Khurana, Mr. Hitain Bajaj, Advs.

versus

COMMISSIONER OF DGST & ORS. .....Respondents

Through: Mr. Vivek Sharma, SPC, UOI
Mr. Sumit K. Batra, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

CM APPL. 67011/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 16373/2025 & CM APPL. 67010/2025

3. The Petitioner- ESS DEE Industries, through its Partner Shambhu Dayal Sharma, has filed the present petition under Article 226 of the Constitution of India, *inter alia*, challenging the Show Cause Notice dated 11th December, 2023 *(hereinafter 'impugned SCN')* pertaining to Financial year 2018-2019, as also the consequent order dated 10th March, 2024 passed by the Sales Tax Officer Class II/AVATO, Ward 116(Special Zone), Zone-12, Delhi *(hereinafter, 'impugned order')*.

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4. Additionally, the present petition also challenges the following Notifications:

- ***Notification No. 9/2023- Central Tax*** dated 31st March, 2023;
- ***Notification No. 09/2023-State Tax*** dated 22nd June, 2023 *(hereinafter, 'the impugned notifications').*

5. The challenge in the present petition is similar to a batch of petitions wherein *inter alia*, the impugned notifications were challenged. ***W.P.(C) No. 16499/2023*** titled ***DJST Traders Private Limited v. Union of India &Ors.*** was the lead matter in the said batch of petitions. On 22nd April, 2025, the parties were heard at length *qua* the validity of the impugned notifications and accordingly, the following order was passed:

> *"4. Submissions have been heard in part. The broad challenge to both sets of Notifications is on the ground that the proper procedure was not followed prior to the issuance of the same. In terms of Section 168A, prior recommendation of the GST Council is essential for extending deadlines. In respect of Notification no.9, the recommendation was made prior to the issuance of the same. However, insofar as Notification No. 56/2023 (Central Tax) the challenge is that the extension was granted contrary to the mandate under Section 168A of the Central Goods and Services Tax Act, 2017 and ratification was given subsequent to the issuance of the notification. The notification incorrectly states that it was on the recommendation of the GST Council. Insofar as the Notification No. 56 of 2023 (State Tax) is concerned, the challenge is to the effect that the same was issued on 11th July, 2024 after the expiry of the limitation in terms of the Notification No.13 of 2022 (State Tax).*
>
> *5. In fact, Notification Nos. 09 and 56 of 2023 (Central Tax) were challenged before various other High Courts. The Allahabad Court has upheld the validity of Notification no.9. The Patna High Court has upheld the*

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Compendium: Service of Notice (Sec. 169) | page 39 of 836 Back to Index

validity of Notification no.56. Whereas, the Guwahati High Court has quashed Notification No. 56 of 2023 (Central Tax).

6. The Telangana High Court while not delving into the vires of the assailed notifications, made certain observations in respect of invalidity of Notification No. 56 of 2023 (Central Tax). This judgment of the Telangana High Court is now presently under consideration by the Supreme Court in S.L.P No 4240/2025 titled M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors. The Supreme Court vide order dated 21st February, 2025, passed the following order in the said case:

> *"1. The subject matter of challenge before the High Court was to the legality, validity and propriety of the Notification No.13/2022 dated 5-7-2022 & Notification Nos.9 and 56 of 2023 dated 31-3-2023 & 8-12-2023 respectively.*
>
> *2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 respectively.*
>
> *3. These Notifications have been issued in the purported exercise of power under Section 168 (A) of the Central Goods and Services Tax Act. 2017 (for short, the "GST Act").*
>
> *4. We have heard Dr. S. Muralidhar, the learned Senior counsel appearing for the petitioner.*
>
> *5. The issue that falls for the consideration of this Court is whether the time limit for adjudication of show cause notice and passing order under Section 73 of the GST Act and SGST Act (Telangana GST Act) for financial year 2019-2020 could have been extended by issuing the Notifications in question under Section 168-A of the GST Act.*
>
> *6. There are many other issues also arising for consideration in this matter.*
>
> *7. Dr. Muralidhar pointed out that there is a cleavage of opinion amongst different High Courts*

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of the country. 8. Issue notice on the SLP as also on the prayer for interim relief, returnable on 7-3-2025."

7. In the meantime, the challenges were also pending before the Bombay High Court and the Punjab and Haryana High Court. In the Punjab and Haryana High Court vide order dated 12th March, 2025, all the writ petitions have been disposed of in terms of the interim orders passed therein. The operative portion of the said order reads as under:

"65. Almost all the issues, which have been raised before us in these present connected cases and have been noticed hereinabove, are the subject matter of the Hon'ble Supreme Court in the aforesaid SLP.

66. Keeping in view the judicial discipline, we refrain from giving our opinion with respect to the vires of Section 168-A of the Act as well as the notifications issued in purported exercise of power under Section 168-A of the Act which have been challenged, and we direct that all these present connected cases shall be governed by the judgment passed by the Hon'ble Supreme Court and the decision thereto shall be binding on these cases too.

67. Since the matter is pending before the Hon'ble Supreme Court, the interim order passed in the present cases, would continue to operate and would be governed by the final adjudication by the Supreme Court on the issues in the aforesaid SLP-4240-2025.

68. In view of the aforesaid, all these connected cases are disposed of accordingly along with pending applications, if any."

8. The Court has heard ld. Counsels for the parties for a substantial period today. A perusal of the above would show that various High Courts have taken a view and the matter is squarely now pending before the

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Supreme Court.

9. Apart from the challenge to the notifications itself, various counsels submit that even if the same are upheld, they would still pray for relief for the parties as the Petitioners have been unable to file replies due to several reasons and were unable to avail of personal hearings in most cases. In effect therefore in most cases the adjudication orders are passed ex-parte. Huge demands have been raised and even penalties have been imposed.

10. Broadly, there are six categories of cases which are pending before this Court. While the issue concerning the validity of the impugned notifications is presently under consideration before the Supreme Court, this Court is of the prima facie view that, depending upon the categories of petitions, orders can be passed affording an opportunity to the Petitioners to place their stand before the adjudicating authority. In some cases, proceedings including appellate remedies may be permitted to be pursued by the Petitioners, without delving into the question of the validity of the said notifications at this stage.

11. The said categories and proposed reliefs have been broadly put to the parties today. They may seek instructions and revert by tomorrow i.e., 23rd April, 2025."

6. The abovementioned writ petition and various other writ petitions have been disposed of by this Court on subsequent dates, either remanding the matters or relegating the parties to avail of their appellate remedies, depending upon the fact situation. All such orders are subject to further orders of the Supreme Court.

7. As observed by this Court in the order dated 22nd April, 2025 as well, since the challenge to the above mentioned notifications is presently under consideration before the Supreme Court in ***S.L.P No 4240/2025*** titled ***M/s***

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HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors., the challenge made by the Petitioner to the impugned notifications in the present proceedings shall also be subject to the outcome of the decision of the Supreme Court.

8. However, in cases where the challenge is to the parallel State Notifications, the same have been retained for consideration by this Court. The lead matter in the said batch is ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

9. On facts, the submission of ld. Counsel for Petitioner is that the impugned SCN dated 11th December, 2023, was uploaded on *'Additional Notices Tab'*. Therefore, the same was not brought to the knowledge of the Petitioner, due to which no reply was filed. Thereafter, a reminder dated 27th January, 2024 was also issued to the Petitioner. However, no reply to the same has also been filed. Thereafter, the impugned order was passed on 10th March, 2024. The Petitioner became aware of the impugned SCN and impugned order when a subsequent notice was issued to the Petitioner on 08th September, 2025. Hence, the impugned order was passed without providing the Petitioner with an opportunity to challenge the case on merits.

10. The Court has heard the parties. In fact, this Court in ***W.P.(C) 13727/2024*** titled ***'Neelgiri Machinery through its Proprietor Mr. Anil Kumar V. Commissioner Delhi Goods And Service Tax And Others'***, under similar circumstances where the SCN was uploaded on the *'Additional Notices Tab'* had remanded the matter in the following terms:

> *"6. Be that as it may, intention is to ensure that the Petitioner is given an opportunity to file its reply and is heard on merits and that orders are not passed in default. Since there is no clarity on behalf of the*

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Department, this Court follows the order dated 9th September, 2024 in Satish Chand Mittal (Trade Name National Rubber Products) vs. Sales Tax Officer SGST, Ward 25-Zone 1 as also order dated 23rd December, 2024 in Anant Wire Industries vs. Sales Tax Officers Class II/Avato, Ward 83 &Anr (W.P.(C) 17867/2024; DHC) where the Court under similar circumstances has remanded back the matter to ensure the Noticee/Petitioners get a fair opportunity to be heard. The order of the Court in Sathish Chand Mittal (Supra) reads as under:

"4. It is the petitioner's case that he had not received the impugned SCN and, therefore, he had no opportunity to respond to the same. For the same reason, the petitioner claims that he had not appear for a personal hearing before the Adjudicating Authority, which was scheduled on 17.10.2023 and later rescheduled to 30.11.2023 as per the Reminder.

5. The petitioner also states that the impugned SCN, the Reminder and the impugned order are unsigned.

6. Mr. Singhvi, the learned counsel appearing for the respondent, on advance notice,fairly states that the principal issue involved in the present case is squarely covered by the decisions of this Court in M/s ACE Cardiopathy Solutions Private Ltd. v. Union of India & Ors.: Neutral Citation No. 2024:DHC:4108-DB as well as in Kamla Vohra v. Sales Tax Officer Class II/ Avato Ward 52 : Neutral Citation No.2024:DHC:5108-DB.

7. He states that possibly, the petitioner did not had the access of the Notices as they were projected on the GST Portal under the tab 'Additional Notices & Orders'. He submits that the said issue has now been addressed and the 'Additional Notices & Orders' tab is placed under the general menu and adjacent to the tab 'Notices & Orders'.

8. In view of the above, the present petition is allowed

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and the impugned order is set aside.

9. The respondent is granted another opportunity to reply to the impugned SCN within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass such order, as it deems fit, after affording the petitioner an opportunity to be heard. 10. The present petition is disposed of in the aforesaid terms. 11. All pending applications are also disposed of."

7. The impugned demand orders dated 23rd April, 2024 and 5th December, 2023 are accordingly set aside. In response to show cause notices dated 04th December, 2023 and 23th September, 2023, the Petitioner shall file its replies within thirty days. The hearing notices shall now not be merely uploaded on the portal but shall also be e-mailed to the Petitioner and upon the hearing notice being received, the Petitioner would appear before the Department and make its submissions. The show cause notices shall be adjudicated in accordance with law.

8. The petitions are disposed of in the above terms. The pending application(s), if any, also stand disposed of."

11. There is no doubt that after 16th January 2024, changes have been made to the GST portal and the '*Additional Notices Tab'* has been made visible. However, in the present case, the SCN was issued on 11th December, 2023 and the same was not brought to the notice of the Petitioner. Under such circumstances, considering the fact that the Petitioner did not get a proper opportunity to be heard and no reply to the SCN has been filed by the Petitioner, the matter deserves to be remanded back to the concerned Adjudicating Authority.

12. Accordingly, the impugned order is set aside. The Petitioner is

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granted time till 30th November, 2025, to file the reply to impugned SCN. Upon filing of the reply, the Adjudicating Authority shall issue to the Petitioner, a notice for personal hearing. The personal hearing notice shall be communicated to the Petitioner on the following mobile no. and e-mail address:

- ***Mobile No.: 9811198731***
- ***E-mail Address : sdsharma5865@gmail.com***

13. The reply filed by the Petitioner to the impugned SCN along with the submissions made in the personal hearing proceedings shall be duly considered by the Adjudicating Authority and fresh order with respect to the impugned SCN shall be passed accordingly.

14. However, it is made clear that the issue in respect of the validity of the impugned notifications is left open. Any order passed by the Adjudicating Authority shall be subject to the outcome of the decision of the Supreme Court in ***S.L.P No 4240/2025*** *titled* ***M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors.*** and this Court in ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

15. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

OCTOBER 29, 2025/*pd/sm*

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CASE 7 OF 34 · GROUP A

M/s Perfect Industries v. Goods and Service Tax Officer, Ward 63, DGST & Anr.

Court	High Court of Delhi
Bench	Prathiba M. Singh and Shail Jain, JJ.
Date	10.11.2025
Case no. / citation	W.P.(C) 15975/2025

Holding in brief

Orders on notices not effectively communicated are remanded; challenge to Section 168A notifications abides the Supreme Court outcome. Impugned order set aside; matter remitted; validity of notifications left open.

Provisions involved

CGST Act, 2017: Sections 73 and 168A

Status

Remanded; held in favour of the taxpayer. Directions: Reply and hearing as directed; portal access to be given within one week; orders subject to SLP 4240/2025 and WP(C) 9214/2024.

The judgment begins on compendium page 48.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 10th November, 2025

\+ **W.P.(C) 15975/2025 & CM APPL. 65379/2025**

M/S PERFECT INDUSTRIES .....Petitioner

Through: Mr. Akshay Allagh, Adv.

versus

GOODS AND SERVICE TAX OFFICER , WARD - 63, DGST AND ANR. .....Respondents

Through: Ms. Urvi Mohan, Adv. for GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The Petitioner- M/s Perfect Industrieshas filed the present petition under Articles 226 and 227 of the Constitution of India, *inter alia*, challenging the impugned order dated20th April, 2024 passed by the Sales Tax Officer Class II/AVATO Ward 63, Zone 6, Delhi(*hereinafter, 'impugned order'*). The present petition also challenges the Show Cause Notice dated 28th December, 2023passed by the Sales Tax Officer Class II/AVATO Ward 63, Zone 6, Delhi. (*hereinafter, 'impugned SCN*').

3. Additionally, the present petition also challenges the *vires* of the following notifications:

- ***Notification No.09/2023-Central Tax*** dated**31st March, 2023*;***
- ***Notification No.09/2023-State Tax*** dated**22nd June, 2023*;***
- ***Notification No. 56/2023- Central Tax*** dated **28th December, 2023**; and
- ***Notification No. 56/2023- State Tax*** dated **11th July, 2024**

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(hereinafter, 'the impugned notifications').

4. The present petition is similar to a batch of petitions wherein *inter alia*, the impugned notifications were challenged. ***W.P.(C) No. 16499/2023*** titled ***DJST Traders Private Limited v. Union of India & Ors.*** was the lead matter in the said batch of petitions. On 22nd April, 2025, the parties were heard at length *qua* the validity of the impugned notifications and accordingly, the following order was passed:

> *"4. Submissions have been heard in part. The broad challenge to both sets of Notifications is on the ground that the proper procedure was not followed prior to the issuance of the same. In terms of Section 168A, prior recommendation of the GST Council is essential for extending deadlines. In respect of Notification no.9, the recommendation was made prior to the issuance of the same. However, insofar as Notification No. 56/2023 (Central Tax) the challenge is that the extension was granted contrary to the mandate under Section 168A of the Central Goods and Services Tax Act, 2017 and ratification was given subsequent to the issuance of the notification. The notification incorrectly states that it was on the recommendation of the GST Council. Insofar as the Notification No. 56 of 2023 (State Tax) is concerned, the challenge is to the effect that the same was issued on 11th July, 2024 after the expiry of the limitation in terms of the Notification No.13 of 2022 (State Tax).*
>
> *5. In fact, Notification Nos. 09 and 56 of 2023 (Central Tax) were challenged before various other High Courts. The Allahabad Court has upheld the validity of Notification*

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no.9. The Patna High Court has upheld the validity of Notification no.56. Whereas, the Guwahati High Court has quashed Notification No. 56 of 2023 (Central Tax).

6. The Telangana High Court while not delving into the vires of the assailed notifications, made certain observations in respect of invalidity of Notification No. 56 of 2023 (Central Tax). This judgment of the Telangana High Court is now presently under consideration by the Supreme Court in S.L.P No 4240/2025 titled M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors. The Supreme Court vide order dated 21st February, 2025, passed the following order in the said case:

"1. The subject matter of challenge before the High Court was to the legality, validity and propriety of the Notification No.13/2022 dated 5-7-2022 & Notification Nos.9 and 56 of 2023 dated 31-3-2023 & 8-12-2023 respectively.

2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 respectively.

3. These Notifications have been issued in the purported exercise of power under Section 168 (A) of the Central Goods and Services Tax Act. 2017 (for short, the "GST Act").

4. We have heard Dr. S. Muralidhar, the learned Senior counsel appearing for the petitioner.

5. The issue that falls for the consideration of this Court is whether the time limit for adjudication of show cause notice and passing order under Section 73 of the GST Act and SGST Act (Telangana GST Act) for financial year 2019-2020 could have been

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Compendium: Service of Notice (Sec. 169) | page 50 of 836 Back to Index

extended by issuing the Notifications in question under Section 168-A of the GST Act.

6. There are many other issues also arising for consideration in this matter.

7. Dr. Muralidhar pointed out that there is a cleavage of opinion amongst different High Courts of the country. 8. Issue notice on the SLP as also on the prayer for interim relief, returnable on 7-3-2025."

7. *In the meantime, the challenges were also pending before the Bombay High Court and the Punjab and Haryana High Court . In the Punjab and Haryana High Court vide order dated 12th March, 2025, all the writ petitions have been disposed of in terms of the interim orders passed therein. The operative portion of the said order reads as under:*

"65. Almost all the issues, which have been raised before us in these present connected cases and have been noticed hereinabove, are the subject matter of the Hon'ble Supreme Court in the aforesaid SLP.

66. Keeping in view the judicial discipline, we refrain from giving our opinion with respect to the vires of Section 168-A of the Act as well as the notifications issued in purported exercise of power under Section 168-A of the Act which have been challenged, and we direct that all these present connected cases shall be governed by the judgment passed by the Hon'ble Supreme Court and the decision thereto shall be binding on these cases too.

67. Since the matter is pending before the Hon'ble Supreme Court, the interim order passed in the present cases, would continue to operate and would be governed by the final adjudication by the Supreme Court on the issues in the aforesaid SLP-4240-2025.

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68. In view of the aforesaid, all these connected cases are disposed of accordingly along with pending applications, if any."

8. The Court has heard ld. Counsels for the parties for a substantial period today. A perusal of the above would show that various High Courts have taken a view and the matter is squarely now pending before the Supreme Court.

9. Apart from the challenge to the notifications itself, various counsels submit that even if the same are upheld, they would still pray for relief for the parties as the Petitioners have been unable to file replies due to several reasons and were unable to avail of personal hearings in most cases. In effect therefore in most cases the adjudication orders are passed ex-parte. Huge demands have been raised and even penalties have been imposed.

10. Broadly, there are six categories of cases which are pending before this Court. While the issue concerning the validity of the impugned notifications is presently under consideration before the Supreme Court, this Court is of the prima facie view that, depending upon the categories of petitions, orders can be passed affording an opportunity to the Petitioners to place their stand before the adjudicating authority. In some cases, proceedings including appellate remedies may be permitted to be pursued by the Petitioners, without delving into the question of the validity of the said notifications at this stage.

11. The said categories and proposed reliefs have been broadly put to the parties today. They may seek instructions and revert by tomorrow i.e., 23rd April, 2025."

5. The abovementioned writ petition and various other writ petitions have been disposed of by this Court on subsequent dates, either remanding

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the matters or relegating the parties to avail of their appellate remedies, depending upon the fact situation. All such orders are subject to further orders of the Supreme Court.

6. As observed by this Court in the order dated 22nd April, 2025 as well, since the challenge to the above mentioned notifications is presently under consideration before the Supreme Court in ***S.L.P No 4240/2025*** titled ***M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax & Ors.,*** the challenge made by the Petitioner to the impugned notification in the present proceedings shall also be subject to the outcome of the decision of the Supreme Court.

7. However, in cases where the challenge is to the parallel State Notifications, some of the cases have been retained for consideration by this Court. The lead matter in the said batch is ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

8. In the present case, the submission of the Petitioner, on facts, is that the impugned SCN dated 28th December, 2023 from which the impugned order arises, was uploaded on the *'Additional Notices Tab'*. Thus, the same was not brought to the knowledge of the Petitioner, due to which no reply was filed. Further, a reminder is also stated to have been issued to the Petitioner on 17th March, 2024. Thereafter, the impugned order was passed on 20th April, 2024. It is submitted that the same was also uploaded on the *'Additional Notices Tab'*. Hence, the impugned order was not brought to the knowledge of the Petitioner, and was passed without providing the Petitioner with an opportunity to challenge the case on merits.

9. The Court has heard the parties. In fact, this Court in ***W.P.(C) 13727/2024*** titled ***'Neelgiri Machinery through its Proprietor Mr. Anil***

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Kumar V. Commissioner Delhi Goods And Service Tax And Others', under similar circumstances where the SCN was uploaded on the *'Additional Notices Tab'* had remanded the matter in the following terms:

> *"6. Be that as it may, intention is to ensure that the Petitioner is given an opportunity to file its reply and is heard on merits and that orders are not passed in default. Since there is no clarity on behalf of the Department, this Court follows the order dated 9th September, 2024 in Satish Chand Mittal (Trade Name National Rubber Products) vs. Sales Tax Officer SGST, Ward 25-Zone 1 as also order dated 23rd December, 2024 in Anant Wire Industries vs. Sales Tax Officers Class II/Avato, Ward 83 &Anr (W.P.(C) 17867/2024; DHC) where the Court under similar circumstances has remanded back the matter to ensure the Noticee/Petitioners get a fair opportunity to be heard. The order of the Court in Sathish Chand Mittal (Supra) reads as under:*
>
> *"4. It is the petitioner's case that he had not received the impugned SCN and, therefore, he had no opportunity to respond to the same. For the same reason, the petitioner claims that he had not appear for a personal hearing before the Adjudicating Authority, which was scheduled on 17.10.2023 and later rescheduled to 30.11.2023 as per the Reminder.*
> *5. The petitioner also states that the impugned SCN, the Reminder and the impugned order are unsigned.*
> *6. Mr. Singhvi, the learned counsel appearing for the respondent, on advance notice,fairly states that the principal issue involved in the present case is squarely covered by the decisions of this Court in M/s ACE Cardiopathy Solutions Private Ltd. v. Union of India & Ors.: Neutral Citation No. 2024:DHC:4108-DB as well as in Kamla Vohra v. Sales Tax Officer Class II/ Avato Ward 52 : Neutral Citation No.2024:DHC:5108-DB.*

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7. He states that possibly, the petitioner did not had the access of the Notices as they were projected on the GST Portal under the tab 'Additional Notices & Orders'. He submits that the said issue has now been addressed and the 'Additional Notices & Orders' tab is placed under the general menu and adjacent to the tab 'Notices & Orders'.

8. In view of the above, the present petition is allowed and the impugned order is set aside.

9. The respondent is granted another opportunity to reply to the impugned SCN within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass such order, as it deems fit, after affording the petitioner an opportunity to be heard. 10. The present petition is disposed of in the aforesaid terms. 11. All pending applications are also disposed of."

7. The impugned demand orders dated 23rd April, 2024 and 5th December, 2023 are accordingly set aside. In response to show cause notices dated 04th December, 2023 and 23th September, 2023, the Petitioner shall file its replies within thirty days. The hearing notices shall now not be merely uploaded on the portal but shall also be e-mailed to the Petitioner and upon the hearing notice being received, the Petitioner would appear before the Department and make its submissions. The show cause notices shall be adjudicated in accordance with law.

8. The petitions are disposed of in the above terms. The pending application(s), if any, also stand disposed of."

10. There is no doubt that after 16th January, 2024, changes have been made to the GST portal and the '*Additional Notices Tab'* has been made visible. However, in the present case, the SCN was issued on 28th December, 2023 and the same does not appear to have come to the notice of the

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Petitioner. Under such circumstances, considering the fact that the Petitioner did not get a proper opportunity to be heard and no reply to the SCN has been filed by the Petitioner, the matter deserves to be remanded back to the concerned Adjudicating Authority.

11. Accordingly, the impugned order is set aside. The Petitioner is granted time till 15th December, 2025,to file the reply to impugned SCN. Upon filing of the reply, the Adjudicating Authority shall issue a notice for personal hearing to the Petitioner. The personal hearing notice shall be communicated to the Petitioner on the following mobile no. and e-mail address:

- ***Email ID: akshayallagh@gmail.com***
- ***Mobile: 9811118257***

12. The reply filed by the Petitioner to the SCN along with the submissions made in the personal hearing proceedings shall be duly considered by the Adjudicating Authority and fresh reasoned order with respect to the impugned SCN shall be passed accordingly.

13. However, it is made clear that the issue in respect of the validity of the impugned notifications is left open. Any order passed by the Adjudicating Authority shall be subject to the outcome of the decision of the Supreme Court in ***S.L.P No 4240/2025*** *titled* ***M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors.*** and this Court in ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

14. All rights and remedies of the parties are left open. Access to the GST Portal, shall be provided within one week, to the Petitioner to enable uploading of the reply as also access to the notices and related documents.

Signature Not Verified
Signed By:TANISHKA GUPTA
Signing Date:15.11.2025 17:55:56

15. The present writ petition is disposed of in above terms. All the pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

NOVEMBER 10, 2025*/kp/sm*

Signature Not Verified
Signed By:TANISHKA GUPTA
Signing Date:15.11.2025 17:55:56

CASE 8 OF 34 · GROUP A

M/s Bambino Agro Industries Ltd. v. State of U.P. and Another

Court	High Court of Judicature at Allahabad
Bench	Saumitra Dayal Singh and Indrajeet Shukla, JJ.
Date	19.12.2025
Case no. / citation	2025:AHC:179271-DB; WRIT TAX No. 2707 of 2025 and connected writs

Holding in brief

Limitation for appeal runs from actual/constructive communication; offline service prevails over portal upload where both exist. Writ petitions allowed; orders set aside on terms.

Provisions involved

CGST Act, 2017: Sections 73, 74, 107 and 169 (169(1))

Status

Remanded; relief in part to both sides. Directions: Deposit as directed; SCN with RUDs in two weeks; replies in four weeks; hearing with two weeks' notice; conclude in six months.

The judgment begins on compendium page 59.

2025:AHC:229995-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 2707 of 2025

M/S Bambino Agro Industries Ltd

…..Petitioner(s)

Versus

State of Uttar Pradesh and another

…..Respondent(s)

Counsel for Petitioner(s)	:	Pranjal Shukla
Counsel for Respondent(s)	:	C.S.C., Gopal Verma

Along with :

1. **Writ Tax No. 1286 of 2025:**
   Gopala Trading Company
   Versus
   State of U.P. and another

2. **Writ Tax No. 2399 of 2025:**
   M/S Dot Onn Business Solution Pvt. Ltd
   Versus
   Assistant Commissioner Ghaziabad

3. **Writ Tax No. 2722 of 2025:**
   M/S Singh Associates
   Versus
   State of Uttar Pradesh and another

4. Writ Tax No. 2783 of 2025:
M/S Vrinda Polymer
Versus
State of Uttar Pradesh and another

5. Writ Tax No. 3098 of 2025:
Shivalik Sales
Versus
State of U.P. and 2 others

6. Writ Tax No. 3101 of 2025:
Bachche Lal Gupta
Versus
State of U.P. and another

7. Writ Tax No. 3103 of 2025:
Shivalik Sales
Versus
State of U.P. and 2 others

8. Writ Tax No. 3927 of 2025:
Durgesh Automobiles
Versus
State of Uttar Pradesh and 2 others

9. Writ Tax No. 3928 of 2025:
Durgesh Automobiles
Versus
State of Uttar Pradesh and 2 others

10. Writ Tax No. 3938 of 2025:
Durgesh Automobiles
Versus
State of Uttar Pradesh and 2 others

11. Writ Tax No. 4625 of 2025:
M/S Jay Bholey Transport Company
Versus

State of Uttar Pradesh and another

12. Writ Tax No. 7362 of 2025:
M/S Futureworld Greenhomes Private Limited
Versus
The Union of India and another

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.

(Per Saumitra Dayal Singh, J.)

1. Heard Sri Pranjal Shukla along with Sri Gauransh Mishra and Sri Parth Goswami, Ms. Pooja Talwar, Sri Vedant Agrawal and Sri Rishi Raj Kapoor, Sri Anup Shukla holding brief of Sri Devansh Mishra, Ms. Akashi Agarwal and Sri Vishwaraj Singh on behalf of petitioners; Sri Anoop Trivedi learned Additional Advocate General assisted by Sri Arvind Kumar Mishra and Sri Ankur Agarwal learned Standing Counsel for the State of Uttar Pradesh, Sri S.P. Singh learned ASGI assisted by Sri Gopal Verma for the Union of India and the GSTN, and Sri Gaurav Mahajan and Sri Amit Mahajan for the central revenue authorities. Also, we have taken assistance of Sri Praveen Kumar, as *amicus curiae*.

2. Present batch of petitions has been filed by different petitioners assailing individual Adjudication Orders passed against them, under the UPGST Act, 2017 (hereinafter referred to as the ‘State Act’) and the CGST Act, 2017 (hereinafter referred to as the ‘Central Act’). At the outset, strong preliminary objection has been raised by the revenue as to maintainability of these petitions. It has been submitted that the Adjudication Orders are appealable. Therefore, the present petitions

may not be entertained, and the individual petitioners be relegated to the forum of alternative remedy. Learned counsel for petitioners have met the preliminary objection on the strength of fact assertion that neither the Show Cause Notice nor the Order in Original/Adjudication Order was served on the petitioners, at the relevant time. Only on recoveries being initiated or other consequential steps being taken by the revenue authorities, they acquired knowledge about the Adjudication Orders passed and/or recoveries pressed thereunder. By that time, the hard period of limitation prescribed under Section 107 (1) read with (4) of the State/Central Act, namely, 120 days (including only 30 days for condonation of delay), expired. In face of the law as has been laid down by the Supreme Court in **Commissioner of Customs & Central Excise vs Hongo India Pvt. Ltd.; (2009) 5 SCC 791** and **Assistant Commissioner (CT) LTU, Kakinada vs Glaxo Smith Kline Consumer Health Care Limited; (2020) 19 SCC 681**, the petitioners have been left remediless under the enacted law. Therefore, they have been constrained to approach this Court under its extraordinary writ jurisdiction.

3. In all cases, Adjudication Orders and the Show Cause Notices preceding those orders and the impugned orders are described to have been served on the individual petitioners by the revenue authorities - by uploading and thus making them available on the Common Portal, designed and managed by GSTN, a corporation of Union of India. Details of the Adjudication Orders involved in this batch, together with dates are tabluated below:

Writ Tax No.	**Adjudication Order date**	**Passed under Section**
2707 of 2025	20.04.2024	73 of the U.P.G.S.T. Act, 2017
1286 of 2025	20.08.2024	73 of the U.P.G.S.T. Act, 2017

2399 of 2025	24.08.2024	73 of the U.P.G.S.T. Act, 2017
2722 of 2025	21.08.2024	73 of the U.P.G.S.T. Act, 2017
2783 of 2025	27.08.2024	73 of the U.P.G.S.T. Act, 2017
3098 of 2025	27.08.2024	73 of the U.P.G.S.T. Act, 2017
3101 of 2025	21.09.2024	74 of the U.P.G.S.T. Act, 2017
3103 of 2025	15.02.2025	73 of the U.P.G.S.T. Act, 2017
3927 of 2025	31.12.2024	74 of the U.P.G.S.T. Act, 2017
3928 of 2025	12.08.2024	74 of the U.P.G.S.T. Act, 2017
3938 of 2025	31.12.2024	74 of the U.P.G.S.T. Act, 2017
4625 of 2025	22.08.2024	73 of the U.P.G.S.T. Act, 2017
7362 of 2025	04.05.2024	73 of the C.G.S.T. Act, 2017

4. In such facts, a question has arisen-if the orders impugned in the individual writ petitions have been ‘communicated’ to the individual petitioners, within the meaning of that word used in Section 107 of the State/Central Act? Unless the orders to be appealed are effectively ‘communicated’ to the person aggrieved (by that order), who may then seek an appeal remedy thereagainst, the period of limitation of three months to file such appeal, may not start running.

5. The word ‘communicated’ is not defined under the State/Central Act. However, learned counsel appearing for either party have referred to Section 169 of those Acts as also Sections 4, 12 and 13 of the Information Technology Act 2000 (hereinafter referred to as the ‘IT Act’).

6. Seen in that light, a legal issue has arisen - if a Show Cause Notice or other notice or order passed either under the State Act or the Central Act may be found served or may be found ‘deemed served’ in terms of Section 169 of the State/Central Act, on such person, upon it being uploaded and thus made available on the Common Portal of the

GSTN, or on dispatch of electronic mail at the email address provided by the affected person, at the time of obtaining registration? In that context, the effect of sending an SMS alert with respect to issuance of such notice or order, may also be examined.

7. In view of such purely legal issues involved, these writ petitions have been entertained in the following factual background and legal context.

8. The legislative context in which the issue has arisen needs closer scrutiny. Prior to the 101st Constitution Amendment (that enabled enactment of the Goods and Service Tax laws), there pre-existed in the State of Uttar Pradesh, other taxation enactments. Upon independence, the U.P. Sales Tax Act, 1948 was enacted by the State legislature and Rules were framed thereunder. Parallelly, the Parliament enacted the Central Sales Tax Act, 1956 and framed Rules thereunder, for the purpose of taxation of inter-state sales of goods. After five decades, in 1994 U.P. Sales Tax Act, 1948, was rechristened as U.P. Trade Tax Act, 1948. However, no material change arose in the context of the issue raised before us. Later, the U.P. Value Added Tax Act, 2008 was enacted. It remained in force till 30th June 2017. Also, there existed laws relating to Income Tax, Central Excise and Service Tax, besides Customs duty and Service Tax. Under those laws, there existed procedures for issuance and service of notices and orders as also there existed provisions for limitation, to file appeals and seek condonation of delay thereunder. Further, there pre-existed (under the Sales Tax laws) another provision with respect to recall of *ex parte* orders passed by the Assessing Authorities.

9. Upon enactment of the State/Central Act, the above-mentioned provisions have undergone a transformative change, affecting the vital

behavioral responses of the assessees. Relevant to the State of Uttar Pradesh, we may extract and highlight, in tabular form, some of the changes that have been caused upon enforcement of GST regime, in supersession of the U.P. Trade Tax Act, 1948 and U.P. Value Added Tax Act, 2008. Those are as below:

Act	Service of Notices/Orders	Appeal	Remand/ Recall
U.P Trade Tax Act, 1948	***Rule 77. Method of service. –*** *(1) The service of any notice, summons or order under the Act or the Rules may be effected by any of the following methods, namely:* *(a) by giving or tendering a copy thereof to the dealer or person concerned or to his manager, munim, accountant or agent, or to one of his employees or to any audit member of his family residing with him];* *(b) by registered post:* *Provided that if, upon an attempt having been made to serve any such notice, summons order by either of the above said methods, the authority concerned has reasonable ground to believe that the addressee is evading service or that, for any other reason which in the opinion of such authority is sufficient, service cannot be effected by any of the above said methods, the said authority shall, after recording the reasons therefore, cause the notice, summons or order to be served by affixing a copy thereof-* *(i) if the addressee is a dealer, on some conspicuous part of the dealer's place of business or the building in which the dealer's place of business is located, or upon some conspicuous part of the place of the dealer's business last intimated to the said authority by the dealer or of the place where the dealer is known to have last carried on business or the place where the dealer resides; or* *(i) if the addressee is not a dealer on some conspicuous part*	***Section 9: Appeal*** *(1) Any dealer or other person aggrieved by an order made by the assessing authority, other than an order mentioned in section 10A or sub-section (6) of section 13A, may, within thirty days from the date of service of the copy of the order, appeal to such authority as may be prescribed: PROVIDED that where the disputed amount of tax, fee or penalty does not exceed one thousand rupees, the appellant may, at his option, request the appellate authority in writing for summary disposal of his appeal, whereupon the appellate authority may decide the appeal accordingly.* *(3) The appellate authority may, after calling for and examining the relevant records and after giving the appellant and the Commissioner a reasonable opportunity of being heard or, as the case may be, after following the procedure prescribed under sub-section (1A)* *(a) In the case of an order of assessment or penalty,* *(i) confirm or annul such order; or* *(ii) vary such order by reducing or enhancing the amount of assessment or penalty, as the case maybe, whether such reduction or enhancement arises from a point raised in the grounds of appeal or otherwise; or* *(iii) set aside the order and direct the assessing authority to pass a fresh order after such*	***Section 30. Power to set aside an order of assessment or an order in appeal*** *Power to set aside an order of assessment or an order in appeal (1) In any case in which an order of assessment or penalty is passed ex parte, the dealer may apply to the assessing authority within thirty days of the service of the order to set aside such order and reopen the case; and if such authority is satisfied that the applicant did not receive notice or was prevented by sufficient cause from appearing on the date fixed, it may set aside the order and reopen the case for hearing:* *PROVIDED that no such application for setting aside an ex parte assessment order shall be entertained unless it is accompanied by*

	of his residence or office of the building which his office or residence is located ; and such service shall be deemed to be as effectual as if it had been made on the addressee personally. *(2) When a process server, peon or any other employee of the Trade Tax Department delivers or tenders any notice, summon or order to the dealer or addressee, personally or to any of the persons referred to in clause (a) of sub-rule (1) he shall require the persons to whom the notice, summons or order is delivered or tendered to sign an acknowledgment of the service of the notice, summons or order.* *(3) Where the person to whom the notice, summons or order is tendered as aforesaid refuses to accept the same or refuses to sign the acknowledgment after its acceptance the process server, peon or employee shall submit a report to the concerned authority standing facts about such refusal and the name, address of the person, if any, present at the time of such refusal. Such report shall be verified on oath by the process server, peon or employee. The concerned authority may, having regard to the facts and circumstances and after making such further enquiry in the matter, if any, as it thinks fit, consider such refusal to be proof of service.* *(4) When service is made by post, or acknowledgment purporting to have been signed by the addressee or his manager, munim, accountant or agent or an employee or member of his family or an endorsement by a postal employee that the addressee or his manager, munim, accountant or agent or employer or member of his family refused to take delivery may be deemed by the concerned authority to be proof of service.* *(5) When the notice, summons or order is served by affixing a copy thereof in accordance with the first proviso to sub-rule) the*	*inquiry as may be specified; or* *(iv) direct the assessing authority to make such inquiry and to submit its report within such time as may be specified in the direction or within such extended time as it may allow from time to time, and on the expiration of such time the appellate authority may, whether the report as been submitted or not, decide the appeal in accordance with the provisions of the preceding sub-clause; or* *(b) in the case of any other order confirm, cancel or vary such order:* *PROVIDED that nothing in this sub-section shall preclude the appellate authority from dismissing the appeal at any stage with such observations as it deems fit where the appellant applies for withdrawal of the same and no request for enhancement of the assessment or penalty has been made.* *(6) Section 5 of the Limitation Act, 1963, shall apply to appeals or other applications under this section.*	*satisfactory proof of the payment of the amount of tax admitted by the dealer to be due.*

	official serving it shall return the original to the authority concerned with report endorsed thereon or annexed thereto stating t}}at he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressee's office or residence or the building in which his office or residence is located or his place of business was identified, and on whose presence the copy was affixed.. The said official shall also obtain the signature or thumb-impression identifying the addresse's residence or office or building or place of business to his report.		
U.P VAT Act, 2008	***Rule 72:****Mode of service –* *The service of any notice, summons or order under the Act or the Rules may be affected by any of the following methods, namely:* *(a) Service to be on dealer or person concerned in person when practicable, or on his agent wherever it is practicable service shall be made on the dealer or person concerned in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.* *(b) Service on agent by whom dealer or person concerned carries on business-* *In a case relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the authority from which the notice, summons or order is issued, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service. (c) Service on an adult member of dealer or concerned person's family-* *Where in any case the dealer or person concerned is absent from his residence at the time when the service of notice, summons or order is sought to be effected at his residence and there is no*	***Section 55 : Appeal*** *(1) Any dealer or other person aggrieved by an order made by the assessing authority, other than an order mentioned in sub-section (7) of section 48 may, within thirty days from the date of service of the copy of the order, after serving a copy of appeal memo on the assessing authority or the Commissioner, appeal to such authority (hereinafter referred to as appellate authority), as may be prescribed:* *Provided that where due to any reason, any appellant fails to serve a copy of appeal memo on the assessing authority before filing appeal, he may serve copy of such appeal memo within a time of one week from the date on which appeal has been filed or within such further time as the appellate authority may permit.* *((5) The appellate authority may, after calling for and examining the relevant records and after giving a reasonable opportunity of being heard to the appellant and the Commissioner- (a) in the case of an order of assessment and penalty.- (i) confirm or annul such order ; or (ii) vary such order by reducing or*	***Section 32. Power to set aside exparte order of assessment or penalty*** *(1)In any case in which an order of assessment or re-assessment or rejection of application for registration or order of penalty is passed exparte, the dealer may apply to the assessing authority within thirty days of the service of the order to set aside such order and re-open the case; and if such authority is satisfied that the applicant did not receive notice or was prevented by sufficient cause from appearing on the date fixed, it may set aside the order and reopen the case for hearing:* *Provided that no such application*

	likelihood of his being found at the residence within a reasonable timeand he has no agent empowered to accept service of the notice, summons or order on his behalf, service may be made on any adult member of the family, whether male or female, who is residing with him. *Explanation: A servant is not a member of the family within the meaning of this rule.* *(d) Person served to sign acknowledgement-* *Where the process server delivers or tenders a copy of the notice, order or summons to the dealer or person concerned personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original notice, order or summons.* *(e) Procedure when dealer or person concerned refuses to accept or cannot be found –* *Where dealer or concerned person or his agent or such other person as aforesaid refuses to sign the acknowledgement, or where the process server, after using all due and reasonable diligence, cannot find the dealer or person concerned who is absent from his place of business or residence at the time when service is sought to be effected on him and there is no likelihood of his being found within a reasonable time and there is no agent empowered to accept service of the notice or order or summons on his behalf, nor any other person on whom service can be made, the process server shall affix a copy of the notice, order or summons on the outer door or some other conspicuous place in the house in which the dealer or person concerned ordinarily resides or carries on business or personally works for gain, and shall then return the original to the authority from which it was issued, with a report endorsed thereon or*	*enhancing the amount of assessment or penalty, as the case may be, whether such reduction or enhancement arises from a point raised in the grounds of appeal or otherwise ; or (iii) set aside the order and direct the assessing authority to pass a fresh order after such inquiry as may be specified; or (iv) direct the assessing authority to make such inquiry and to submit its report within such time as may be specified in the direction or within such extended time as it may allow from time to time, and on the expiration of such time the appellate authority may, whether the report has been submitted or not decide the appeal in accordance with the provisions of the preceding sub-clauses; or (b) in the case of any other order- (i) confirm, cancel or vary such order; or (ii)set aside the order and direct the assessing authority to pass a fresh order after such inquiry as may be specified:* *Provided that nothing in this sub-section shall preclude the appellate authority from dismissing the appeal at any stage with such observations as it deems fit where the appellant applies for withdrawal of the same and no request for examination of legality or propriety of order under appeal has been made by the Commissioner* *(7) Section 5 of the Limitation Act, 1963, shall apply to appeals or other applications under this section.*	*for setting aside an exparte assessment order shall be entertained unless it is accompanied by satisfactory proof of the payment of the amount of tax to be due under this Act on the turnover of sales or purchases, or both, as the case may be, admitted by the dealer in the returns filed by him or at any stage in any proceeding under this Act, whichever is greater.* *(2) Where an assessment order under sub-section (1) of section 25 is passed, exparte, the dealer may apply to the Assessing Authority within thirty days of the service of the order, to set aside such order and if such authority is satisfied that the dealer has filed the tax return and deposited the tax due according to the tax return within thirty days from the last day prescribed for filing such tax return, it may modify or set aside such order and also the demand notice, if any, issued thereunder.* *(3) In any case in which any assessment or re-*

	annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed. *(f) Endorsement of time and manner of service –* *The process server shall, in all cases in which the notice, order or summons has been served under clause (d), endorse or annex, or cause to be endorsed or annexed, on or to the original notice, order or summons, a return stating the time when and the manner in which the notice, order or summons was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the notice, order or summons.* *(g) Examination of the process server –* *Where a notice, order or summons is returned under clause(e), the authority shall, if the return under that rule has not been verified by the affidavit of the process server, and may, if it has been so verified, examine the process server on oath, or cause him to be so examined by another authority, touching his proceedings, and may make such further enquiry in the manner as it thinks fit: and shall either declare that the notice, order or summons has been duly served or order such service as it thinks fit.* *(h) Simultaneous issue of notice or order or summon for service by post in addition to personal service-* *(i) The authority shall, in addition to, and simultaneously with, the issue of notice, order or summons for service in the manner provided under this rule, also direct the notice, order or summons to be served by registered post, acknowledgement due, addressed to the dealer or person concerned, or his agent empowered to accept the service,*		*assessment has been made ex parte and –* *(a) appeal under section 55 against such order has been dismissed as barred by time;* *(b) in appeal before the Tribunal under section 57, order, passed by the Appellate Authority under section 55, has been confirmed; and* *(c) Commissioner or Additional Commissioner designated by the Commissioner, after giving reasonable opportunity of being heard to the dealer, is satisfied that-* *(i)dealer, at any stage during the period of assessment or reassessment proceedings, had no notice of initiation of such proceedings;* *(ii)as a result of ex parte assessment or reassessment, without proper basis amount of tax has been levied;* *(iii)undue hardship will be caused to the dealer if such assessed tax is realized from him; and* *(iv)if, after giving reasonable opportunity of being heard to the dealer, tax is*

	at the place where the dealer or person concerned, or his agent, actually and voluntarily resided or carries on business or personally works for gain. Provided that nothing in this sub-clause shall require the authority to issue a notice, order or summons for service by registered post, where, in the circumstances of the case, the authority considers it unnecessary. *(ii) when an acknowledgement purporting to be singed by the dealer or person concerned or his agent is received by the authority or the postal article containing the notice, order or summons is received back by the authority with an endorsement purporting to have been made by a postal employee to the effect that the dealer or person concerned or his agent had refused to take delivery of the postal article containing the notice, order or summons, when tendered to him, the authority issuing the notice, order or summons shall declare that the notice, order or summons had been duly served on the dealer or person concerned. Provided that where the notice, order or summon was properly addressed, prepaid and duly sent by registered post, acknowledgement due, the declaration referred to this sub-rule shall be made notwithstanding the fact that the acknowledgement having lost or mislaid, or for other reasons, has not been received by the authority within thirty days from the date of issue of the notice, order or summon* *(i) Substituted service-* *(i) Where the authority is satisfied that there is reason to believe that the dealer or person concerned is keeping out of the way for the purpose of avoiding service, or that for any other reason the notice, order or summons cannot be served in the ordinary way, the authority shall order the notice, order or*		*reassessed, demand created by earlier order of assessment or reassessment may stand reduced to a large extent, he may direct the assessing authority to set aside such ex parte order of assessment or reassessment and to make assessment or reassessment after affording reasonable opportunity to the dealer, if the dealer presents an application before the Commissioner within a period of sixty days from the date on which dealer receives the order passed by the Tribunal under section 57.*

	summons to be served by affixing a copy thereof in some conspicuous place in the office premises, and also upon some conspicuous part of the house (if any) in which the dealer or person concerned is known to have last resided or carried on business or personally worked for gain, or in such other manner as the authority thinks fit. *(ii) Where the authority acting under sub clause(i) orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the dealer or person concerned is last known to have actually and voluntarily resided, carried on business or personally worked for gain.* *(iii) Effect of substituted service;- Service substituted by the order of authority shall be as effectual as if it had been made on the dealer or concerned person.* *(iv) Time for appearance to be fixed;- Where service is substituted by the order of authority, the authority shall fix such time for the appearance of the dealer or the concerned person as the case may require.* *(j) Service of notice, order or summon where the dealer or person concerned resides within the jurisdiction of another authority –* *A notice, order or summons may be sent by the authority by which it is issued, whether within or without the State, either by one of its process server or by post to any authority having jurisdiction in the place where the dealer or person concerned resides.* *(k) Duty of authority to which notice, order or summon is sent-* *The authority to which a notice, order or summons is sent under clause (j) shall, upon receipt thereof, proceed as if it has been issued by such authority and shall then return the notice, order or summons to the issuing authority, together with the*		

	record (if any) of its proceedings with regard thereto. *(l) Service on dealer or person concerned in prison –* *Where the dealer or person concerned is confined in a prison, the notice, order or summons shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the dealer or person concerned.* *(m) Service on civil public officer or on servant of railway or local authority -Where person concerned is a public officer (not belonging to the Indian military, naval or air forces), or is a servant of a railway or local authority, the authority may, if it appears to it that the notice, order or summons may be most conveniently so served, send it for service on the person concerned to the head of the officer in which he is employed together with a copy to be retained by the person concerned.* *(n) Duty of a person to whom notice, order or summon is delivered or sent for service-* *(i) Where a notice, order or summons is delivered or sent to any person for service under clause (l) or (m) above, such person shall be bound to serve it if possible, and to return it under his signature, with the written acknowledgement of the dealer or person concerned, and such signature shall be deemed to be evidence of service.* *(ii) Where for any reason service is impossible, the notice, order or summons shall be returned to the authority with a full statement of such reason and of the steps taken to procure service, and such statement shall be deemed to be evidence of nonservice. (o) Substitution of letter for notice, order or summon-* *(i) The authority may, notwithstanding anything hereinbefore contained, substitute for a*		

	notice, order or summons a letter signed by the authority where the dealer or person concerned is, in the opinion of the authority, of a rank entitling him to such mark of consideration. *(ii) A letter substituted under sub clause (i) shall contain all the particulars required to be stated in a notice, order or summons, and, subject to the provisions of sub clause (iii), shall be treated in all respects as a notice, order or summons.* *(iii) A letter so substituted may be sent to the dealer or person concerned by post or by a special messenger selected by the authority, or in any other manner which the authority thinks fit; and, where the dealer or the concerned person has an agent empowered to accept service, the letter may be delivered or sent to such agent.*		
Central Excise Act, 1944.	***Section 37C. Service of decisions, orders, summons, etc. —*** *(1) Any decision or order passed or any summons or notices issued under this Act or the rules made thereunder, shall be served,--* *(a) by tendering the decision, order, summons or notice, or sending it by registered post with acknowledgment due or by speed post with proof of delivery or by courier approved by the Central Board of Excise and*	***35. Appeals to [Commissioner (Appeals).—****(1) Any person aggrieved by any decision or order passed under this Act by a Central Excise Officer, lower in rank than a Principal Commissioner of Central Excise or Commissioner of Central Excise, may appeal to the Principal Commissioner of Central Excise or Commissioner of Central Excise (Appeals) [hereafter in this Chapter referred to as the Commissioner (Appeals)*	

	Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)], to the person for whom it is intended or his authorised agent, if any; *(b) if the decision, order, summons or notice cannot be served in the manner provided in clause (a), by affixing a copy thereof to some conspicuous part of the factory or warehouse or other place of business or usual place of residence of the person for whom such decision, order, summons or notice, as the case may be, is intended;* *(c) if the decision, order, summons or notice cannot be served in the manner provided in clauses (a) and (b), by affixing a copy thereof on the notice-board of the officer or authority who or which passed such decision or order or issued such summons or notice.*	*within sixty days from the date of the communication to him of such decision or order:* *Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days].*	
Customs Act, 1962	***Section 153. Modes for service of notice order, etc.***— *(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:--* *(a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;* *(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;* *(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;* *(d) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or*	***128. Appeals to Commissioner (Appeals).***— *(1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a Principal Commissioner of Customs or Commissioner of Customs] may appeal to the Commissioner* *(Appeals) within sixty days from the date of the communication to him of such decision or order:* *Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.*	

	carried on business; or *(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.*		
Finance Act, 1994	***Section 83. Application of certain provisions of Act 1 of 1944****.— The provisions of the following sections of the Central Excise Act, 1944, as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise :- sub-section (2A) of section 5A, sub-section(2) of section 9A, 9AA, 9B, 9C, 9D, 9E, 11B, 11BB, 11C, 12, 12A, 12B, 12C, 12D, 12E, 14, 15, 15A, 15B, 31, 32, 32A to 32P, 33A, 35EE, 34A, 35F, 35FF, to 35O (both inclusive), 35Q, 35R, 36, 36A, 36B, 37A, 37B, 37C, 37D, 38A and 40.*	*SECTION 85. Appeals to the Commissioner of Central Excise (Appeals).* *(1) Any person aggrieved by any decision or order passed by an adjudicating authority subordinate to the Principal Commissioner of Central Excise or Commissioner of Central Excise may appeal to the Commissioner of Central Excise (Appeals).* *(3A) An appeal shall be presented within two months from the date of receipt of the decision or order of such adjudicating authority, made on and after the Finance Bill, 2012 receives the assent of the President, relating to service tax, interest or penalty under this Chapter :* *Provided that the Commissioner of Central Excise (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of two months, allow it to be presented within a further period of one month.*	*Section 83.*
Income Tax Act, 1961	***Section 282 of the Act read with Rule 127*** ***282.*** *(1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as "communication") may be made by delivering or transmitting a copy thereof, to the person therein named,—* *(a) by post or by such courier*	***249. Form of appeal and limitation.*** *(2) The appeal shall be presented within thirty days of the following date, that is to say,-* *(a) where the appeal is under section 248, the date of payment of the tax, or* *(b)where the appeal relates to any assessment or penalty, the date of service of the notice of*	

	services as may be approved by the Board; or *(b) in such manner as provided under the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons; or* *(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000 (21 of 2000); or* *(d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.* *(2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (1) may be delivered or transmitted to the person therein named.*	*demand relating to the assessment or penalty:* *Provided that, where an application has been made under section 146 for reopening an assessment, the period from the date on which the application is made to the date on which the order passed on the application is served on the assessee shall be excluded, or* *(c)in any other case, the date on which intimation of the order sought to be appealed against is served.*	
Goods & Service Tax Act, 2017	***Section 169. Service of notice in certain circumstances.-*** *(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:-* *(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or* *(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or* *(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or* *(d) by making it available on the*	*Section 107. Appeals to Appellate Authority.-* *(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.* *(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:* *Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or*	

	common portal; or *(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or* *(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.*	*confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:* *Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74 or section 74A.*	

10. Thus, in short, it may be noted that the State/Central Acts seek to transform the pre-existing physical/offline mode of service of notices and orders as also filing of appeals, by enabling electronic modes, chiefly by employing the Common Portal of the GSTN. Thus, all communications between the authorities and the assessee are permitted through electronic mode, by way of a complete alternative to the offline/physical mode. At present, only hearings are permitted through offline mode. The faceless mechanism otherwise adopted under the Income Tax Act, 1961, does not find place under the GST regime, at present.

11. As noted above, by way of a direct consequence of the sudden transformative change introduced upon the enforcement of the GST laws, numerous challenges arose both to the assessees and the authorities. During this hearing, we had raised a query to Sri Gopal

Verma, learned counsel for GSTN if he could inform the number of complaints received by the GSTN (from inception) about the working of the Common Portal. Vide email communication dated 26.11.2025 received by Sri Gopal Verma, he has been apprised that 2,94,811 tickets evidencing that many complaints were received by GSTN, from both streams i.e. revenue authorities as also the assessees. Of those, 2,94,442 have been resolved and the balance 369 are in the process of being resolved. The tabular chart appended to the written instructions as have been made available to us (marked as 'X' and retained on record), is extracted below:

Year/Month	***ACI***	***Received***	***Resolved***	***Pending***
2017	*0*	*127375*	*127375*	*0*
2018	*0*	*36664*	*36664*	*0*
2019	*0*	*16531*	*16531*	*0*
2020	*0*	*16016*	*16016*	*0*
2021	*0*	*28701*	*28701*	*0*
2022	*0*	*13673*	*13673*	*0*
2023	*0*	*17721*	*17721*	*0*
2024	*0*	*13581*	*13581*	*0*
2025	*0*	*24549*	*24180*	*369*
Total	***0***	***2,94,811***	***2,94,442***	***369***

12. The present bench constitution has been dealing with similar issues (as involved in these cases), since 07.10.2025. Faced with a regular, unending flood of similar litigation, wherein effectively similar pleadings have been made by different assessees arising from 59 different districts of the State, we noticed that the common complaint/grievance of such assessees/petitioners remains that they had not been served or communicated the Show Cause Notice and/or

the Adjudication Order passed by the Adjudicating Authority, in their cases - almost all, issued by the State revenue authorities. Consistently, the State revenue authorities have maintained that they have disbanded the practice of service of physical notices (through Process Server and Post). As to the reason, only this much has been disclosed that Section 169(1) [chiefly sub-clause (c) and sub-clause (d)] permits the revenue authorities to serve notices and orders through electronic mode. Since the assessees are registered on the Common Portal, service of all such notices and orders is being affected through electronic mode only, except where registration itself may have been cancelled.

13. Observing that deliberate structural change to the legislation and the consequent executive/administrative action under the GST regime, it is further observed - the grievances of the assessees are three fold. First, the assessees are claiming violation of principles of natural justice occasioned by non-service of Show Cause Notices and Adjudication Orders (through physical/offline mode). Second, they are aggrieved that the hard period of limitation prescribed under Section 107 is being lost for reason of non-communication of the Adjudication Orders (though physical/offline modes). Third, neither the appeal authority (under the GST regime) has the power to set aside the Adjudication Order and remit the proceedings to the Adjudicating Authority to pass afresh order nor the Adjudicating Authority has the power (under the GST regime) to set aside an *ex parte* order, passed by it.

14. Cumulatively, the assessees are at loss of hearing at the first tier, which is the most crucial tier in tax litigation. Unless an assessee is given full opportunity to file objections/replies and unless he is heard

by the Assessing/Adjudicating Authority, the relief in the appeal remedy may itself become more difficult to avail, especially since the appeal authority may only pass an order on the merit dispute but it may not pass any order based solely on violation of procedure or rules of natural justice.

15. Primarily, on those considerations as have been noted in **M/s Riya Construction vs State of U.P. & 3 Ors; 2025:AHC:179271-DB,** we passed the below quoted order, in that case:

> *"1. Ms. Farheen, learned Advocate holding brief of Shri Santosh Kumar Srivastava, learned counsel for the petitioner, Shri Ankur Agarwal, learned counsel for the Revenue and perused the record.*
>
> *2. The present writ petition has been filed challenging the Adjudication Order dated 04.02.2025 passed under Section 73 of the UPGST Act passed by respondent no.3 creating a demand of tax of Rs.1,61,225.64/- for the FY 2020-21.*
>
> *3. Submission is, no show cause notice was ever issued to the petitioner prior to the impugned order being passed and in any case, no date of filing of reply or personal hearing was communicated to the petitioner before the impugned order came to be passed. Also, the date of service of the adjudication order has been doubted. Pleadings to that effect exist.*
>
> *4. In many similar matters arising from same/similar mistakes committed by the Adjudicating Authorities, we have been setting aside such orders, conditionally. Hundreds, if not thousands of petitions have arisen, on same or similar grounds, clearly indicating to the Court, widespread difficulties being faced by numerous registered persons.*
>
> *5. Primarily, it is being noted, show cause notices and adjudication orders are being served only through online mode. In that, many times alerts are not being sent to the noticees and in any case the notices and orders are often not readily visible on the GSTN Portal. Further, it has been noted, besides rigid/fixed period of limitation with limited power to condone the delay, the Appeal Authorities do not have the power to set aside/remand the proceedings, to the Adjudicating Authority. Thus, many times the right of appeal is lost to the aggrieved assessees, for reason of late service of Adjudication Order. Even, if the Appeal Authorities were to pass an order on merits, it would still take away one*

opportunity of hearing that is otherwise available to the noticee, to represent its case, under the scheme of the Act.

6. While there may be some merit in the objection being raised by the petitioner, that facts are otherwise, in the first place a coordinate bench in Mahaveer Trading Company Vs. Deputy Commissioner State Tax And Another, Neutral Citation No.- 2024:AHC:38820-DB, a coordinate bench took note of similar and other violations of rules of natural justice, by Adjudicating Authorities and thus set aside the Adjudication Order.

7. Again in another order passed by a coordinate bench in M/S Shubham Steel Traders Vs. State of U.P. and Another, Neutral Citation No2024: AHC:31108-DB, it has been observed as below:

> *"10. Rules of natural justice ensure fairness in proceedings. Once the authority had fixed the matter for hearing on 06.11.2023 it was incumbent on that authority either to pass the order or to fix another date and communicate the same to the petitioner. Communication of the other date was necessary as according to the assessing authority the petitioner failed to appear before it on the date fixed on 06.11.2023.*
>
> *11. By not passing the order on 06.11.2023 and not communicating the next date fixed in the proceedings, the assessing authority forced the ex-parte nature of the order on the petitioner, by its own conduct."*

8. In view of our consistent view in similar matters, no useful purpose would be served in keeping this writ petition pending or calling for counter affidavit, at this stage.

9. Accordingly, the writ petition is allowed and the impugned order is set aside, subject to the petitioner depositing Rs.16,000/- within a period of one month from today. Present writ petition is disposed of with the following directions:

(i) Subject to the above deposit being made by the petitioner, the Adjudicating Authority shall make available to the petitioner copy of the show cause notice together with any additional/supplementary notice etc issued in these proceedings together with copies of Relied Upon Documents ('RUDs' in short) within a period of two weeks from the date of compliance shown by the petitioner.

(ii) Petitioner shall file reply, if any, within a further period of four weeks therefrom.

(iii) Thereupon the respondent No. 3 shall fix appropriate date for hearing and communicate the same to the petitioner in the

manner prescribed by law with at least two weeks' advance notice.

(iv) Petitioner undertakes to cooperate and participate in the proceedings and not seek any undue or long adjournment.

10. It is expected that the proceedings thus remitted would be concluded within six months from the date the petitioner makes first compliance under this order and deposits the amount specified above."

16. We called for a report from the office as to the number of cases date-wise, in which **M/s Riya Construction (supra)** has been followed. The data (upto date) furnished by the office is as below:

Date	Number of cases
13.10.2025	83
14.10.2025	94
15.10.2025	43
16.10.2025	33
17.10.2025	30
27.10.2025	13
28.10.2025	14
29.10.2025	65
30.10.2025	28
31.10.2025	10
03.11.2025	23
04.11.2025	33
06.11.2025	34
07.11.2025	28
10.11.2025	57
11.11.2025	33
12.11.2025	30
13.11.2025	27
14.11.2025	50
15.11.2025	33

17.11.2025	31
18.11.2025	21
19.11.2025	39
20.11.2025	30
21.11.2025	40
24.11.2025	39
25.11.2025	27
26.11.2025	41
27.11.2025	44
28.11.2025	70
01.12.2025	36
02.12.2025	32
03.12.2025	77
04.12.2025	44
05.12.2025	47
08.12.2025	77
09.12.2025	52
10.12.2025	110
11.12.2025	61
12.12.2025	83
15.12.2025	83
16.12.2025	20
17.12.2025	114
18.12.2025	111
19.12.2025	213

17. Consequentially, more than 2300 cases have arisen and have been disposed of in the terms of **M/s Riya Construction (supra)**, including earlier in the day, today. However, that may (in a self-critical way), only reflect the rough and ready or minimum justice delivered, owing to extreme circumstances; existence of widespread grievances, and

need to serve the larger cause of justice. Citizens and other entities may be assessed to pay tax and demands made, only after being given a reasonable opportunity of being heard. Their right of appeal may not be curtailed, lightly. Also, precious revenue (to the State), may not stay locked in litigation, indefinitely. Thus, against payment of about 10% of the disputed demand of tax (which is the amount required to be deposited to file a statutory first appeal), such *ex parte* Adjudication Orders have been set aside and proceedings remitted to the Adjudicating Authorities, on the terms provided in individual orders. Barring cases where 10% amount is less than Rs. 5000/-, (there on the suggestion of the learned Standing Counsel, the condition of such deposit has been relaxed), and some cases involving penalty and interest demands only, all other proceedings have been remitted against deposit of 10% of the disputed demand of tax, sometimes, even in the absence of learned counsel for the individual petitioners - at the suggestion of the learned Standing Counsel. Largely, the quantum of disputed tax involved has been a few thousands or lakhs and only sometimes running into a crore or more. It indicates to us that the grievance has arisen to small and medium sized businesses.

18. However, we see no end to the litigation on this count. For reason of the considered stand taken by the State revenue authorities - that they propose to serve the Show Cause Notices and the Adjudication Orders through electronic mode only, and not through physical mode, the fact circumstance giving rise to such litigation may never end at least in the proceedings arising at the hands of the State revenue authorities.

19. As noted in earlier orders passed in these cases, we explored possibilities to encourage the executive - to find a solution to the problem. To the extent Section 169(1) admits of (amongst others), two other regular modes of service - through tender and dispatch by Speed Post, besides communication through electronic mode (either through Common Portal or through e-mail), we were of the opinion that the State Government may itself examine the issue first, and find an administrative solution to the problem. However, in face of the last written instructions dated 08.12.2025 issued by Dr. Nitin Bansal, Commissioner State Tax U.P., Lucknow, that possibility has ceased to exist. At the same time, it has been informed - where registration may have been cancelled, notices are being dispatched through physical mode. To the extent the learned Additional Advocate General made a further statement that the said written instruction is the last stand of the State in this matter, filing of affidavit has been dispensed. The said written instruction has been marked as 'Y' and retained on record. We consider it proper to extract the said instructions in entirety, as below:

> "***रिट टैक्स संख्या-2707/2025, M/s Bambino Agro Industries Ltd. Vs. State of Uttar Pradesh & Another एवं इससे सम्बद्ध अन्य वादों में मा० उच्च न्यायालय, इलाहाबाद के अंतरिम निर्णय दिनांक 26.11.2025 के संदर्भ में इंस्ट्रक्शन (Instruction)***
>
> *1. यह कि रिट टैक्स संख्या-2707/2025, M/s Bambino Agro Industries Ltd. Vs. State of Uttar Pradesh & Another के वाद में मा० उच्च न्यायालय, इलाहाबाद के समक्ष दिनांक 11.11.2025 को सुनवाई के दौरान विभागीय पक्ष के रूप में इंस्ट्रक्शन प्रस्तुत किया गया था, जो निम्नवत है -*

A. दिनांक 01.07.2017 से लागू किये गये उ०प्र० वस्तु एवं सेवा कर अधिनियम, 2017 के अन्तर्गत समस्त कार्य ऑनलाइन किये जाने की अवधारणा रखी गयी थी एवं इस अधिनियम की धारा 169 में नोटिस/आदेश की तामीली (Service of Notice/Order) के विस्तृत प्रावधान भी किये गये हैं। चूंकि विभाग द्वारा जी०एस०टी० के अन्तर्गत समस्त कार्य जी०एस०टी०एन० पोर्टल के माध्यम से ऑनलाइन ही किये जाते हैं, ऐसी स्थिति में सामान्य कार्यप्रणाली में कोई भी नोटिस/आदेश अधिकारियों द्वारा जी०एस०टी०एन० पोर्टल के माध्यम से ऑनलाइन ही तामील कराये जाते हैं जो कि अधिनियम की धारा-169 के अनुरूप ही है। जी०एस०टी०एन० पोर्टल पर नोटिस/आदेश जारी किए जाने का मुख्य उद्देश्य कर अधिकारियों एवं करदाताओं के मध्य एक digital, transparent, और प्रभावी communication स्थापित करना भी है। यह प्रणाली अनुपालन की प्रक्रिया को सुव्यवस्थित करते हुए यह सुनिश्चित करती है कि दोनों पक्ष एक ही पोर्टल पर एक ही स्थान से अभिलेखीय सूचनाएँ प्राप्त कर सकें।

B. इस संदर्भ में विनम्रतापूर्वक निवेदन है कि यद्यपि प्रत्येक नोटिस/आदेश को करदाता को भौतिक रूप से तामील कराया जाना जी.एस.टी. व्यवस्था की मूल अवधारणा से सुसंगत नहीं है तथापि जहाँ करदाता का पंजीकरण (Registration) नोटिस/आदेश की तिथि से पूर्व निरस्त किया जा चुका हो, उन परिस्थितियों में नोटिस/आदेश की तामीली जी०एस०टी०एन०

पोर्टल पर उपलब्ध कराने के साथ-साथ भौतिक रूप से भी करायी जा सकती है।

2. यह कि रिट टैक्स संख्या-2707/2025, M/s Bambino Agro Industries Ltd. Vs. State of Uttar Pradesh & Another के वाद में मा० उच्च न्यायालय, इलाहाबाद के समक्ष दिनांक 25.11.2025 को सुनवाई के दौरान विभागीय पक्ष के रूप में इंस्ट्रक्शन प्रस्तुत किया गया था, जो निम्नवत है -

A. यह कि रिट टैक्स संख्या-2707/2025, M/s Bambino Agro Industries Ltd. Vs. State of Uttar Pradesh & Another के वाद में जीएसटीएन द्वारा अनुपूरक प्रतिशपथ पत्र दाखिल किया गया , जिसके बिंदु संख्या 6 में यह उल्लेख किया गया है कि जीएसटी पोर्टल पर कर अधिकारियों द्वारा जारी किए गए नोटिस, आदेश आदि को करदाता ने कब खोला-इसका कोई रिकॉर्ड लॉग (LOG) सिस्टम में नहीं बनता। इसलिए करदाता द्वारा नोटिस/अतिरिक्त नोटिस/आदेश किस तिथि को खोला गया है, इसकी जॉच पोर्टल के माध्यम से नहीं की जा सकती है।

B. यह कि जीएसटीएन द्वारा दाखिल अनुपूरक प्रतिशपथ पत्र के बिंदु 7 में यह उल्लेख किया गया है कि माननीय उच्च न्यायालय के निर्णय दिनांक 08.10.2025 के क्रम में जीएसटीएन इस तथ्य का परीक्षण करेगा कि क्या पोर्टल पर ऐसा विकल्प बनाया जाना संभव है जिससे यह पता लगाया जा सके कि करदाता द्वारा नोटिस / आदेश/अतिरिक्त नोटिस को कब देखा गया है।

C. यह कि जीएसटीएन द्वारा दाखिल अनुपूरक प्रतिशपथ पत्र बिंदु 8 में यह उल्लेख किया गया

है कि धारा 169 में नोटिस/आदेश की सेवा के सभी तरीकों का विस्तृत प्रावधान है , और विभाग/जीएसटीएन द्वारा इन्हीं प्रावधानों (विशेषकर धारा 169 (1) (c) और (d)) का पालन किया जाता है। जीएसटी प्रणाली को पूरी तरह स्वचालित अप्रत्यक्ष कर व्यवस्था बनाने के उद्देश्य से कानूनी प्रावधानों के अनुसार तैयार किया गया है। किसी भी प्रकार के बदलाव या संशोधन का दूरगामी प्रभाव पूरे जीएसटी प्रणाली की संरचना और कार्य प्रणाली को प्रभावित करेगा।

D. उपरोक्त संदर्भ में माननीय उच्च न्यायालय, इलाहाबाद के निर्देशानुसार जीएसटीएन , नोटिस/अतिरिक्त नोटिस/आदेश हेतु पोर्टल पर "पॉप-अप/व्यू टैब" व्यवस्था विकसित करने पर विचार कर रहा है।

3. यह कि मा० उच्च न्यायालय में लम्बित उक्त वाद के सम्बन्ध में अपर महाधिवक्ता, श्री अनूप त्रिवेदी के साथ आयुक्त, राज्य कर, उ०प्र०, लखनऊ एवं अन्य विभागीय अधिकारियों द्वारा निम्न तिथियों में Zoom Meeting के माध्यम से वीडियों कॉफ्रेंसिंग की गयी, जिसका विवरण निम्न है -

1. दिनांक 02.12.2025 समय 06:30 PM

2. दिनांक 03.12.2025 समय 06:30 PM

3. दिनांक 06.12.2025 समय 01:00 PM

वीडियों कॉफ्रेंसिंग में विचार-विमर्श के बाद राज्य कर विभाग, उ०प्र० के सभी 20 जोनों से प्राप्त सूचना के अनुसार

GSTN के BO-WEB पोर्टल पर वित्तीय वर्ष 2024-25 में सभी प्रकार की कुल 02.82 लाख नोटिसें जारी की गयी हैं।

4. यह कि जीएसटी प्रणाली के अंतर्गत पंजीकृत प्रत्येक करदाता द्वारा GSTN के BO-WEB पोर्टल पर निर्धारित कर अवधि के अनुसार मासिक/त्रैमासिक रिटर्न अनिवार्यतः प्रस्तुत किए जाते हैं, जिनके आधार पर कर जमा (Tax Deposit), इनपुट टैक्स क्रेडिट (ITC) का Claim तथा रिफंड का दावा किया जाता है। न्याय-निर्णयन की कार्यवाही से असंतोष की स्थिति में करदाता विभागीय स्तर पर प्रथम अपील दाखिल कर राहत प्राप्त करते हैं। उपर्युक्त समस्त कार्यवाही करदाता द्वारा विभागीय BO-WEB पोर्टल के माध्यम से ऑनलाइन की जाती है।

ऐसी दशा में जब करदाता द्वारा पोर्टल पर उपलब्ध सभी ऑनलाइन साधनों एवं सुविधाओं का प्रयोग अनिवार्य रूप से किया जाता है, तब विभाग द्वारा नोटिसों/आदेशों की भौतिक तामीली करना न केवल अव्यावहारिक होगा, बल्कि विभागीय एवं विधायी मंशा के भी प्रतिकूल सिद्ध होगा ; क्योंकि ऐसी तामीली से ऑनलाइन-आधारित जीएसटी तंत्र की मूल भावना प्रभावित होगी।

5. यह कि निकट भविष्य में जीएसटी ट्रिब्यूनल के पूर्ण रूप से कार्यशील हो जाने पर करदाता को द्वितीय अपील के स्तर पर एक अतिरिक्त विधिक मंच उपलब्ध हो जाएगा।

अतः मा० उच्च न्यायालय से विनम्रतापूर्वक प्रार्थना है कि नोटिसों व आदेशों की तामीली के सम्बन्ध में किसी भी प्रकार के बदलाव या संशोधन का दूरगामी प्रभाव पूरे जीएसटी प्रणाली की संरचना और कार्य प्रणाली को प्रभावित करेगा। अतः मा० उच्च न्यायालय से निवेदन है कि प्रकरण में कोई प्रतिकूल दृष्टिकोण न अपनाये जाने की कृपा करें।

(डा० नितिन बंसल)

आयुक्त, राज्य कर,
उत्तर प्रदेश,
लखनऊ।"

20. It is relevant - though the State Government of Uttar Pradesh has chosen to adopt that course, a slightly nuanced and more pragmatic approach has been adopted by the central revenue authorities inasmuch as in more than 2000 cases dealt with by us - following **M/s Riya Construction (supra)**, barely a handful would be cases involving central revenue authorities. They may be one in a hundred, or less. On a query put to the learned ASGI (also appearing for the Union of India), as to the possible reason for the same, it has been candidly informed that the central revenue authorities have chosen to serve physical notices of proceedings and copies of orders, in addition to the service through electronic mode. Clearly, the Central Government has realised the difficulties arising from service effected through electronic mode, through the same Common Portal of the GSTN. Therefore, it may have taken a more pragmatic decision to service notices and orders through physical mode, as well.

21. Earlier, pursuant to order dated 08.10.2025, GSTN has filed Supplementary Counter Affidavit wherein it has been stated as below:

> *"4. That the Hon'ble High Court, vide its order dated 08.10.2025, directed the GSTN to file supplementary affidavits in all cases in that batch to make necessary disclosures with respect to point nos. (i), (ii) and (iii) of paragraph no. 7 and 11 of the said order. The relevant paragraph is reproduced below for ready reference:*
>
> > *7. The GSTN may file a short affidavit disclosing:*
> >
> > *(i) the dates on which show-cause notice dated 14.05.2024 and the impugned order dated 22.08.2024 were put up on the Common Portal;*

(ii) if the date on which such notice/order/additional notice may have been opened by the petitioner can be traced out through electronic trail;

(iii) if any alert was sent to the petitioner that the show-cause notice dated 14.05.2024 and the order dated 22.08.2024 had been put up on the Common Portal.

8. The affidavit would also disclose if any mechanism can be devised where once an alert is sent either through e-mail or SMS, another column may be added under the notice/order/additional notice column as may confirm that fact and also if another feature may be added whereby once the notice/order/additional notice put up on the Common Portal has been viewed by the assessee, the portal may thereafter reflect such event i.e. that the document has been "viewed".

9. Let such affidavit be filed within a period of two weeks.

10. Connect and list with Writ Tax No. 2707 of 2025 on 11.11.2025.

11. In view of the order passed today, GSTN may also file supplementary affidavits in all cases in that batch to make necessary disclosure with respect to point nos. (i), (ii) and (iii) of paragraph no. 7 of this order.

5. That with regard to directions issued by the Hon'ble Court so far as the direction contained in para No.7 (i) and 7 (iii) in order dated 08.10.2025, it is stated that any alerts (e-mail/SMS) is triggered in real time/near real time basis to the Primary Authorized Signatory's registered mobile number/e-mail ID upon the same being uploaded on the portal. The details of such alerts have already been provided by GSTN in the counter affidavit submitted by GSTN on 23.09.2025 in the matters which have been tagged along with lead matter (Writ Tax No. 2707 of 2025) and brought to the notice of GSTN.

6. That with regard to the directions contained in para-No.7(ii) above, it is stated that the GST portal does not create a log in respect of the accessing of any communication issued by the Tax Officers, such as a Show Cause Notice, Order etc., by a taxpayer. Hence, electronic trail of the date on which such notice/order/additional notice may have been opened by the petitioner can't be traced.

7. That with respect to the direction contained in para-No.8 of the Hon'ble High Court's order dated 08.10.2025, it is most respectfully submitted that GSTN shall examine the feasibility of

introducing such features/mechanism on GST portal. However, it is respectfully submitted that the Section 169 of the GST Act provides for various modes of Service of Notices/Orders etc.

8. That it is most respectfully submitted that the aforesaid provision contained under Section 169 of CGST Act 2017 exhaustively prescribed inter-alia the method of service of notice/order which has been complied (more specifically sub-clause (c) and (d) under subsection 1 of Section 169 of the Act) with by the Deptt./GSTN.

9. That it is most respectfully submitted that GST system has been designed as per the provision stipulated under the CGST Act and Rules thereunder with the objective of establishing a fully automated indirect tax regime in the country. Any deviation or modification thereto may have a cascading impact, potentially destabilizing the structural and functional integrity of the GST system.

22. Another circumstance that we may notice before we proceed further is - the State of Uttar Pradesh remains the most populous State of the country and at present one that may not be at the forefront of use of internet and digital technology, experienced in certain other parts of the country. Traders big or small, live in this diversely large State, not in homogeneous circumstances but in circumstances that vary practically every 100 kms. Besides a huge divide that otherwise exists between city dwellers and villagers, we are also mindful, though electricity may have become commonly available at the same time easy availability of internet services and use of digital technologies in day to day communications in business activities (besides online payments enabled through QR coding), ease use of electronic devices, may not be prevalent among all. Contextually, such people and the broader class to which they may be traced, have existed from before the introduction of the GST regime. The legislative background noted above, led to formation of behavioral patterns, habits formed and practices developed - enabling ease of

communication with the revenue authorities, through physical mode, in absence of electronic mode.

23. Though it cannot be denied that in future, the mode of communication may move to and be more convenient to all users, through electronic platforms only, at the same time that fast sharp (reformative) turn made by the State revenue authorities occasioned solely upon enforcement of the GST regime, may have left a large section of the assessees bemused and disbalanced, quite like a carriage being pulled by a galloping horse, over a sharp bend. They may have been caught off–guard/ill-prepared and thus forced to falter, for that reason as well.

24. Also, it is integral to any tax administration that all compliances required by the law may not be made directly by the tax payer or the assessee but through an intermediary i.e. a tax professional engaged for the purpose of filing his monthly or annual return or to reply to notices or for any other communication with the revenue authorities that may become necessary or be required. It is common for an assessee to change such consultants/professionals and employees, requiring further changes to be made to the details furnished to the revenue authorities, for making electronic communications.

25. Further, it is also an admitted position of fact, currently the Common Portal run by the GSTN knows only the foreign language i.e. English. It does not interact with the taxpayer who it seeks to serve, in his native language-Hindi. Again, we may take note - Hindi remains the language of the people of the State, besides being its official language. All communications issued by the State Government are in Hindi, including the Show Cause Notices and Adjudication Orders, in issue here. It is not only the official status of the language

Hindi, but it is the underlying logic/rationale behind that status, that is relevant. Hindi is the language of the masses including the literate and the illiterate, in the State. However, apparently for technical reasons and not by way of design, the GSTN has only been able to work its Common Portal, in English, a language with which 10-15% of the population may be conversant, by some estimates. Clearly, it is a language known to tax professionals but the same is not true of all trade and business people, who the GSTN seeks to serve.

26. Therefore, there exists an underlying assumption on part of the GSTN and the revenue authorities that the large body of taxpayers may be able to work the Common Portal, if not by self, then through the professionals they may hire. If they were to work it themselves, they will first have to navigate through various tabs and options provided only in English and then be able to reach the notice or order written in Hindi. Perhaps for that reason as well, the Central revenue authorities have adopted the mechanism to serve notices and orders, through physical/offline mode, as well.

27. Yet, the Court has been informed by the GSTN- neither it has any electronic trail nor mechanism to generate report of the date and time when any order made available on the Common Portal may have been retrieved or opened or downloaded or viewed by the addressee/tax payer/registered person, nor there exists any mechanism to ascertain the date and time when any email communication or SMS alert may have been seen by the recipient. Also, there is no statutory obligation on the registered person/taxpayer to either open and work on the portal, every day.

28. Next, we may note the provisions. Section 107 (1), (4) and (11) of the State/Central Act read as below:

*"**107. Appeals to Appellate Authority.-** (1) **Any person aggrieved** by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, 2017 (12 of 2017) by an adjudicating authority **may appeal** to such Appellate Authority as may be prescribed **within three months** from the date on which the said decision or order is communicated to such person.*

(2) .....

(3) .....

*(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, **allow** it to be presented **within a further period of one month**.*

(5) .....

(6) .....

(7) .....

(8) .....

(9) .....

(10) .....

*(11) **The Appellate Authority** shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall **not refer the case back to the adjudicating authority that passed the said decision or order** :*

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order :

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is

given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74."

(emphasis supplied)

29. Then, Section 161 of the State/Central Act reads as below:

*"**Section 161. Rectification of errors apparent on the face of record**.- Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, **any authority**, who has passed or issued any decision or order or notice or certificate or any other document, **may rectify any error** which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the Central Goods and Services Tax Act, 2017 (12 of 2017) or by the affected person **within a period of three months** from the date of issue of such decision or order or notice or certificate or any other document, as the case may be :*

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document :

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission :

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification."

(emphasis supplied)

30. Also, Section 169 of the State/Central Act reads as below:

*"**Section 169. Service of notice in certain circumstances.-** (1) **Any decision, order, summons, notice or other communication** under this Act or the rules made thereunder **shall be served by any one of the following methods**, namely :*

*(a) by giving or **tendering** it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person ; or*

*(b) by registered post or **speed post** or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence ; or*

*(c) by **sending a communication to his e-mail address** provided at the time of registration or as amended from time to time ; or*

*(d) by **making it available on the Common Portal** ; or*

*(e) **by publication in a newspaper** circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain ; or*

*(f) if **none of the modes aforesaid is practicable, by affixing** it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.*

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved."

(emphasis supplied)

31. Then, Rule 142 (1), (1A) and (2) of the Rules framed in the State/ Central Act reads as below:

*"**142. Notice and order for demand of amounts payable under the Act.** - (1) The proper officer **shall serve, alongwith** the -*

*(a) **Notice** issued under Section 52 or Section 73 or Section 74 or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130, **a summary thereof electronically** in **FORM G.S.T. D.R.C.-01**.*

*(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in **FORM G.S.T. D.R.C.-02**, specifying therein the details of the amount payable.*

*(1A) The proper officer may, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74, as the case may be, communicate the details of any tax, interest and penalty as ascertained by the said officer, in **Part A** of **FORM G.S.T. D.R.C.-01A**.*

*(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of Section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of Section 74, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the act [whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A)] he shall inform the proper officer of such payment in **FORM G.S.T. D.R.C.-03** and an acknowledgement, accepting the payment made by the said person in **FORM G.S.T. D.R.C.-04**."*

32. Further, Section 4, 12 and 13 of the Information Technology Act, 2000, reads as below:

*"**4. Legal recognition of electronic records.**—**Where any law provides that information or any other matter shall be in writing** or in the typewritten or printed form, then, notwithstanding anything contained in such law, **such requirement shall be deemed to have been satisfied if such information** or matter is–*

*(a) **rendered** or made available **in an electronic form**; and*

(b) accessible so as to be usable for a subsequent reference.

12. Acknowledgment of receipt.—*(1) Where the originator has not 3[stipulated] that the acknowledgment of receipt of electronic record be given in a particular form or by a particular method, an acknowledgment may be given by—*

(a) any communication by the addressee, automated or otherwise; or

(b) any conduct of the addressee, sufficient to indicate to the originator that the electronic record has been received.

(2) Where the originator has stipulated that the electronic record shall be binding only on receipt of an acknowledgment of such electronic record by him, then unless acknowledgment has been so received, the electronic record shall he deemed to have been never sent by the originator.

(3) Where the originator ***has not*** *stipulated that the electronic record shall be binding only on receipt of such acknowledgment, and the acknowledgment has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed to within a reasonable time,* ***then the originator may give notice*** *to the addressee stating that no acknowledgment has been received by him and specifying a reasonable time by which the acknowledgment must be received by him and if no acknowledgment is received within the aforesaid time limit he may after giving notice to the addressee, treat the electronic record as though it has never been sent.*

13. Time and place of dispatch and receipt of electronic record.—*(1) Save as otherwise agreed to between the originator and the addressee, the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator.*

(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:—

(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,—

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not the designated

computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

(4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

(5) For the purposes of this section,–

(a) if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;

(b) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;

(c) "usual place of residence", in relation to a body corporate, means the place where it is registered."

(emphasis supplied)

33. Also, in that context, the words - 'computer', 'computer network', 'computer resource', 'computer system', 'electronic form', 'electronic record', 'originator' as defined under IT Act read as below:

"(i) "computer" means any electronic, magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network;

(j) "computer network" means the inter-connection of one or more computers or computer systems or communication device through–

(i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and

(ii) terminals or a complex consisting of two or more interconnected computers or communication device whether or not the inter-connection is continuously maintained;

(k) "computer resource" means computer, computer system, computer network, data, computer data base or software;

(l) "computer system" means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data and output data, that performs logic, arithmetic, data storage and retrieval, communication control and other functions;

(r) "electronic form" with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device;

(t) "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

(za) "originator" means a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary."

34. In this background, learned counsel for the respective parties have advanced submissions. First, Shri Pranjal Shukla, learned counsel for some of the petitioners submitted, upon reading Section 169 of the State/Central Act in entirety, 'deemed service' may arise or be construed only with reference to service effected through 'tendering' or 'publication' or 'affixation' (under sub-section 2), or upon dispatch of registered post or speed post (under sub-section 3), of Section 169 of the State/Central Act. Service through 'tender' and 'registered post' or 'speed post' are contemplated under Section 169(1)(a) and (b) of

the State/Central Act, while service through 'publication' is contemplated under Section 169(1)(e) of the State/Central Act and service through 'affixation' is contemplated under Section 169(1)(f) of the State/Central Act. Constructive service may arise only with reference to Clauses (a), (b), (e) and (f) of Section 169(1) of the State/Central Act. Further, to the extent no deeming fiction of law has been created to Clauses (c) and (d) of Section 169(1) of the State/Central Act, no conclusion of constructive service may ever arise, by uploading the show cause notice or the order on the Common Portal of the GSTN, or by sending the communication (about such notice or order), through email. He has relied on the decision the Supreme Court in **Satendra Kumar Antil vs Central Bureau of Investigation & Anr.; 2025 SCC OnLine SC 1578**.

35. Second, it has been submitted, for an appeal to be preferred by a person against the adjudication order, such order must be effectively 'communicated' to the affected person, before limitation may start running, under Section 107 of the State/Central Act. For 'communication' of any order that may be appealed against, it's 'service' on the affected person is a *sine qua non*. To the extent the word 'communicated' has not been defined under the State/Central Act and to the extent only modes of service have been provided under Section 169 of the State/Central Act, unless actual or deemed/constructive service of the show cause notice and/or order exists, neither the noticee may comply with such a notice nor the aggrieved person may comply with or file appeal against the adjudication order.

36. Learned counsel for the petitioner would further submit, uploading an order or notice on the Common Portal, is not the same as 'service'

contemplated under Section 169 of the State/Central Act. Read in conjunction with Section 13(1) and (2) of the Information Technology Act, 2000, the Common Portal remains a ‘computer resource’ of the GSTN, but not the petitioners. He further denies existence of any contract between the GSTN, and the petitioners as may allow for an interpretation to arise, that uploading of a notice and order on the Common Portal amounts to ‘deemed service’ of the notice or order, on the petitioner.

37. Ms. Pooja Talwar, learned counsel, has largely adopted the submissions advanced by Mr. Pranjal Shukla. Further, it is her submission, no satisfaction has been recorded in the adjudication order as to the mode of service of the Show Cause Notice. Neither such mode has been specified nor disclosed in order.

38. Next, she would submit Clauses (a), (b), (c), (d), (e) and (f) of the sub-section (1) of Section 169 of the State/Central Act are alternative modes of service. The mode later specified may be adopted only if the mode earlier provided, is not ‘practicable’. Therefore, it never became open to the revenue authorities to adopt the modes of service prescribed under Clauses (c) and (d) of Section 169(1) of the Act, without making any effort to serve the Show Cause Notices and the orders on the noticee/assessee, through the modes prescribed under Clauses (a) and (b) of the sub-section (1) of Section 169 of the State/Central Act.

39. Relying on **TVL Sri Mathuru Eswarar Traders vs The Deputy State Tax Officer-I, Poolankinar Thiruppur** passed in **W.P. No. 16787 of 2025** and **Mr. Sahulhameed vs The Commercial Tax Officer** passed in **W.P. (MD) No. 26481 of 2024**, both decisions of the Madras High Court, it has been submitted - in similar

circumstances physical mode of service should have been adopted first. Only if the same was not available or possible, the alternative mode (placed lower in hierarchy of choices created under Section 169(1) of State/Central Act), may have been adopted. Referring to **M/ s Kashi Bartan Bhandar vs State of U.P. & 2 Ors.; 2019 NTN (69) 111**, it has been further submitted that a co-ordinate bench has already recognized service through a lower placed mode may be adopted, only if none of the higher placed modes are ‘practicable’.

40. With respect to applicability of the Information Technology Act, her submissions are at variance to the submissions advanced by Sri Pranjal Shukla. She would submit, the State/Central Acts being special laws and complete Code in themselves, there is no room to apply the general principles of the Information Technology Act.

41. The other counsel appearing for individual petitioners have adopted the submissions advanced by Sri Pranjal Shukla and Ms. Pooja Talwar. Thereafter, Sri Vishwaraj Singh, another learned counsel, besides adopting submissions noted above, has stressed that the words 'making it available' on the Common Portal used in sub-Clause (d) of sub-Section 1 of Section 169 of the State/Central Act are wider and contemplate more than uploading on the Common Portal. The legislature has deliberately not used the word ‘upload’ and its derivatives but the phrase 'making it available'. Thereby the legislative intent has been clearly expressed - that the document or communication should be readily/easily/conveniently available to the noticee/assessee/addressee. If the document sought to be served is hidden on the portal as may require expert knowledge or skillful handling of the Common Portal, necessarily involving more than elementary knowledge of the working of computers and websites, it

may not be readily inferred that by merely uploading the document on the Common Portal, the same had been made available to the addressee/noticee/assessee.

42. Further, the memorandum of issue of GSTN enlists its main objective as:

> *"1. To promote trade and commerce by providing easily accessible, quick and efficient information technology and communications related services to the public and Government.*
>
> *2. To assist and engage with various stakeholders in preparing information technology and communications related infrastructure for smooth roll out of any information technology driven initiatives and other e-governance initiatives of the Government or any department or agency of the Government, specifically for the roll out of the GST."*

43. GSTN has not yet fulfilled that objective of its incorporation. It only seeks to serve the revenue's interest, by displaying such tabs and notices as are dictated to it for revenue considerations. By way of example, he has relied on screenshots of the dashboard of an assessee. Clearly on the first screen itself a tab appears, containing additional/immediate notification regarding authentication of Aadhar. He has relied on other pages of the dashboard to disclose that the revenue has prioritized entries of the Electronic Credit Ledger as also status of the returns filed for the last five return period, depicted in different colors indicating whether such return has been filed, or is overdue, or has not been filed. Therefore, it is not difficult for GSTN to provide for similar easy access to all notices/orders etc. uploaded, for the purpose of service on an assessee – to make compliance, by making similar tabs/options. Unless similar measures are devised and adopted, not only the object of the GSTN may remain unfulfilled, but

service of notices and/or orders may not be found complete, on mere uploading of such documents.

44. We have also heard Sri Praveen Kumar as *Amicus Curiae,* on the issue. He would submit, no doubt, concept of deemed service exists in tax laws (State/Central). However, a question arises - to the interpretation to be given to the law and the circumstance when such deemed service may be permitted as a fact and the consequence that may arise, therefrom. First, a deeming fiction in law is created by the legislature for a specific purpose. The Court may give full effect to it after ascertaining existence of circumstances wherein such deeming fiction may arise. By way of necessary corollary - the applicability of the deeming fiction and that effect caused in law may not arise in circumstances beyond those contemplated by the legislature, itself.

45. Plainly, the legislature contemplated a deeming fiction of law providing deemed service/constructive service, in circumstances covered under Clauses (a), (b), (e) and (f) of Section 169 (1) of the State/Central Act only, through sub-Section 2 and 3 of Section 169. That effect in law may not be avoided. At the same time, that effect may never arise with respect to the other modes of service described under Section 169(1)(c) and (d). There is no provision of law to allow for such a consequence or interpretation of the law. Reliance has been placed on the decision of the Supreme Court in **State of West Bengal vs Sadan K. Bormal & Anr.; (2004) 6 SCC 59**.

46. Second, he has stressed the meaning to be given to the word 'communicate' used in Section 107 of the State/Central Act. According to him both for the purposes of compliance of an adjudication notice or order and for the purpose of challenge thereto, the notice/order must be ‘communicated’ (as a fact) to the noticee/assessee. Though

for the purpose of effective communication channels/modes of service have been created by the legislature under Section 169 of the State/Central Act allowing for electronic mode, unless service of notice or order is made with the object and purpose of adequate communication to the noticee/assessee, service would remain incomplete and purposeless. Unless the vital stake holder in the tax regime, that the noticee/assessee is, is served such notice and order - effectively communicating the same to him, the intent/purpose of that service of notice or decision of the adjudicating authority or statutory authority under the State/Central Act, may remain unfulfilled and any service that may be claimed by the revenue authorities, would remain an empty/idle formality.

47. Therefore, the word 'communicated' used in Section 107 of the State/Central Act, refers to knowledge of the contents of the dispatch made, while deemed service leads to presumption of receipt of a dispatch made, only. Examined in that light, if by any stretch of imagination, uploading of notice/order on the Common Portal is ‘receipt’, it would fall short of actual/constructive ‘communication’ of the contents of such notice or order, as may impart knowledge to the noticee/assessee of its purpose.

48. In absence of any verifiable measures provided by the GSTN to ascertain if such notice/order (as may have been sent through electronic mail or uploaded on the Common Portal) had been viewed or retrieved and thus seen by the noticee/assessee, the exercise of service through electronic modes may therefore remain incomplete.

49. Relying on **Harikisan vs State of Maharashtra & Ors.; AIR 1962 SC 911**, he would submit, though the ratio of that decision of the Supreme Court arose in the context of liberty jurisdiction, at the same

time, it is relevant to note that the Supreme Court has reasoned – for the detenue to have opportunity to represent, physical delivery is necessary. Communication in that context was interpreted to mean imparting sufficient knowledge of all the grounds on which the order of detention may be based. Applying that principle, he would contend, unless the contents of the notice/order are delivered or disclosed to the noticee/assessee, any receipt or service claimed may never satisfy the test of the document being "communicated". To summarise, he would submit, all communications made may include service but all service may not amount to communication.

50. Further, it has been submitted that the Common Portal was contemplated by legislature and is governed by the provision of Section 146 of the State/Central Act. Primarily, it is for the purpose of providing registration, payment of tax, filing of returns, computation and settlement of tax, issuance of e-way bills but not for issuance of show-cause notice and service or orders. To that extent, in his submission no notification has been issued by the State Government.

51. Responding to the above submissions, Sri Anoop Trivedi, learned Additional Advocate General, has relied on the provisions of the Information Technology Act, besides referring to Section 169 of the State/Central Act. He has heavily relied on the provisions of Section 2(r)(d) and Section 13 and 14 of the Information Technology Act. According to him, any information generated/sent/received or stored in any electronic record would lead to a dispatch of and its receipt in accordance with Section 13 of the State/Central Act, the moment such electronic record enters the computer resource outside the control of the originator, here, the adjudicating authority. To the extent, the show-cause notice and/or orders were uploaded by the Adjudicating

authority on the Common Portal which is a computer resource outside the control of the State/revenue authorities, due dispatch is established.

52. Second, referring to the forms filled up by the assessee while seeking registration under the State/Central Act, it has been stated that an agreement exists between the revenue authorities and GSTN. Also, they have duly disclosed the e-mail ID as also from other details used to authenticate and limit the access to the user dashboard by the registered person, to the exclusion of all others. Relying on Section 2(k) of the Information Technology Act, it has been submitted, receipt of dispatch arises on the uploading of the show-cause notice or the order on the Common Portal. To the extent e-mail be sent to an individual and not to the Common Portal, its receipt may arise as soon as it is retrieved.

53. Relying on **M/S Axiom Gen Nxt India Pvt. Ltd. vs Commercial State Tax Officer**, a decision of the learned single judge of Madras High Court in **W.P. No. 1114 of 2025**, it has been stressed, uploading a document on the Common Portal is equivalent to publication. Therefore, in any case, the consequence of deemed service/constructive service would arise as soon as show-cause notice or the order is uploaded on the Common Portal. Because of lack of time lag between uploading of a document on the Common Portal and it becoming visible to the addressee, that service is instant.

54. Next, reference has been made to Rule 142 of the Rules framed under the State and the Central Act to submit, it is wholly permissible in the scheme of the GST laws to communicate to the noticee/assessee the notices and orders by sending alerts through electronic mode. Referring to the other affidavit filed by the GSTN, it has been

submitted, such e-mail communications were dispatched. Additionally, SMS alerts were also sent to the noticee/assessee on their designated mobile phone number. Therefore, the service of notice and order is wholly complete.

55. To buttress his submission, the learned Additional Advocate General has relied on two decisions of two co-ordinate benches of this Court, first in the case of **Atlantis Intelligence Ltd. vs Union of India; [2025] 177 taxmann.com 522 (Allahabad)** and the other in **D.R. Hotels (P.) Ltd. vs Deputy Commissioner; [2025] 179 taxmann.com 551 (Allahabad)**. According to him in **Atlantis Intelligence Ltd. (supra)**, the co-ordinate bench has taken a categorical view that service of an order by electronic mail is valid service and the date on which such dispatch is made would count as the date for the purpose of start of limitation to file appeal u/s 107 of the State/Central Act. Also, according to him in **D.R. Hotels (P.) Ltd. (supra)** merely because an asseesee/noticee may have assigned usage of his user ID on the Common Portal, to his employee or such person who may or may not have communicated (to the assessee), due information (in real time), may make no difference to the extent that service made through electronic mode is valid service, as may admit of no doubt.

56. Further, reliance has been placed on the decision of the Delhi High Court in **M/S Mathur Polymers vs Union of India; 2025:DHC:7435-DB**, the issues being raised before this Court are described to have been answered in favour of the revenue and against the assessees, by the Delhi High Court by relying on its earlier decision in **Rishi Enterprises vs Additional Commissioner, Central Tax Delhi; 2025:DHC:7353-DB**. To that extent, it has been submitted

that uploaded notice or order on the Common Portal would invite inference of deemed service of such notice/order on the addressee. He has also relied on **State of Punjab vs Khemi Ram, (1969) 3 SCC 28; Kumar Jagdish Chand Sinha vs CIT [1996] 86 Taxman 122 (SC); Madan Lal vs State of UP; (1975) 2 SCC 779; Assistant Transport Commissioner Lucknow & Ors. vs Nand Singh; (1979) 4 SCC 19**.

57. Having heard learned counsel for the parties and having perused the record, first, the fact aspects may be noted. Undeniably, the petitioners before the Court in this batch and the other petitioners who have been dealt with in terms of the earlier orders in **M/s Riya Construction (supra)**, are primarily small to medium sized businesses. Within that, the petitioners are traders and manufacturers of goods. Prior to the enforcement of the GST laws, they were governed by the provisions of the U.P. Trade Tax Act, 1948 as was superseded by the U.P. Value Added Tax Act, 2008, and the Central Sales Tax Act, 1956. As has been noted above, the behavioural pattern of such assessees came to be defined and governed (up to the enactment of the GST laws), by the legislative measures contained in the above-named Acts. Practices had developed and were widely prevalent in the entire State where under it was a norm that any notice or order issued by the assessing authority or any revenue authority, either under the U.P. Trade Tax Act, 1948 or the U.P. Value Added Tax Act, 2008, was served through physical mode, only.

58. That practice has been suddenly abandoned with effect from 1.7.2017 upon enforcement of the GST Act. While statutory authorities faced some difficulty in migrating to new procedures now adopted, leading to complaints made to GSTN, the assessee/taxpayers were certainly not involved in that decision making - migrate from

offline mode to online mode. They claim genuine hardship. That cannot be brushed aside, lightly. That thought, amongst others has persuaded us to take the view we have taken in **M/s Riya Construction (supra)**, amongst others for reasons noted next:

59. Second, it is equally true, under the old regime of taxation laws that existed up to 30.6.2017, power existed under Section 30 of the U.P. Trade Tax Act, 1948 and Section 32 of the U.P. Value Added Tax Act, 2008, with the original authority, to recall its *ex parte* order, subject to satisfaction that the assessee had not been served with the notice preceding the order or that he could not appear on the date fixed, for sufficient cause. That led to the formation of the second behavioral norm or practice that pre-existed the enforcement of the GST laws, wherein persons such as the petitioners had an opportunity to avail a remedy to seek recall the *ex parte* order, if no notice had been served. That remedy is no longer available under the State/Central Acts.

60. Third, if such *ex parte* or other adverse orders existed, the appeal authorities had power to set aside such orders and remit the proceedings to the original authority. It also led to a practice/norm. Assessee who may not have been fully/properly heard by the Assessing Authorities, could go back to them, for full, effective redressal of their grievances. That power of the appeal authorities has been taken away under the State/Central Acts.

61. Fourth, the normal period of limitation to file appeal though prescribed, similarly, in view of the applicability of Section 5 of the Limitation Act, delay in filing appeals could be explained under the old regime, beyond the minimal period of 30 days. However, upon enforcement of the GST laws, that discretion has been taken away

from the appeal authorities. At present, they can only condone delays up to 30 days. That too requires a behavioral change with the assessee, to understand that delay in filing appeal may not be condoned, beyond 30 days. Thus, the general power of the appeal authority to condone delays, has been conditioned and limited, to 30 days only.

62. Those difficulties arising from doing away with pre-existing norms and practices may not govern the outcome of this batch of writ petitions. However, it does indicate, the extent to which breach of rules of natural justice both with respect to service of notice, to enable filing of replies and service or orders, to enable filing of appeals, is being claimed. It therefore commends to us to examine the issue raised and the submissions advanced, with that much more sensitivity, and care.

63. Coming to the submissions advanced, it cannot be denied, the GST laws are progressive, to the extent they provide service of notices, furnishing of replies and service of orders, through electronic mode, also. The world that exists today and the trajectory of development that it appears to follow, commends us - such legislative steps are progressive, to the extent they seek to achieve an objective of ease of communication between the revenue authorities and the assessees/taxpayers. At the same time, as has been fairly admitted by all sides, service through electronic mode is not the only mode prescribed under the Act. The caveat being, the laudable objective may be realised, only after the major stakeholder/taxpayers are completely on board with the new mechanism.

64. On legalities, we are unable to accept the submissions advanced by some of the learned counsel for the parties that modes of service prescribed under Section 169 (1) of the State/Central Act, namely

under Clauses (a), (b), (c), (d), (e) and (f) are in that order of hierarchy of preference. Suffice to note, the mode of service through affixation is the last mode where the legislature has clearly provided that it must be resorted to by way of last measure when none of the five other modes prescribed under Section 169 (1) of the State/Central Act is 'practicable'. Decision of a coordinate bench in **M/S Kashi Bartan Bhandar (supra)** is therefore applicable only for the purpose of Section 169 (1)(f) of the State/Central Act. That reasoning is not available in favour of the petitioners insofar as Clauses (a) to (e) of sub-section (1) of Section 169 of the State/Central Act.

65. Though it may be accepted (as submitted by learned Additional Advocate General), that these are in the alternative [except as to (f)], to be adopted on the choice vested with the revenue authorities - to choose any mode, at present, that choice made by revenue authorities is divided. While the Central revenue authorities have chosen to move on to electronic mode, without abandoning service through offline mode, the State revenue authorities have charted a different course by abandoning service through physical mode, completely, except where registration itself may have been cancelled. Thus, the revenue authorities (Central and the State) are divided in their opinion - as to the most desirable mode of service of notice and the orders on the assessees/taxpayers. Certainly, on the face of it, appreciation made by the Central revenue authorities appears to lean in favour of the contentions advanced by the learned counsel for the petitioners, that at present, service through electronic mode (only), may not be most desirable decision. Yet, that divergence of policy may also not lead to the conclusion to be drawn to the legalities of the issue. However, we do recognize - that policy divergence is indicative of the ground realities in which the same/similar taxation laws of the State/Central

Acts are being implemented, By two different governments, one State and the other Central.

66. Looking at Section 169 of the State/Central Act, it first prescribes six modes of service under sub-section (1) of that Act. In the second part through sub-sections (2) and (3), it creates a legal fiction of deemed service in certain circumstances. To decide the issue canvassed before us, it is crucial to examine if that fiction of law applies to Clauses (c) and (d) of sub-section (1) of Section 169 of the State/Central Act. There is no denial that the legislature may create a deeming fiction including as to constructive service. However, as to the true rule of interpretation to be applied to determine the applicability of such a clause, two tests are undeniable. First, the deeming fiction in law must be given full effect for the purpose for which it is created. Second, once that has been done, no further inference may be drawn to extend it's enforcement or applicability to other circumstances, not contemplated by legislature.

67. Here, as noted above, there are six modes of service created by legislature. Thus, it was aware of that fact, yet, it has thereafter chosen to provide for deeming fiction/constructive service against four modes of service, only. As noted above, the six modes of service/circumstances provided under Section 169(1) of the State/Central Act are:

(i) tendering directly or by messenger;

(ii) dispatch by speed post, etc. with acknowledgement due;

(iii) sending communication by email;

(iv) by making available on the common portal;

(v) by publication in a newspaper and;

(vi) by affixation.

68. Sub-sections (2) and (3) of Section 169 of the State/Central Acts create that deeming fiction and cause the effect of deemed service, not generally but specifically with respect to notices, orders etc., that may have been 'tendered' or 'published' or 'affixed'. That service may be deemed to arise on the date such 'tender', 'publication' or 'affixation', is completed. In the second part, under sub-section (3), another deeming fiction arises with respect to dispatch made by speed post [but not through courier mentioned in sub-clause (b)]. That may arise not on the date of dispatch made but on expiry of normal period required for transmission of such communication from the sender, i.e. revenue authorities, to the noticee/taxpayers, by speed post, that too with acknowledgement due.

69. While providing for two separate sub-sections creating such specific deeming fiction, the legislature has been careful not to include either dispatch by 'courier' [under sub-clause (b)] or sending communication by email or by making it available on the common portal. That deliberate omission on part of the legislature is a conscious act of wisdom which is not open to contest in these proceedings.

70. Suffice to note, the clear legislative intent that emerges on the co-joint reading of the Section 169(1), (2) and (3) is - in the first place, six modes of service have been prescribed, of which five are in the alternate i.e. at the discretion of the revenue authorities, while the sixth may be adopted only if none of the other/first five is 'practicable'. Second, the effect of deemed service may arise only with respect to modes of service (a), (b) only to the extent it alludes to dispatch made by speed post but not through courier and (e) upon

publication in newspaper but no other publication and; (f) by affixation, if that mode be adopted, in accordance with law.

71. In **Sadan K. Bormal (supra)**, the principle governing the provision creating the fiction in law, was examined by the Supreme Court, and it was unequivocally laid down as below:

> *"So far as interpretation of a provision creating a legal fiction is concerned, it is trite that the court must ascertain the purpose for which the fiction is created and having done so must assume all those facts and consequences which are incidental or inevitable corollaries to the giving effect to the fiction. In construing a fiction it must not be extended beyond the purpose for which it is created or beyond the language of the section by which it is created. It cannot be extended by importing another fiction. These principles are well settled and it is not necessary for us to refer to the authorities on this subject. The principle has been succinctly stated by Lord Asquith in East End Dwellings Co. Ltd. v. Finsbury Borough Council, when he observed:*
>
> *If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it. The statute says that you must imagine a certain state of affairs. It does not say that, having done so, you must cause or permit your imagination to boggle when it comes to the inevitable corollaries of that state of affairs."*

72. That authority itself is enough to make it clear that the purpose and object of a deeming fiction clause must be understood in the context of the legislative language itself and not on any other appraisal to be made, by Courts.

73. Second, (in absence of constructive service arising under Section 169 of the State/Central Act), as to actual service through modes created under section 169(1)(c) and (d) of the State/Central Acts, it is material to note that the stand of the revenue authorities and GSTN is,

at present they do not have the means or access on the Common Portal etc., as may enable them to ascertain the date or time when any notice or order may have been actually retrieved or downloaded or opened or its contents viewed or seen by the noticee or the taxpayer, to whom such communication may have been addressed, either through e-mail or through the Common Portal. Therefore, at present, the date and time when such order may have been received by the noticee/taxpayer may remain unknown to the revenue authorities. Therefore, we had queried GSTN to give its response thereto. It has been noted above.

74. Though (as noted above), it has been informed that e-mail communications were dispatched at the designated e-mail address of individual assesses and notices and orders were uploaded on the Common Portal, the GSTN and the revenue authorities do not have the means (at present) to ascertain the time when that electronic document/record may have been accessed or retrieved or downloaded or viewed or opened by the noticee/taxpayer, either on the Common Portal or the e-mail address of the assessee. While a general assurance has been offered for such a measure to be developed later, neither such measures exist nor GSTN has made any commitment when such measures may be made available.

75. Therefore, on the factual aspect of the issue, we have no hesitation in inferring the date and time of service of any matter uploaded on the Common Portal or dispatched through e-mail, is not known to the revenue authorities or GSTN. In many cases the taxpayer feels aggrieved by the *ex parte* nature of the orders passed. While no submission may be entertained as to the absence of powers to recall *ex parte* orders and while there is no challenge to any provision of law curtailing the powers of the appeal authority to remit/remand to any

Adjudicating Authority, it is therefore most crucial that a limited opportunity of appeal made available to the assessee/tax-payer under Section 107 of the Act, be kept intact and real.

76. Thus, besides absence of factual or constructive service, the period of limitation has been prescribed as three months with delay condonable only for a month from the date of the order being ‘communicated’. The legislature has consciously not used the word 'served’ or ‘received’ in Section 107 of the State/Central Act. Rather, it has used the word ‘communicated’. That may inhere in it knowledge of all facts contained in the notice or order thus ‘communicated’. The words 'communication' and 'service' ‘received’ have been denied in the Black's Law Dictionary and Stroud's Judicial Dictionary of Words and Phrases as below:

Black’s Law Dictionary, South Asian Edition, Eighth Edition

> *"**1. Communication**: 1. The expression or exchange of information by speech, writing, gestures, or conduct; the process of bringing an idea to another's perception. 2. The information so expressed or exchanged.*
>
> ***2. Service**: 1. The formal delivery of a writ, summons, or other legal process <after three attempts, service still had not been accomplished>. -Also termed service of process. [Cases: Federal Civil Procedure 411-518; Process 48-150. C.J.S Process 26-91]. 2. The formal delivery of some other legal notice, such as a pleading <be sure that a certificate of service is attached to the motion>. [Cases: Federal Civil Procedure 665].*
>
> *constructive service. 1. See substituted service. 2. Service accomplished by a method or circumstance that does not give actual notice.*
>
> ***3. Received:** adj. 1 Capable of being admitted or accepted <receivable evidence>. 2. Awaiting receipt of payment accounts receivable>. 3. Subject to a call for payment <a note receivable>.*

Stroud’s Judicial Dictionary, Eighth Edition

> ***1. Communication:*** *"Electronic Communication". For discussion of the nature of an electronic communication, see R vs Effik [1994] 3 All E.R. 458, HL and Morgans v Director of Public Prosecution [2000] 2 All E.R. 522, HL. See also Stat. Def., s.15(1) of the Electronic Communication Act 2000(c.7) (includes a communication comprising sounds or images or both and a communication effecting a payment")*
>
> ***2. Served:*** *A person is not "served" with proceedings for the purposes of Council Regulation (EC) 44/2001 art.34(2) merely by way of being notified but not in accordance with the relevant regulations [Tavoulareas v Tsavliris (2006) EWCA Civ 1772].*
>
> ***3. Received:*** *Sums "received" in the United Kingdom in respect of securities elsewhere and chargeable with income tax under s.100 Sch. D Case 4 of the Income Tax Act 1842 (c.35) did not include sums only constructively received in Great Britain, in yearly accounts of profits and loss (Gresham Life Assurance v Bishop [1902] A.C. 287, weakening effect of, if not over-ruling, Universal Life Assurance v Bishop, 68 L.J.Q.B. 962; following Scottish Mortgage Co of New Mexico v Mc Kelvie, 24 S.L.R. 87, and Norwich Union Fire Insurance v Magee, 44 W.R. 384). See further Forbes v Scottish Provident Institution, 33 S.L.R. 228. Sums actually received in the United Kingdom in respect of a business abroad were, prima facie, profits chargeable with income tax (Scottish Provident Institution v Allan [1903] A.C. 129; The Same v Farmer, 6 Tax Cas. 34).*

77. In **Raja Harish Chandra Raj Singh vs Deputy Land Acquisition Officer & Anr.; 1961 SCC OnLine SC 140**, an issue arose if the limitation to seek a reference would commence from the date of the award as marked by the authority framing such an award, or the date of its communication to the person concerned. The High Court had taken a view construing the language of section of the Land Acquisition Act, literally - as the date marked in the award. In that context, the Supreme Court observed as below:

> *"**6.** There is yet another point which leads to the same conclusion. If the award is treated as an administrative decision taken by the Collector in the matter of the valuation of the property sought to be acquired it is clear that the said decision*

ultimately affects the rights of the owner of the property and in that sense, like all decisions which affect persons, it is essentially fair and just that the said decision should be communicated to the said party. The knowledge of the party affected by such a decision, either actual or constructive, is an essential element which must be satisfied before the decision can be brought into force. Thus considered the making of the award cannot consist merely in the physical act of writing the award or signing it or even filing it in the office of the Collector; it must involve the communication of the said award to the party concerned either actually or constructively. If the award is pronounced in the presence of the party whose rights are affected by it it can be said to be made when pronounced. If the date for the pronouncement of the award is communicated to the party and it is accordingly pronounced on the date previously announced the award is said to be communicated to the said party even if the said party is not actually present on the date of its pronouncement. Similarly if without notice of the date of its pronouncement, an award is pronounced and a party is not present the award can be said to be made when it is communicated to the party later. The knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fairplay and natural justice the expression "the date of the award" used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. In our opinion, therefore, it would be unreasonable to construe the words "from the date of the Collector's award" used in the proviso to Section 18 in a literal or mechanical way."

78. Then, in **CCE vs M.M. Rubber and Co., 1992 Supp (1) SCC 471** , the Supreme Court had the occasion to directly consider, the date of 'communication' of an order on the affected person, as may give rise to the start point of running of limitation and if it could be different from the date on which such order may have been signed and put beyond the control of the issuing authority, as may give rise to 'communication', in the first sense. It was thus observed:

"9. The words "from the date of decision or order" used with reference to the limitation for filing an appeal or revision under certain statutory provisions had come up for consideration in a number of cases. We may state that the ratio of the decisions uniformly is that in the case of a person aggrieved filing the appeal

or revision, it shall mean the date of communication of the decision or order appealed against. However, we may note a few leading cases on this aspect.

10. Under Section 25 of the Madras Boundary Act, 1860 the starting point of limitation for appeal by way of suit allowed by that section was the passing of the Survey Officer's decision and in two of the earliest cases, namely, Annamalai Chetti v. Col. J.G. Cloete [ILR (1883) 6 Mad 189] and Seshama v. Sankara [ILR (1889) 12 Mad 1] it was held that the decision was passed when it was communicated to the parties. In Secretary of State for India in Council v. Gopisetti Narayanaswami Naidu Garu [ILR (1910) 34 Mad 151 : (1911) 1 MWN 28 : 8 MLT 310] construing a similar provision in the Survey and Boundary Act, 1897 the same High Court held that a decision cannot properly be said to be passed until it is in some way pronounced or published under such circumstances the parties affected by it have a reasonable opportunity of knowing what it contains. "Till then though it may be written out, signed and dated, it is nothing but a decision which the officer intends to pass. It is not passed so long it is open to him to tear off what he has written and write something else." In Raja Harish Chandra Raj Singh v. Deputy Land Acquisition Officer [(1962) 1 SCR 676 : AIR 1961 SC 1500] construing the proviso to Section 18 of the Land Acquisition Act which prescribed for applications seeking reference to the court, a time-limit of six weeks of the receipt of the notice from the Collector under Section 12(2) or within six months from the date of the Collector's award whichever first expires, this Court held that the six months period will have to be calculated from the date of communication of the award. In Asstt. Transport Commissioner, Lucknow v. Nand Singh [(1979) 4 SCC 19 : (1980) 1 SCR 131] construing the provision of Section 15 of the U.P. Motor Vehicles Taxation Act, it was held that for an aggrieved party the limitation will run from the date when the order was communicated to him.

11. The ratio of these judgments were applied in interpreting Section 33-A(2) of the Indian Income Tax Act, 1922 in Muthia Chettiar v. CIT [ILR 1951 Mad 815 : AIR 1951 Mad 204 : (1951) 19 ITR 402] with reference to a right of revision provided to an aggrieved assessee. Section 33-A(1) of the Act on the other hand authorised the Commissioner to suo moto call for the records of any proceedings under the Act in which an order has been passed by any authority subordinate to him and pass such order thereon as he thinks fit. The proviso, however, stated that the Commissioner shall not revise any order under that sub-section "if the order (sought to be revised) has been made more than one year previously". Construing this provision the High Court in Muthia Chettiar case [ILR 1951 Mad 815 : AIR 1951 Mad 204 : (1951) 19 ITR 402] held that the power to call for the records and pass the order will cease with the lapse of one year from the date of the order by the

subordinate authority and the ratio of date of the knowledge of the order applicable to an aggrieved party is not applicable for the purpose of exercising suo moto power. Similarly in another decision reported in Viswanathan Chettiar v. CIT [(1954) 25 ITR 79 (Mad)] construing the time-limit for completion of an assessment under Section 34(2) of the Income Tax Act, 1922, which provided that it shall be made "within four years from the end of the year in which the income, profit and gains were first assessable," it was held that the time-limit of four years for exercise of the power should be calculated with reference to the date on which the assessment or reassessment was made and not the date on which such assessment or reassessment order made under Section 34(2) was served on the assessee.

12. It may be seen therefore, that, if an authority is authorised to exercise a power or do an act affecting the rights of parties, he shall exercise that power within the period of limitation prescribed therefor. The order or decision of such authority comes into force or becomes operative or becomes an effective order or decision on and from the date when it is signed by him. The date of such order or decision is the date on which the order or decision was passed or made : that is to say when he ceases to have any authority to tear it off and draft a different order and when he ceases to have any locus paetentiae. Normally that happens when the order or decision is made public or notified in some form or when it can be said to have left his hand. The date of communication of the order to the party whose rights are affected is not the relevant date for purposes of determining whether the power has been exercised within the prescribed time.

13. So far as the party who is affected by the order or decision for seeking his remedies against the same, he should be made aware of passing of such order. Therefore courts have uniformly laid down as a rule of law that for seeking the remedy the limitation starts from the date on which the order was communicated to him or the date on which it was pronounced or published under such circumstances that the parties affected by it have a reasonable opportunity of knowing of passing of the order and what it contains. The knowledge of the party affected by such a decision, either actual or constructive is thus an essential element which must be satisfied before the decision can be said to have been concluded and binding on him. Otherwise the party affected by it will have no means of obeying the order or acting in conformity with it or of appealing against it or otherwise having it set aside. This is based upon, as observed by Rajmannar, C.J. in Muthia Chettiar v. CIT [ILR 1951 Mad 815 : AIR 1951 Mad 204 : (1951) 19 ITR 402] "a salutary and just principle". The application of this rule so far as the aggrieved party is concerned is not dependent on the provisions of the particular statute, but it is so under the general law.

> *18. Thus if the intention or design of the statutory provision was to protect the interest of the person adversely affected, by providing a remedy against the order or decision any period of limitation prescribed with reference to invoking such remedy shall be read as commencing from the date of communication of the order. But if it is a limitation for a competent authority to make an order the date of exercise of that power and in the case of exercise of suo moto power over the subordinate authorities' orders, the date on which such power was exercised by making an order are the relevant dates for determining the limitation. The ratio of this distinction may also be founded on the principle that the government is bound by the proceedings of its officers but persons affected are not concluded by the decision".*
>
> *(emphasis supplied)*

79. Coming to the law cited by the learned Additional Advocate General, the decision in the case of **State of Punjab vs Khemi Ram; (1969) 3 SCC 28** relied by the learned Additional Advocate General may not be applicable to the present facts. It also does not run contrary to the decision in **Raja Harish Chandra Raj Singh (supra)**. In that case order of suspension was published in the Official Gazette, besides dispatch by telegram mode, and charge sheet physically dispatched to the delinquent employees' home address. Publication of any document in the Official Gazette acquires a different connotation and imparts a different texture to the issue of 'service'. The publication made in the Official Gazette is information given to the public at large as may never give any opportunity of denial of service. However, we may hasten to act no such publication exists in this case.

80. Second, more crucially, the core issue involved in that decision was the date when the suspension order (passed against a government employee) became 'effective', considering Rule 3.26(d) of the relevant service Rules. Also, Khemi Ram had been earlier issued telegram informing him about the suspension order, while he was still in service. The issue was whether such a suspension order – caused the effect of suspension from service, though physical service of the

suspension order arose after the delinquent employee had attained the age of superannuation. It was found, the suspension order became effective from the date of its issue and to that extent it was deemed communicated on the delinquent employee.

81. If we apply that analogy to the present facts, it can be said the show cause notices and the adjudication orders come into existence on the date of dispatch made through electronic mode, to the extent they may also create a demand of tax etc., against the taxpayer. However, by that attribute of communication fulfilled, it does not lead to the fulfilment of the second attribute of communication that could lead to start of running of limitation to file appeal against the adjudication order or to seek remedies against such show cause notices and Adjudication orders. For that second attribute to be fulfilled, actual or constructive service of the show cause notices and the Adjudication orders, is necessary, strictly in terms of Section 169 of the State/Central Acts. That issue was not involved in **Khemi Ram (supra)**. There, the issue was examined in the context of Rule 3.26(d) of the relevant service Rules, not shown to be *pari materia* to Section 169 of the State/Central Acts. Rather, that aspect of the law was considered in **M.M. Rubber and Co. (supra)**.

82. Then, in **Kumar Jagdish Chandra Sinha vs Commissioner of Income-tax; 1996 SCC OnLine SC 172**, the following questions of law had arisen upon reference made under Section 256(1) :

> *"1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in holding that the return of income furnished by the assessee by virtue of the provisions contained in sub- section (4) of section 139 of the Income-tax Act, 1961, beyond the time allowed under sub-section (1) or sub-section (2) of the said section, could not be construed as a return furnished under either of the latter subsections and in that view holding that the assessee was not entitled to file a*

revised return under sub-section (5) of section 139 of the Income- tax Act, 1961 ?

2. Whether, on the facts and in the circumstances of the case, the assessments made by the Income-tax Officer for the assessment years 1964- 65 and 1965-66 were within the time-limit prescribed in section 153(1)(b) of the Income-tax Act, 1961 ?

3. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in holding that the cases for the assessment years 1964-65 and 1965-66 were such as falling within clause (c) of sub- section (1) of section 271 ?"

83. In view of the limited questions that arose before the Supreme Court, not directly dealing with the issue of 'communication', the observation made in paragraph no. 15 of the said report does not contain the ratio of the said decision. In that, in the absence of any recital regarding initiation of proceedings and its communication during the earlier proceedings, the consequential orders passed were found invalid. Plainly, the said decision also does not apply to the present facts.

84. Then, in **Madan Lal vs State of U.P. & Ors.; (1975) 2 SCC 779**, again it was observed as below:

*"**8.** The Act we are concerned with does not state what would happen if the Forest Settlement Officer made an order under Section 11 without notice to the parties and in their absence. In such a case, if the aggrieved party came to know of the order after the expiry of the time prescribed for presenting an appeal from the order, would the remedy be lost for no fault of his? It would be absurd to think so. It is a fundamental principle of justice that a party whose rights are affected by an order must have notice of it. This principle is embodied in Order 20, Rule 1 of the Code of Civil Procedure; though the Forest Settlement Officer adjudicating on the claims under the Act is not a court, yet the principle which is really a principle of fair play and is applicable to all tribunals performing judicial or quasi-judicial functions must also apply to him. The point has been considered and decided by this Court in Raja Harish Chandra Raj Singh v. Deputy Land Acquisition Officer [AIR 1961 SC 1500 : (1962) 1 SCR 676] . This was a case under the Land Acquisition*

Act, 1894 and the Court was considering the question of limitation under the proviso to Section 18 of that Act. Under Section 18 of the Land Acquisition Act a person who has not accepted the Collector's award can apply to the Collector requiring him to refer the matter for the determination of the court. This application has to be made within six months from the date of the Collector's award in the case where the person interested was not present or represented before the Collector at the time when he made his award or had received no notice from the Collector of the award. Construing the expression "the date of the award" this Court observed:

> *"The knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fairplay and natural justice the expression 'the date of the award' used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. In our opinion, therefore, it would be unreasonable to construe the words 'from the date of the Collector's award' used in the proviso to Section 18 in a literal or mechanical way.*
>
> *... where the rights of a person are affected by any order and limitation is prescribed for the enforcement of the remedy by the person aggrieved against the said order by reference to the making of the order must mean either actual or constructive communication of the said order to the party concerned."*

85. In **Assistant Transport Commissioner, Lucknow & Ors. vs Nand Singh; (1979) 4 SCC 19**, **Raja Harish Chandra Raj Singh (supra)** was followed and it was further observed as below :

> *"**2.** In our opinion, the judgment of the High Court is right and cannot be interfered with by this Court. Apart from the reasons given by this Court in the earlier judgment to the effect that the order must be made known either directly or constructively to the party affected by the order in order to enable him to prefer an appeal if he so likes, we may give one more reason in our judgment and that is this: It is plain that mere writing an order in the file kept in the office of the Taxation Officer is no order in the eye of law in the sense of affecting the rights of the parties for whom the order is meant. The order must be communicated either directly or constructively in the sense of making it known, which may make it possible for the authority to say that the party affected must be deemed to have known the order. In a given case, the date of putting the order in communication*

> *under certain circumstances may be taken to be the date of the communication of the order or the date of the order but ordinarily and generally speaking, the order would be effective against the person affected by it only when it comes to his knowledge either directly or constructively, otherwise not. On the facts stated in the judgment of the High Court, it is clear that the respondent had no means to know about the order of the Taxation Officer rejecting his prayer until and unless he received his letter on October 29, 1964. Within the meaning of Section 15 of the U.P. Motor Vehicle Taxation Act that was the date of the order which gave the starting point for preferring an appeal within 30 days of that date."*

86. The decision in **Nokia India (P) Ltd vs Additional Commissioner Income Tax (2018) 92 taxmann.com 76 (Delhi)** involved validity of assessment proceedings under the Income Tax Act, 1961, in the extended period of limitation – based on another order to conduct special audit. Objecting that the assessment order was passed beyond limitation, it was relied on - that the order of special audit (that caused the extension of limitation) was served after expiry of limitation to pass the assessment order. Again, as in **Khemi Ram (supra)** the order providing for special audit was found to have become effective upon that order coming into existence and being dispatched. Accordingly, the first aspect of the communication was found fulfilled in favour of the revenue. Simultaneously, for the purpose of computation of limitation to raise challenge to such order, it was opined that the rule of actual or constructive service would continue to apply. Relying on **M.M. Rubber and Co. (supra)**, it was reasoned as below:

> *"36. **M.M. Rubber and Company (supra)** had clarified on two different principles of law relating to limitation. The first principle relates to exercise of power or an act, affecting the rights of the parties within the period of limitation prescribed. The order or decision of the authority comes into force or becomes operative or becomes an effective order or decision on and from the date when it is signed. This happens when the order is made or passed; that is to say when the order is made public or notified in some form or is sent*

out by the authority so as to have left his hands. Thereafter, the authority cannot tear or draft a different order. Date of communication of the order to the parties whose rights are affected is not the relevant date for purpose of deciding whether or not the order was passed within the prescribed time.

37. The second principle relates to computation of period of limitation for a party affected by the order or decision, who invokes remedy by way of appeal, revision, etc. The rule is that the period of limitation for invoking the remedy starts from the date the order is communicated to the party or the date when it is pronounced or published, whereby the party affected has a reasonable opportunity of knowing of the passing of the order or its content. Communication in the second sense is different from communication in the first sense, i.e., the first principle. Communication in the second sense must be satisfied before the decision is said to be conclusive or binding. This principle is not dependent upon the provisions of a particular statute but under the general law.

38. Pertinently, in ***M.M. Rubber and Company (supra)*** *it was observed that knowledge of the party affected by the decision may be either actual or constructive. Knowledge of the party affected by the decision either actual or constructive, is the essential element which must be satisfied. This is a salutary and just principle.*

39. We often overlook the aforesaid distinction when we examine the question as to whether an order has been passed within the period of limitation and apply decision with first and second principle interchangeably, which is impermissible and wrong. It is in this context we would also like to refer to the decision of the Supreme Court in CIT v. Major Tikka Khushwant Singh (1995) 212 ITR 650 (SC) which referred to the earlier decision in the case of R.K. Upadhyay v. Shanabhai P. Patel (1987) 166 ITR 163 (SC) and rejected the plea of the assessee and upheld the contention of the Revenue that the date of issue of notice would determine, if it was within the period of limitation and would give jurisdiction to the Assessing Officer to proceed and not the date on which notice was served. It was observed that the issue of notice within the statutory period gives jurisdiction but reassessment cannot be made till notice was served."

87. In **Daujee Abhushan Bhandar Pvt Ltd. vs Union of India; (2022) 136 taxmann.com 246 (Alld)**, the issue had arisen in a completely different legislative and fact context. Whether jurisdiction to re-assess had been initiated within limitation of time, was the core

issue in that case. Second, service of notice through electronic mode was admitted to the petitioner in that case. It is fundamental to re-assessment proceedings under the Income Tax Act that such proceedings may be found to be within limitation subject to the re-assessment notice being issued within time. To the extent such notice had been digitally signed on the last date of limitation and thus (admittedly) issued, through electronic mail, the issue of date of actual communication secondary to the primary issue of notice issued within time. To the extent digital signature on the re-assessment notice was found sufficient for that purpose, that fact/legal issue is not involved, here.

88. Insofar as **Union of India vs M/S G.S. Chatha Rice Mills; (2021) 2 SCC 209** is concerned, there the primary issue involved was the date and time when a statutory notification issued through electronic mode came into force. That issue is not involved here. The other issue was the consequence of bills of entry for home consumption presented for clearance. As a fact it was clear that presentation of documents preceded the time when the law was amended upon issuance of notification through electronic mode. The rate of duty being applicable at the time of import, that case was decided on the strength of time of presentation of bills of entry, for clearance. Clearly, the issue was wholly different from the present case.

89. In **Suman Jeet Agarwal vs Income Tax Officer (2022) 143 taxmann.com 11 (Delhi)**, again the issues raised were different. There was no dispute as to issue of reassessment notice, through email. At the same time, validity of reassessment notices and therefore, assumption of jurisdiction of reassessment was decided on

the own facts of that case. Where notices were found issued (even through electronic mode), within limitation, those proceedings were found valid.

90. In **Rapiscan Systems Pvt Ltd. vs ADIT (Income Tax) [2025] 170 taxmann.com 753 (Telangana)** the interpretation made to section 144C (13) of the Income Tax Act, 1961 wherein for the purpose of limitation the date on which direction was 'received' was relevant. As discussed above, though the concept of 'receipt' is contained in the IT Act, for the vital purpose of limitation to file appeal more than 'receipt', actual or constructive 'communication', is decisive, that too, on the test of actual or constructive service, in terms of Section 169 of the State/Central Act, and not in a generic or common sense test or even by way of receipt.

91. That leaves us to consider the further submissions advanced by the learned Additional Advocate General, on the strength of provisions of the Information Technology Act. While we are not in a position to accept the submissions advanced by some of the learned counsel for the petitioner that the State/Central Act are complete codes to the extent, that they admit of no applicability of the Information Technology Act, it would remain to be examined if the provisions of the Information Technology Act truly lead to an inference that the notice/order uploaded on the Common Portal would amount to service or communication for the purposes of Section 169 and 107 of the State/Central Act or it may stop at 'receipt' not amounting to actual or deemed service or 'communication'. We accept the applicability of the terms 'computer', 'computer network', 'computer resource', 'computer system', 'electronic form', 'electronic record', 'originator' and other terms defined under the Information Technology Act, to be

of relevance for the purposes of proceedings under the GST Act to the extent such proceedings being adopted through electronic mode of communication. However, Section 4 of the Information Technology Act is a provision that only allows for electronic mail or document made available through the Common Portal, to be an equivalent to a physical document. It does not create and it does not seek to introduce any element of ‘service’ or ‘communication’ of such documents. In other words, how the electronic document may be served or communicated may remain to be examined independent of Section 4 of the Information Technology Act.

92. As noted above, at present, as per the say of GSTN, and the revenue authorities, there is no mechanism to generate automatic acknowledgement or receipt of document downloaded or retrieved or viewed by an assessee/taxpayer from the Common Portal. All that is available with GSTN and therefore, to the revenue authorities, is the knowledge of actual dispatch or uploading of a document, by the revenue authorities, only.

93. To that extent, the learned Additional Advocate General, has relied on the provisions of Section 12 and 13 of the Information Technology Act. Section 13 is a provision that creates presumptions as to time and place of dispatch and receipt of certain electronic records. As to actual dispatch of an electronic record - either to upload notice or orders or dispatch of email, facts are admitted. But the petitioners here do not admit having received e-mail alerts. In any case, it is not the say of the revenue authorities that they had sent through e-mail communications, entire notices or orders as may have enabled the recipients/addressees/ taxpayers, to file appeal thereagainst. They only claim to have sent information about such notices and orders. Therefore, it may never be

claimed that by sending such intimation the addressee/recipient had been ‘communicated’ the notice or the orders or their contents, necessary to be ‘communicated’, to file any appeal thereagainst.

94. At the same time, Section 13(2) of the IT Act also provides a deeming fiction of receipt of electronic record arising the moment electronic document enters the ‘designated computer resource’. However, if such a ‘computer resource’ is not a ‘designated computer resource’, receipt may occur at the time when electronic record is retrieved by the addressee. In the present facts, the ‘designated computer resource’ means the ‘computer system’ or ‘computer network’ on which the notice or order has been uploaded. That admittedly is the Common Portal. In face of the admission made (as has been repeatedly noted above) that the GSTN is unable to ascertain, and therefore divulge the time when the Show Cause Notice or order may have been retrieved or downloaded or viewed by the addressee, therefore, that date and time of ‘communication’ through that mode [in term of Section 13(2)(a)(ii)], is indeterminate, in each of these cases.

95. Insofar as Section 13(2)(a)(ii) is concerned, to the extent the revenue authorities are unable to state when intimation of the electronic record i.e. that Show Cause Notice or the Orders was retrieved from the ‘computer resource’ through which the assessee/addressee may have access to electronic mail communication, again that issue remains indeterminate, in each of these cases. In any case, as already noted such electronic mail did not contain the contents of either the show cause notice or the adjudication order as may have enabled the addressee/recipient, to either comply or challenge such notice or adjudication order.

96. Thus, in any case, ‘receipt’ under Section 13(1) read with 13(2)(a)(i) of IT Act falls short of ‘communication’ and therefore service (actual or constructive) under Section 169 of State/Central Act and it may never amount to ‘communicated’ under Section 107 of the State/Central Act, for the purpose of start point of running of limitation to file an appeal, as no ‘acknowledgment’ has been generated under Section 12 of the IT Act and no notice has been issued under Section 12(3) of the IT Act.

97. Before parting on the issue, we may further note, even with respect to service through physical mode only upon Registered Post or Speed Post but not through Courier, the effect of deemed service may arise only when such dispatch is made with ‘acknowledgement due’ to the addressee. Thus, while creating a legal fiction in cases involving physical dispatch, element of ‘acknowledgement’ has been introduced to put in place verifiable measures. To the extent Sections 12 of the IT Act provides for ‘acknowledgement’, and further to the extent at present such acknowledgement has not been sought [in terms of Section 12(3)] it would be over simplistic to equate the two distinct modes of service, one through physical mode and the other through electronic mode, to allow for the consequences of ‘deemed service’ to arise, in both.

98. Further, it is doubtful if effect of (Show Cause Notice or Order) ‘communicated’ to the assessee may arise in law, merely on the strength of time of such notice or order entering the Common Portal of the GSTN, from where it is possible for the addressee to retrieve such document to record. It is akin to the early stages of postal service where a letter/communication dispatched by post was sorted and kept at the Post Office nearest the addressee, from where he could collect

it, at this convenience. In the absence of time stamp being available, when the addressee may have retrieved that communication and further in the absence of any notice with acknowledgment, that determination is not possible or feasible.

99. Coming to two decisions of the coordinate bench, In **Atlantis Intelligence Ltd. (supra)** in paragraph-4 of the report, it has been recorded as below:

> *"4. It is admitted by the petitioner that the petitioner was served by registered email on the very same date of passing of the impugned order. However, learned counsel appearing on behalf of petitioner, submits that there was no service made to the petitioner by way of registered post."*
>
> *(emphasis supplied)*

100. Specifically, the petitioner in that case had admitted that the email was served on the petitioner at his registered email address. Once that admission arose, the coordinate bench had only considered the effect caused. Therefore, it did not have the opportunity to examine what would follow if there was no such admission. That issue has arisen in the present case. Though dispatch through uploading and email has been claimed by GSTN and in that regard it has filed an affidavit disclosing the contents of the email, there is no admission of receipt of the same. In any case, it does not contain a copy of or the contents of the Order. However, in view of the admission made in **Atlantis Intelligence Ltd. (supra)**, the coordinate bench in paragraph-6 observed thus:

> *"Accordingly, we are of the view that service of the order by registered email is a valid service and the date on which such service is made would count as the date for the purpose of limitation."*
>
> *(emphasis supplied)*

101. Clearly, as noted above, once email was admitted to have been served on the registered email address and that service was admitted, the effect of service of the order was acknowledged. Therefore, we find no different view has been taken by the coordinate bench in **Atlantis Intelligence Ltd. (supra)** on the issue canvassed before us.

102. In **D.R. Hotels (P) Ltd. (supra)**, it was not the case of that petitioner that it had not received electronic mail. Rather, it was the case that the said email was operated by an employee who had been disengaged. To the extent receipt of email was again admitted (at the registered email address), and that fact was acknowledged between the parties, further consideration arose in that regard. Crucially, in no uncertain terms the issue examined by the coordinate bench in **D.R. Hotels (P) Ltd. (supra)**, was of maintainability of the writ petition in face of statutory remedy of appeal available. On the issue of deemed service of notice and order through electronic mode, the coordinate bench made the following pertinent observation in paragraph-18:

> *"18. ..... we do not proceed to determine the question as to whether as per sub clause 2 of section 169 once the service has been effected as per sub clause (c) & (d) of section 169, it shall be deemed to have been served on the date it is tendered."*
>
> *(emphasis supplied)*

103. Thus, the coordinate bench had left the issue open but only refused to entertain the writ petition for reason of statutory remedy of appeal available. Thus, the two decisions of coordinate benches have not taken a view, different from the one proposed to be taken by us. Hence, we find no occasion to refer the matter to a larger bench. Insofar as the decisions of the other High Courts taking a contrary view, are concerned, we regret not being persuaded to take that view - that uploading a document on the Common Portal is enough

communication or service for the purpose of Section 107 of the State/ Central Acts. For the reasons noted above, we find that the deeming fiction of law created under Section 169(2) and (3) of the State/Central Act read with Sections 12 and 13 of the IT Act cannot be enlarged – to benefit the revenue, though no prejudice may be caused to it, otherwise. To equate uploading of a document on the Common Portal with 'tendering' or 'by speed post', 'publication' or 'affixation', would be over simplistic, in our humble opinion. To the extent the words used in sub-sections (2) and (3) of Section 169 of the State/Central Act exist in conjunction with other words such that 'tendering' has not been used in isolation but as 'tendering it directly' under clause (a), 'by speed post' have not been used in isolation but as 'speed post with acknowledgement due', 'publication' in clause (e) has not been used in isolation but in conjunction 'publication in a newspaper' and 'affixation' stands on a completely different footing (as discussed above), it would be over simplistic and therefore unacceptable in law to infer that a notice or order uploaded on the Common Portal may be equated with the word 'tendering' or 'publishing' and therefore, be deemed to have been served though no deeming fiction in law has been created by the legislature to reach that conclusion, for the purpose of Section 107 of the State/Central Acts.

104. Therefore, the preliminary objection raised is decided against the State. We may have relegated the present petitioners to the appeal remedy for the reasons given by us. However, we also note, even today, before dictation of this order, we have dealt with similar writ petitions in terms of the order passed in **M/s Riya Construction (supra)**. To that extent, we are persuaded to maintain consistency in these matters and to set aside individual orders and remit the matters to the Adjudicating Authority, against payment of 10% of the demand

of tax, by individual petitions, as the present petitioners have remained pending for very long. To summarise we may conclude:

(i) Service of Show Cause Notice and orders under the State/Central Act, by making such documents available on the Common Portal or by making dispatch through electronic mode, is permissible in law, and therefore a valid procedure.

(ii) No order of priority exists between the first five modes of service, that may be adopted by the revenue authorities amongst clauses (a) to (e), of Section 169(1) of the Act.

(iii) Only before adopting service through affixation under clause (f), satisfaction must be recorded that it is not 'practicable' to serve such notice or order through any of the modes specified in clauses (a) to (e). That principle has no application to the choice that the revenue authorities may otherwise make between the modes specified in clauses (a) to (e).

(iv) The deeming fiction of law leading to constructive service, is available only with respect to service effected through modes specified in Clauses (a), (b), (e) and (f) (where applicable), of Section 169(1) of the Act.

(v) By way of necessary corollary, the deeming fiction of law leading to constructive service is not available with respect to Clauses (e) and (f) of Section 169 (1) of the State/Central Acts, in view of the direct provisions of those Acts.

(vi) The IT Act is clearly applicable to the State/Central Acts, to the extent its provisions may be invoked in matters not squarely covered by or provided for under the State/Central Act. To that extent the provisions of Sections 4, 12 and 13 are invokable with reference to

'despatch' & 'receipt' service attempted through electronic modes but not to actual or constructive service provided under Section 169 of the State/Central Acts, there is no conflict between the two sets of legislation, one relating to GST laws and the other to IT laws.

(vii) To the extent there is no acknowledgement generated and further to the extent the GSTN and the revenue authorities are unaware and therefore unable to inform when any notice or order dispatched through electronic mode (made available on the Common Portal designed and managed by the GSTN), may have been retrieved or downloaded by the addressee, no inference may be drawn as to the actual date and time of such service, in terms of section 12 and 13 of the IT Act, for the purpose of Section 107 of the State/Central Acts.

(viii) To the extent it is not admitted to the petitioners that they have received any email and to the extent that fact may remain disputable, no useful purpose may ever be served in entering into that enquiry by any Court or Tribunal or authority as it may involve deep forensic investigation of the 'computer resource' used by the addressee, before any conclusion may be drawn. It would amount to immense waste of productive time and money, both by the revenue authorities and the assessees. Plainly, at present it may remain impractical and therefore, an undesirable course to be adopted. In any case, admittedly, the entire adjudication order has not even been attempted to be served through e-mail. Therefore, that order may never be described to have been 'communicated' to the petitioner, through e-mail, for the purpose of Section 107 of the State/Central Act.

(ix) Since the period of limitation to file appeal under Section 107 may start running from the date of effective 'communication' of an order, we may only note that in view of the above discussion and

conclusions drawn, in the present state of affairs effective ‘communication’ of the show cause notices and adjudication orders, may be governed by actual or constructive ‘communication’ to the assessee – of the contents of such notices and orders, strictly in terms of Section 169 of the State/Central Acts, specifically for the purpose of filing appeal or raising other challenge to an adjudication order etc.

(x) We avoid suggesting any administrative measure that the revenue authorities may adopt, since the measures proposed have been strongly objected to and it has also been informed to the Court (through ‘Y’), that the State Government cannot provide for such measures. However, we leave it to the wisdom of the State authorities to look at the practicalities of the situation and the steps taken by the Central revenue authorities, in the same situation. The assessees being one class of persons who exist in a singular tax eco-system created by uniform GST laws that are *pari materia* to each other, from beginning to end, i.e. the State Act and the Central Act, the fact that in some proceedings drawn by authorities under the Central Act, notices and orders may be issued through physical mode also, while in another set of proceedings (against the same class of persons), drawn by the State authorities, notices and orders may be issued only through electronic mode, is not desirable. It creates confusion by bringing in duality and therefore uncertainty of procedures being followed, to implement a single substantive law, leading to doubts and conflicts that have given rise to the present wholly avoidable litigation.

(xi) Suffice to note, wherever an assessee files an appeal declaring that it is within time from the date of actual ‘communication’ of the order, a presumption may arise in favour of the assessee on the strength of such declaration. The burden to prove otherwise, may lie

on the revenue - to establish that actual ‘communication’ of the contents of the Show Cause Notice or adjudication order had been made prior in time, as may have allowed the limitation to start running from such prior date. Failing that, the limitation to file appeal may be computed with reference to the date that may be disclosed by the individual assessee, in each appeal.

(xii) To the extent learned ASGI has already apprised that the central authorities are issuing physical notices and copies of the orders also through postal mode, first, in those cases the issue of start point of limitation may be determined on the date of actual or constructive service, with reference to service through physical mode, in terms of Section 169 of the State/Central Acts.

(xiii) To avoid any conflict with respect to start point of limitation, it is provided - wherever the date of ‘communication’ may be determined or be claimed through electronic and physical mode, the date of communication through offline/physical mode may prevail over service through electronic mode, unless the contrary is proved, by either party.

(xiv) We also leave it open to the revenue authorities to adopt any of the modes including physical tender through messenger etc. as was being done under the pre-existing Trade Tax/VAT regime, in the State of Uttar Pradesh.

(xv) Positive intervention by the Court may have been desirable in the facts of these cases - to direct the GSTN to take effective steps in the first place to provide for the Common Portal in the language of the State i.e. Hindi; to create Tabs for ease of use and convenience to the assessee, to view notices that are pending compliance and orders that may have been passed against him. However, we are constrained to

observe for reason of obstinate stand taken by the GSTN, demonstrating extreme reluctance at the first stage itself, to take any positive criticism of the working of its Common Portal, and the urgent need to improve it - to make it more user friendly and enable the taxpayers to make compliances and pay their revenues within time, we leave GSTN with the thought that it is not it's object of incorporation to deal with lakhs of complaints as it already has and to continue to remain rigid in its approach. Rather, its object of incorporation commends that it responds to the need of the times pro-actively, to cater to the needs of the India's growing economy and the traders and business persons who are its users and who trust and rely on such mechanism not for any other reason but to help their businesses grow, that in turn contributes to the economic growth of the country itself.

105. Accordingly, these writ petitions are **allowed**. Individual Adjudication Orders are set aside, subject to deposit of 10% of the disputed demand of tax only, within four weeks from today. Also:

(i) Subject to the individual petitioner filing a copy of this order together with proof of deposit made, before the Adjudicating Authority within a month, the Adjudicating Authority shall make available to the petitioner copy of the show cause notice together with any additional/supplementary notice etc. issued in these proceedings together with copies of Relied Upon Documents ('RUDs' in short) within a period of two weeks from the date of compliance shown by the petitioner.

(ii) Petitioners shall file individual replies, if any, within a further period of four weeks therefrom.

(iii) Thereupon the Adjudicating Authority shall fix appropriate date for hearing and communicate the same to the individual petitioner, in the manner prescribed by law with at least two weeks' advance notice.

(iv) Petitioners undertake to cooperate and participate in the proceedings and not seek any undue or long adjournment.

(v) Any amount already deposited or recovered pursuant to the impugned adjudication order, may be adjusted against the amount to be deposited against this order, which shall abide by final adjudication order.

(vi) It is expected that the proceedings thus remitted would be concluded within six months from the date of first compliance made by the petitioner.

(vii) No order as to costs.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

December 19, 2025
Faraz/Prakhar/Abhilash

Digitally signed by :-
FARAZ AHMAD
High Court of Judicature at Allahabad

CASE 9 OF 34 · GROUP A

Alder Crafts v. State of Himachal Pradesh & Others

Court	High Court of Himachal Pradesh
Bench	Vivek Singh Thakur and Ranjan Sharma, JJ.
Date	02.07.2026
Case no. / citation	2026:HHC:26117; CWP No. 15378 of 2025

Holding in brief

A notice not placed in the proper tab of the portal is not validly served. SCN, order and recovery notice quashed.

Provisions involved

CGST Act, 2017: Section 169

Status

Allowed; held in favour of the taxpayer. Directions: Fresh SCN may be issued on or before 31.07.2026 (limitation no bar); proceedings to conclude by 30.09.2026.

The judgment begins on compendium page 145.

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.15378 of 2025
Decided on: 02.07.2026.

Alder Crafts Plot No.67-68, EPIP, Phase 2, Village Thana Baddi, Solan, Himachal Pradesh ...Petitioner

Versus

State of Himachal Pradesh & Others ...Respondents

Coram
Hon'ble Mr. Justice Vivek Singh Thakur, Judge
Hon'ble Mr. Justice Ranjan Sharma, Judge

[1]*Whether approved for reporting?.*

For the petitioner: Mr. Goverdhan Lal Sharma, Advocate.

For the respondents: Mr. Anup Rattan, Advocate General with Mr. Sushant Keprate, Additional Advocate General.

Vivek Singh Thakur, Judge *[Oral]*

Petitioner has approached this Court, seeking the following substantive reliefs:-

(i). Quashing the SCN dated 25.09.2023 (Annexure P-1) and order dated 29.12.2023 (Annexure P-2) passed by Respondent No.3 and recovery Notice dated 11.08.2025 (Annexure P-3) passed in violation of the principle of natural justice and in violation of Articles 14 and 21 of the Constitution.

(ii). Till the final disposal of the present writ petition, direct a stay on the operation of the

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[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

High Court of H.P.

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impugned order dated 29.12.2023 (Annexure P-2) Recovery Notice dated 11.08.2025 (Annexure P-3).”

2. Grievance of the petitioner is that show cause notice dated 25.09.2023 *[Annexure-1]* was issued without communicating it to the petitioner and uploaded it on the website of department on the GST Portal under the head “Additional Notices”, whereas as per Section 169 of the Central Goods and Services Tax Act, 2017, it is mandatory to upload the notice on the GST Portal under the head “Notices and Orders”. It has been submitted that due to aforesaid mistake, the notice could not be seen by or on behalf of petitioner and resultantly petitioner was proceeded *ex parte* and order dated 29.12.2023 *[Annexure P-2]* was passed by respondent No.3 against the petitioner. It is further case of the petitioner that show cause notice dated 25.09.2023 *[Annexure P-1]* and order dated 29.12.2023 *[Annexure P-2]* do not disclose the material particulars and, therefore, these documents are non-speaking and are liable to be quashed.

3. It is further case of the petitioner that

High Court of H.P.

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recovery notice dated 11.08.2025 *[Annexure P-3]* issued on the basis of order *[Annexure P-2]* is also not sustainable.

4. Reply stands filed.

5. It is not in dispute that show cause notice was not uploaded on the GST Portal under the head "Notices and Orders", but was uploaded under the head "Additional Notices".

6. In aforesaid facts and circumstances, there was no proper service of the show cause notice upon petitioner and, therefore, any action taken on the basis of said notice, is not sustainable.

7. Accordingly, the impugned show cause notice dated 25.09.2023 *[Annexure P-1]* and order dated 29.12.2023 *[Annexure P-2]* passed by respondent No.3 and recovery notice dated 11.08.2025 *[Annexure P-3]* are quashed and set aside, with liberty reserved to the concerned authority to issue a fresh show cause notice, if so required, on or before 31.07.2026, which shall be replied by the petitioner within the period prescribed under the Act and thereafter an appropriate order shall be passed

High Court of H.P.

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by the competent authority.

8. It is made clear that liberty to issue fresh notice is permitted in lieu of show cause notice dated 25.09.2023 *[Annexure P-1]* and, therefore, limitation, if any, shall not come in the way of authority in issuing such notice.

9. However, the proceedings in furtherance thereto, shall be carried on by considering the response of the petitioner, in accordance with law, as expeditiously as possible, latest by **30.09.2026,** on merits.

10. Present petition stands disposed of along with pending miscellaneous application(s), in aforesaid terms.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

July 02, 2026
[Shivender]

High Court of H.P.

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CASE 10 OF 34 · GROUP A

Luxmi Traders v. Union Territory of Chandigarh and Others

Court	High Court of Punjab and Haryana
Bench	Ashwani Kumar Mishra, A.C.J. and Rohit Kapoor, J.
Date	21.07.2026
Case no. / citation	CWP-27139-2025 (O&M) and connected cases (lead case)

Holding in brief

Mere upload does not deem the SCN served; if SCN was responded to, later challenge on service fails (Section 160(2)). Writ petitions disposed of with detailed directions.

Provisions involved

CGST Act, 2017: Sections 73, 74, 74A, 75, 107, 146, 160 and 169 (75(4), 169(1)(b), 169(1)(c), 169(1)(d), 169(2), 169(3))

Status

Disposed off; relief in part to both sides. Directions: Ex parte orders: proceedings restored to SCN stage with reply in four weeks; appeals dismissed on limitation restored; appeal within four weeks where order served only on portal.

The judgment begins on compendium page 150.

CNR NO: PHHC011468732025

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Reserved on: 08.07.2026
Pronounced on: 21.07.2026
Uploaded on: 21.07.2026

Whether only the operative part of the judgment is pronounced or whether the full judgment is pronounced: ***Full***

SR. NO.	CASE NUMBER(S)	PARTIES NAME
1.	CWP-27139-2025	LUXMI TRADERS V/S UNION TERRITORY OF CHANDIGARH AND OTHERS (***LEAD CASE***)
2.	CWP-27457-2025	SAMARTH LIFE SCIENCES PVT LTD V/S UNION TERRITORY OF CHANDIGARH AND OTHERS
3.	CWP-33036-2025	M/S R SAI LOGISTICS INDIA PVT LTD V/S STATE OF HARYANA AND ORS
4.	CWP-33330-2025	SEAL SECURITY AND PLACEMENT SERVICES V/S UNION OF INDIA AND OTHERS
5.	CWP-33913-2025	M/S R SAI LOGISTICS INDIA PVT LTD V/S STATE OF HARYANA AND ORS
6.	CWP-34824-2025	BHARTI REALTY LIMITED FORMERLY KNOWN AS BHARTI REALTY HOLDINGS LIMITED V/S UNION OF INDIA AND OTHERS
7.	CWP-37026-2025	CHEMGENE V/S UNION TERRITORY OF CHANDIGARH AND ANOTHER
8.	CWP-1387-2026	GEETA GARG V/S UNION TERRITORY OF CHANDIGARH AND ORS
9.	CWP-1393-2026	ASHOK KUMAR GARG V/S UNION TERRITORY OF CHANDIGARH AND ORS
10.	CWP-2467-2026	M/S MANNAT STEELS V/S UNION TERRITORY OF CHANDIGARH AND OTHERS

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11.	CWP-3518-2026	PREM AGENCIES V/S UNION OF INDIA AND OTHERS
12.	CWP-6113-2026	M/S P.S. METALS V/S STATE OF HARYANA AND OTHERS
13.	CWP-8742-2026	M/S SUNIL COMMUNICATION SUNIL KUMAR KAITHAL THROUGH ITS PROPRIETOR SUNIL KUMAR V/S UNION OF INDIA AND OTHERS
14.	CWP-7400-2026	M/S GAURI SHANKAR METAL INDUSTRIES V/S STATE OF PUNJAB AND ORS
15.	CWP-4116-2026	NAIN SERVICE PROVIDER PROP RANDHIR SINGH NAIN V/S THE EXCISE AND TAXATION OFFICER-CUM-STATE TAX OFFICER
16.	CWP-8379-2026	SACHIN VINEET CEMENT AND H/W STORE V/S UNION OF INDIA AND OTHERS
17.	CWP-8436-2026	SMEC INDIA PVT LTD V/S UNION OF INDIA AND OTHERS
18.	CWP-7128-2026	M/S GAURI SHANKAR METAL INDUSTRIES V/S STATE OF PUNJAB AND ORS
19.	CWP-6897-2026	M/S INDIA TEXTILE MFG CO V/S STATE OF PUNJAB AND OTHERS
20.	CWP-9808-2026	SONS JEWELLERS V/S UNION TERRITORY OF CHANDIGARH AND OTHERS
21.	CWP-10079-2026	BANSAL UDYOG V/S UNION OF INDIA AND OTHERS
22.	CWP-9873-2026	N G IMPEX V/S UNION OF INDIA AND OTHERS
23.	CWP-9341-2026	GRID INDIA POWER CABLES PVT LTD V/S STATE OF HARYANA AND ANOTHER
24.	CWP-24432-2025	M/D TECH WIZARD IT AND INFRA PRIVATE LIMITED V/S STATE OF HARYANA AND OTHERS

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25.	CWP-11576-2026	TARANG ENTERPRISES V/S UNION OF INDIA AND OTHERS
26.	CWP-7600-2026	M/S INDIAN STONE CRUSHER V/S STATE OF HARYANA AND OTHERS
27.	CWP-9027-2026	WALNUTHONEY INFOTECH PRIVATE LIMITED V/S UNION OF INDIA AND OTHERS
28.	CWP-9929-2026	LETSTRAK TECH PRIVATE LIMITED V/S EXCISE AND TAXATION OFFICER CUM PROPER OFFICER WARD 02 KARNAL HARYANA AND ANR
29.	CWP-9745-2026	M/S MYRA DESIGNS PVT LTD V/S UNION OF INDIA AND OTHERS
30.	CWP-7205-2026	AKSHAT HARDWARE AND PLYWOOD STORE V/S UNION OF INDIA AND OTHERS
31.	CWP-5260-2026	SONALAC PAINTS AND COATINGS LIMITED V/S UNION TERRITORY OF CHANDIGARH AND OTHERS
32.	CWP-9056-2026	M/S STONE SQUARES V/S STATE OF HARYANA AND OTHERS
33.	CWP-13386-2026	HRICHA INDUSTRIES V/S STATE OF HARYANA AND OTHERS
34.	CWP-36733-2025	AMIT RUBBER CHEM TRADING COMPANY PVT LTD V/S STATE OF HARYANA AND ORS
35.	CWP-15506-2026	PARVESH KUMAR CHUGH V/S STATE OF PUNJAB AND ANOTHER
36.	CWP-16523-2026	BABA DEEP SINGH ROLLING MILLS V/S STATE OF PUNJAB AND OTHERS
37.	CWP-19243-2026	M/S DUHAN ELECTRICAL WORKS PRIVATE LIMITED V/S STATE OF HARYANA AND OTHERS
38.	CWP-14663-2026	KRISHNA EXPORTS V/S STATE OF PUNJAB AND OTHERS

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39.	CWP-33226-2025	SHRI BALAJI SANITARY AND CEMENT STORE V/S STATE OF HARYANA AND ANOTHER
40.	CWP-16270-2026	M/S NASIB SINGH WELDING WORKS V/S UT CHANDIGARH AND ANOTHER
41.	CWP-19655-2026	MAXTAR BIO GENICS PRIVATE LIMITED V/S STATE OF HARYANA AND OTHERS
42.	CWP-20237-2026	M/S ASHOK KUMAR CONTRACTOR ROHTAK V/S STATE OF HARYANA AND OTHERS

CORAM:- HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr. Sandeep Goyal, Sr. Advocate (*arguing counsel*) with
Ms. Aakriti, Advocate
Mr. Mohit Bassi, Advocate
Ms. Urvi Khanna, Advocate
Mr. Aditya Gupta, Advocate
for the petitioners in CWP-27139-2025, CWP-27457-2025, CWP-8436-2026, CWP-9808-2026, CWP-24432-2025, CWP-9745-2026 & CWP-9056-2026.

Ms. Geetika Sharma, Advocate
for the petitioner in CWP-16270-2026.

Mr. Avneet Singh, Advocate
Mr. Pranav Jain, Advocate
Ms. Alisha, Advocate
for the petitioner in CWP-6897-2026.

Mr. Vishav Bharti Gupta, Advocate
for the petitioner in CWP-7600-2026.

Mr. Lalitendra Gulani, Advocate
Mr. Mohit Pugalia, Advocate
Ms Sneha Ghosh, Advocate
Ms. Gayatri, Advocate
Ms. Janvi, Advocate
for the petitioner in CWP-9929-2026.

Mr. Ajay Gupta, Advocate
for the petitioner in CWP-8742-2026.

Mr. Mohit Bassi, Advocate
for the petitioner in CWP-16523-2026.

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Mr. Chetan Jain, Advocate
Mr. Porush Jain, Advocate
for the petitioners in CWP-14663-2026, CWP-8379-2026, CWP-7205-2026.

Mr. Amar Pratap Singh, Advocate
Mr. Mahesh Singla, Advocate
for the petitioners in CWP-34824-2025 and CWP-36733-2025.

Ms. Tarushi Momya, Advocate
Mr. Raj Mahto, Advocate
for the petitioner in CWP-6113-2026.

Mr. Ankit Dhiman, Advocate
for the petitioner in CWP-9027-2026.

Mr. Prashant Kapila, Advocate
for the petitioners in CWP-7128-2026 and CWP-7400-2026.

Mr. Puneet Rai, Advocate
(through video conferencing)
for the petitioner in CWP-19655-2026.

Mr. Viresh Dahiya, Advocate
Ms. Sonakshi Chaudhary, Advocate
Ms. Tannu Ahlawat, Advocate
for the petitioner in CWP-20237-2026.

Mr. Mukul Singla, Advocate
for the petitioner in CWP-33226-2025.

Mr. Amrinder Singh, Advocate (*arguing counsel*)
Mr. Umang Goyal, Advocate
Mr. Naveen Bindal, Advocate
Mr. Aman Bansal, Advocate
Mr. Nikhil Goyal, Advocate
Mr. Peyush Pruthi, Advocate
Mr. Vikrant Kackria, Advocate
for the petitioners.

Mr. Saurabh Kapoor, Addl. A.G., Punjab.
(*arguing counsel*).

Mr. Rishabh Kapoor, Sr. Standing Counsel (*arguing counsel*)
for the respondents-CBIC.

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Mr. Ajay Kalra, Sr. Standing Counsel with
Ms. Isha Janjua, Advocate
for respondents-CBIC.

Mr. Sourabh Goel, Addl. A.G., Haryana.

Mr. Sourabh Goel, Sr. Standing Counsel, U.T.
(arguing counsel) assisted by
Ms. Himanshi Gautam, Advocate
Ms. Drishti Saraf, Advocate
for the respondents/Revenue
in CWPs-1387, 1393, 3518, & 9808 of 2026.

Mr. Ajay Jagga, Addl. Standing Counsel, U.T.,Chd (*arguing counsel*) with Mr. Aryaman Jagga, Advocate
for the respondents-U.T in CWP-27139-2025, CWP-33330-2025,
CWP-37026-2025, CWP-2467-2026, CWP-5260-2026,
CWP-9808-2026, CWP-10079-2026, CWP-9027-2026.

Mr. Abhinav Sood, Addl. Standing Counsel, with
Mr. Sayyam Garg, Advocate
for the respondents-U.T.

Mr. Akashdeep Singh, Advocate
for the respondents No.3 to 6.

Ms. Sidhi Bansal, Advocate
Ms. Ridhi Bansal, Advocate
Mr. Sagar Ratusaria, Advocate
Mr. Parth Sharma, Advocate
for the respondents-CBIC.

Mr. Sarthak Gupta, Advocate
for respondent No.1 in CWP-8742-2026.

Ms. Chetna Thakur, Advocate for
Mr. Gurinderjit Singh, Sr. Standing Counsel,
for the respondents-CGST.

Mr. Manpreet Singh, Advocate for
Ms. Pridhi Sandhu, Advocate
for the respondents-GST.

*****

ASHWANI KUMAR MISHRA, A.C.J.

1. Since all the writ petitions arise from the same *lis* and

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revolve around substantially similar questions of fact and law, they are being decided through this common judgment. For convenience, and with the consent of the parties, CWP No.27139 of 2025 shall serve as the *lead case* and the decision herein shall apply to the other writ petitions.

2. Short question that requires consideration in this batch of writ petitions is as to whether uploading of a notice as well as the order-in-original in the tab '*View Additional Notices and Orders*', on the Common Portal, being www.gst.gov.in amounts to proper service of it, on the petitioner in view of Section 169 read with Section 146 of the Central Goods and Services Tax Act, 2017 (for short, the '***Act of 2017***'), so as to trigger the period of limitation for filing of appeal under Section 107 of the Act of 2017?

3. Petitioner though has also assailed the notification issued on 31.03.2023, under Section 168A of the Act of 2017, extending the period of limitation for commencement of proceedings under the Act of 2017, but the arguments have been confined only to the extent of service of notice/order, and therefore we have not examined the legality of the notification, which is left open for examination in appropriate proceedings.

4. The brief facts leading to the present writ(s) are as follows:

5. The petitioner is a proprietorship firm, represented through its proprietor, carrying on business in the Union Territory of Chandigarh. It is aggrieved by the order-in-original dated 28.12.2023 (Annexure P-4) primarily on the ground that the said order was not served upon the

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petitioner in the prescribed manner, on account of which the petitioner is deprived of the opportunity to avail the remedy of appeal under Section 107 of the Act of 2017.

6. The contention advanced on behalf of the petitioner is that the uploading of the order in the manner adopted by the respondents does not amount to valid service of the order upon the petitioner. It is further contended that the order impugned has otherwise been passed in violation of principles of natural justice as no opportunity of hearing was afforded to the petitioner and therefore, interference is required by this Court in the present petition.

7. The affidavits have been exchanged between the parties and with their consent, the writ petition is being disposed of finally, at the stage of admission itself.

8. The petitioner is duly registered under the Act of 2017 having Registration No.GSTN 04AIDPG1170A1Z8 with its place of business at Shop No.9, Sector 45-B Burail, Opp. Dev Samaj College, Chandigarh-160045. Scrutiny proceedings were initiated against the petitioner under Section 61 of the Act of 2017. On 29.08.2023, an intimation in Form ASMT-10 was issued asking the petitioner to provide reasons with reference to the discrepancies in Form GSTR-1, Form GSTR 3B, GSTR2A and 3B for the period of 2017-2018. The petitioner was also asked to provide supporting documents in reference to credit notes to the tune of Rs.20,99,199/-. Thereafter, on 27.09.2023, notice in Form DRC-01 was issued to the petitioner under Section 73 of the Act of

RAHUL JOSHI
2026.07.21 17:31
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2017, on the basis of information uploaded on the portal.

9. According to the petitioner, neither was any communication was received by it, nor was any notice of hearing issued to the petitioner, or uploaded on the portal of the petitioner, in respect of Show Cause Notices (for short, '***SCN***') issued to it. As per petitioner, neither any date of personal hearing, nor its time or venue was mentioned in the SCN, and the authorities unilaterally proceeded to pass the impugned order-in-original along with DRC-07 under Section 73 of the Act of 2017. It is urged that apart from uploading the order on the tab '*View Additional Notices and Orders*' there was no other method adopted by the respondents for effecting service of the impugned order-in-original or any other communication upon the petitioner.

10. The petitioner submits that though it has the remedy of filing statutory appeal under Section 107 of the Act of 2017, but it cannot be availed now since the limitation prescribed for filing an appeal under Section 107 of the Act of 2017 has expired, as according to the Department, the order-in-original stood served/communicated to the petitioner with uploading of it on the tab '*View Additional Notices and Orders*' on the Common Portal. The period for limitation also cannot be extended beyond the period of one month by virtue of Section 107 of the Act of 2017 and therefore, the petitioner is left with no remedy but to file the present writ petition.

11. Sh. Sandeep Goyal, learned Senior Counsel for the petitioner, therefore, submits that mere uploading of orders on the

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2026.07.21 17:31
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Punjab & Haryana High Court, CHD

Common Portal does not amount to service of the order-in-original and therefore, the authorities have wrongly treated such uploading as valid service of the order, so as to trigger the period of limitation for filing an appeal.

12. In connected petition(s), the authorities have taken such view and the appeal(s) filed by the appellant(s) has/have been dismissed on the ground of limitation.

13. The petitioner's submissions are countered by the respondents, who contend that uploading an order on the Common Portal is one of the permissible modes of service of a notice or an order-in-original, by virtue of Section 169(1)(d) of the Act of 2017. It is also urged that, in terms of Section 169(1)(c) of the Act of 2017, service of a decision, order, summons, or notice by e-mail is a recognized mode of service, and therefore, the contrary contention is unsustainable.

14. Relying upon the provisions contained in Sections 146 and 169 of the Act, read with Rule 142, Sh. Sourabh Goyal, learned Senior Standing Counsel for the respondent(s), submits that uploading notices as well as orders on the Common Portal is a valid mode of service, and that the majority of assessees file their appeals within the prescribed period of limitation. He further submits that the argument regarding improper service under the statute is raised only to claim an extended period of limitation, which is otherwise not contemplated under the Act of 2017, as the statute prescribes strict timelines to be followed.

15. Learned Senior Standing Counsel for the respondents further

RAHUL JOSHI
2026.07.21 17:31
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submits that prior to January 2024, the Common Portal contained separate tabs, namely, the '*View Notices and Orders*' tab and the '*View Additional Notices and Orders*' tab. Orders were uploaded under the '*View Additional Notices and Orders*' tab. However, in January 2024, the portal was modified, and both tabs were made visible side by side in order to facilitate the taxpayers. He further argues that once the petitioner was aware of the Common Portal, which is being used for various purposes and contains a tab for notices and orders, it does not lie in his mouth to contend that merely for want of a specific notification, the uploading of orders and notices on the Common Portal cannot be treated as valid service of an order or notice upon the assessee. In the alternative, he submits that even if the stand of the respondents is not accepted by the Court, the petitioner may be granted the benefit of limitation by permitting him to contest his appeal on merits, treating the same as being within limitation. Further, wherever the SCN has been decided *ex parte*, the petitioner may be permitted to contest the same on merits by submitting his reply. As regards the petitioners whose registrations stand cancelled, they may be directed to furnish their contact details for communication.

16. It is further urged on behalf of the respondents that cases which have already been contested on merits should not be permitted to be re-agitated by the taxpayers. He submits that communication of orders and notices through email may be read down to mean that the email should contain the attachment of the respective notice, order, or decision

RAHUL JOSHI
2026.07.21 17:31
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in order to constitute effective service, and that a mere intimation through email regarding the uploading of an order, notice, etc. on the Common Portal cannot be treated as an effective service.

17. Lastly, learned Senior Standing Counsel for the respondents submits that once a notification has been issued under Section 146 of the Act of 2017 notifying the Common Portal for the specified purposes, namely, facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, and issuance of electronic way bills, the same would also encompass the Common Portal for carrying out such other functions and purposes as may be prescribed. It is, therefore, contended that since Section 169(1)(d) of the Act of 2017 prescribes service of orders, decisions, notices and other communications through the Common Portal, no separate notification is required for that purpose.

18. Heard Sh. Sandeep Goyal, learned Senior Counsel & Mr. Amrinder Singh, learned counsel for the petitioner(s) and Sh. Sourabh Goel, learned Senior Standing Counsel for the respondent(s)-revenue, Mr. Ajay Jagga, Additional Standing Counsel for the respondent-U.T., Chandigarh, Mr. Rishabh Kapoor, Senior Standing Counsel for the respondent-CBIC and Mr. Saurabh Kapoor, Additional Advocate General, Punjab and have carefully perused the provisions of the Act, Rules and the Notifications.

19. It is in the context of the submissions advanced at the bar on behalf of the parties that this Court is required to consider the questions

RAHUL JOSHI
2026.07.21 17:31
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already framed for determination in the instant case.

20. Act of 2017 prescribes the mode for effecting service of SCNs and the orders passed by the authorities under the Act. It would thus be relevant to reproduce Section 169 of the Act of 2017, which provides for '*service of notice in certain circumstances*' and is extracted hereinafter:-

> *"**169. Service of notice in certain circumstances.***
>
> *(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:-*
>
> *(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or*
>
> *(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or*
>
> *(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or*
>
> *(d) by making it available on the common portal; or*
>
> *(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or*

RAHUL JOSHI
2026.07.21 17:31
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> *(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.*
>
> *(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).*
>
> *(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved."*

21. One of the modes prescribed for effecting the service of notice and orders is by making them available on the Common Portal. The term '*Common Portal'* occurring in Section 169(1)(b) of the Act of 2017 has been defined in Section 146, which is extracted hereinafter:-

> *"**146. Common Portal.**— The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed."*

22. Law thus requires notifying of Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out *such other functions and for such*

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2026.07.21 17:31
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purposes as *may be prescribed.*

23. The expression '*prescribed'* stands statutorily defined under Section 2(87) of the Act of 2017 which reads as under:-

> *"2(87) "prescribed" means prescribed by rules made under this Act on the recommendations of the Council."*

24. Exercising the power under Section 146 of the Act of 2017, the competent authority has issued notifications from time to time, notifying the relevant portals as the Common Portal for different purposes.

25. The first notification in this regard is No.04/2017-CT dated 19.06.2017 for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax. The website address notified is www.gst.gov.in, which is managed by the Goods and Service Tax Network. The notification dated 19.06.2017 reads as under:-

> ***"GOVERNMENT OF INDIA***
>
> ***MINISTRY OF FINANCE***
>
> ***DEPARTMENT OF REVENUE***
>
> ***CENTRAL BOARD OF EXCISE AND CUSTOMS***
>
> ***Notification No.4/2017-Central Tax***
>
> ***New Delhi, the 19th June, 2017***
>
> ***29 Jyaistha, 1939 Saka***
>
> ***G.S.R….(E)****.- In exercise of the powers conferred by Section 146 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with Section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government hereby notifies www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration,*

RAHUL JOSHI
2026.07.21 17:31
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payment of tax, furnishing of returns, computation and settlement of integrated tax and electronic way bill.

Explanation.-For the purposes of this notification, "www.gst.gov.in" means the website managed by the Goods and Services Tax Network, a company incorporated under the provisions of Section 8 of the Companies Act, 2013 (18 of 2013.

2. This notification shall come into force on the 22nd day of June, 2017.

[F.No.349/72/2017-GST]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India"

26. The second notification No.09/2018-CT dated 23.01.2018 is for furnishing the electronic way bill. The website address notified is www.ewaybillgst.gov.in, which is managed by the National Informatics Centre. The same reads thus:-

"GOVERNMENT OF INDIA

MINISTRY OF FINANCE

DEPARTMENT OF REVENUE

CENTRAL BOARD OF EXCISE AND CUSTOMS

Notification No.9/2018-Central Tax

New Delhi, the 23rd January, 2018

G.S.R….(E)*.- In exercise of the powers conferred by Section 146 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with Section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No.4/2017-Central Tax dated 19th June, 2017, published in the Gazette of India,*

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2026.07.21 17:31
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Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 606 (E), dated the 19th June, 2017, except as respects things done or omitted to be done before such supersession, the Central Government hereby notifies www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax and www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill.

Explanation.-

(1) For the purposes of this notification, "www.gst.gov.in" means the website managed by the Goods and Services Tax Network, a company incorporated under the provisions of Section 8 of the Companies Act, 2013 (18 of 2013; and

(2) For this purposes of this notification, "www.ewaybillgst.gov.in" means the website managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India.

2. This notification shall be deemed to have come into force with effect from the 16th day of January, 2018.

[F.No.349/58/2017-GST(Pt.)]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India"

27. The third notification No.69/2019-CT dated 13.12.2019 is for preparation of the invoice in terms of sub-rule (4) of Rule 48. The Common Goods and Services Tax Electronic Portals are notified as

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2026.07.21 17:31
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under:-

> *"www.einvoice1.gst.gov.in, www.einvoice2.gst.gov.in, www.einvoice3.gst.gov.in, www.einvoice4.gst.gov.in, www.einvoice5.gst.gov.in, www.einvoice6.gst.gov.in, www.einvoice7.gst.gov.in, www.einvoice8.gst.gov.in, www.einvoice9.gst.gov.in and www.einvoice10.gst.gov.in"*

The same are managed by the Goods and Service Tax Network. The notification is reproduced hereinafter:-

> ***"GOVERNMENT OF INDIA***
>
> ***MINISTRY OF FINANCE***
>
> ***DEPARTMENT OF REVENUE***
>
> ***CENTRAL BOARD OF EXCISE AND CUSTOMS***
>
> ***Notification No.69/2019-Central Tax***
>
> ***New Delhi, the 13th December, 2019***
>
> *G.S.R….(E).- In exercise of the powers conferred by Section 146 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with Section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby, notifies the following as the Common Goods and Services Tax Electronic Portal for the purpose of preparation of the invoice in terms of sub-rule (4) of rule 48 of the aforesaid rules, namely:-*
>
> *"www.einvoice1.gst.gov.in;*
>
> *www.einvoice2.gst.gov.in;*
>
> *www.einvoice3.gst.gov.in;*
>
> *www.einvoice4.gst.gov.in;*
>
> *www.einvoice5.gst.gov.in;*
>
> *www.einvoice6.gst.gov.in;*
>
> *www.einvoice7.gst.gov.in;*

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2026.07.21 17:31
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www.einvoice8.gst.gov.in;
www.einvoice9.gst.gov.in;
www.einvoice10.gst.gov.in"
Explanation.-For the purposes of this notification, the above mentioned websites mean the websites managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (8 of 2013).

2. This notification shall come into force with effect from the 1st day of January, 2020.

[F.No.20/13/01/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India"

28. It remains undisputed on behalf of the respondents that apart from the Notifications dated 19.06.2017, 23.01.2018 and 13.12.2019, referred to above, no other notification has been issued under Section 146 of the Act of 2017. Our attention has not been invited to any other notification issued by the respondents specifying www.gst.gov.in as the portal for uploading notices or orders-in-original for the purposes of its service under Section 169 of the Act of 2017.

29. We find substance in the petitioner's contention that the Common Portal, referred to in Section 146 of the Act of 2017, is not notified for service of notices/orders so far. Rather, distinct purposes are assigned to the Common Portal as notified, none of which are for service of notice and orders. These portals are otherwise managed by different entities.

RAHUL JOSHI
2026.07.21 17:31
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30. Moreover, when a notice or order is uploaded on the Common Portal, *i.e.* www.gst.gov.in, an e-mail is sent to the registered e-mail address intimated to the Department at the time of registration stating that an order or SCN has been uploaded on the portal. However, the SCN or the order itself is not attached to the e-mail sent by the Department. The communication is merely confined to an intimation that an SCN or order has been uploaded on the portal, without the notice or order itself being attached to the e-mail. Even the specific contents uploaded on the portal are not communicated by the e-mail sent on the registered address. It would thus be difficult to hold that the e-mail sent amounts to service of SCN or order in terms of Section 169(1)(c) of the Act of 2017.

31. In addition to the purposes expressly enumerated in Section 146 of the Act of 2017 i.e., facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill, and any other purpose for the use of the Common Portal has to be prescribed under the Central Goods and Services Tax (CGST) Rules, 2017 (for short, the '***Rules of 2017***'). None of the Rules contained in the Rules of 2017 prescribes uploading of an SCN or order on the Common Portal. Rule 142, occurring in Chapter XVIII of the Rules of 2017 relating to '*Demands and Recovery*', provides for service in electronic mode and refers to the Common Portal only for the purpose of payment of tax. It is therefore discernible that uploading of SCN or order on the Common Portal is not a prescribed mode of service, in the manner

RAHUL JOSHI
2026.07.21 17:31
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stipulated in law.

32. Relying upon the statutory scheme noticed above, we have no hesitation in accepting petitioner's submission that the Common Portal, *i.e.* www.gst.gov.in, is not a portal for the service of notices or orders and, therefore, it cannot be construed that the uploading of SCN or orders on the Common Portal would amount to service of such SCN or order upon the petitioner in terms of Section 169 of the Act of 2017.

33. The petitioner has also placed on record a communication issued by the Excise and Taxation Department, Haryana containing Instruction No.02/2026/GST-II dated 01.06.2026, as per which an intimation of SCN and demand orders issued by the proper officers under Sections 73, 74, 74A or 122 of the Haryana Goods and Services Tax Act, 2017 is required to be sent by post. This instruction is reproduced hereinafter:-

> "***EXCISE & TAXATION DEPARTMENT, HARYANA***
>
> ***Instruction No.02/2026/GST-II***
>
> *Dated: 01-06-2026*
>
> ***Subject:- Instructions regarding intimation of Show Cause Notices and Demand orders issued by the Proper Officers under Sections 73, 74, 74A or 122 of the Haryana Goods and Services Tax Act, 2017 by post.***
>
> *In pursuance of the regular feedbacks and representations received from the trade and industry in the state underlying the necessity of communicating the notices and orders issued under the provisions of GST law also by post, the Government of Haryana has decided to additionally communicate the notices and orders under GST to the tax payers by registered/speed post.*

RAHUL JOSHI
2026.07.21 17:31
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In exercise of the powers conferred under Section 168 of the Haryana Goods and Services Tax Act, 2017, and in supersession of instructions no.01/2026/GST-II, issued vide No.482/GST-II, dated 23.05.2026, I, Vinay Pratap Singh, Commissioner of State Tax, Haryana, hereby issue the following instructions:-

The Show Cause Notice in FORM GST DRC-01 and the Demand Order in FORM GST DRC-07 issued under Sections 73, 74, 74A or 122 of the HGST Act, 2017, CGST Act, 2017, section 20 of the IGST Act, 2017 and the relevant provisions of the Goods and Services Tax (Compensation to States) Act, 2017 which have already been issued and served upon the taxpayers through the GST common portal by the Proper Officers, shall, additionally, be sent through registered post/speed post with acknowledgment due, to the person for whom it is intended or his authorized representative if any, at his last known place of business or residence by the Proper Officer concerned for the purpose of intimation only.

Such notice or order shall be deemed to have been received by the taxpayer on the date of making it available on GST common portal in accordance with clause (d) of sub-section (1) and sub-section (2) of Section 169 of the said Act.

The Jurisdictional Proper Officer will send the intimation regarding the issuance of Show Cause Notice or the Demand Order, as the case may be, within fifteen days of issuance of such notice or order through the GST common portal. He will maintain the dispatch register of intimation of all such notices/orders in his ward and monitor the same on fortnightly basis.

The Deputy Commissioner of State Tax of the District will supervise and countersign the dispatch registers maintained

RAHUL JOSHI
2026.07.21 17:31
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ward wise on monthly basis.

These instructions will come into effect from 1st June, 2026.

Dated: ***VINAY PRATAP SINGH***
Place: *Excise and Taxation Commissioner-cum-Commissioner of State GST, Haryana*

No.440/GST-II/TI
Panchkula, Dated the 01.06.2026

Copy to:
1. PS/C&S E&T, Haryana
2. PS/Excise and Taxation Commissioner, Haryana
3. All Addl. Excise and Taxation Commissioners in the Head Office.
4. All JETCs (Range/Appeal) in the State of Haryana.
5. All DETCs (ST) in the State of Haryana.
6. JDLs and Das in the Head Office.

Dy. Excise and Taxation Commissioner (GST),
Haryana, Panchkula*"*

34. An argument is also advanced on behalf of the petitioner that it is otherwise difficult for a registered entity to gather knowledge/information about any issuance of SCN or order, keeping in mind the manner such SCN or order is actually uploaded. It is urged that on visiting its GST portal by the registered entity, there is no flash of any penal proceedings contemplated or pending against it. On clicking of the tab services (not notices or orders), various sub-tabs open none of which give any indication of issuance of any notice to the petitioner, with regard to any contemplated penal proceedings. It is only on clicking the sub-tab '*User Services'*, that one is led to the opening of another 14 sub-tabs, one of which is '*Notices and Orders'*. Even on this tab, there is no indication of any SCN or order on it. It is only on a sub-tab being '*Additional Notices and Orders'*, that one gets to know about the issuance of a notice

RAHUL JOSHI
2026.07.21 17:31
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Punjab & Haryana High Court, CHD

or the order. It is therefore the petitioner's case that the process itself being cumbersome it becomes extremely challenging even for an honest taxpayer to know about the issuance of SCN or the order by its mere uploading on the GST portal.

35. While entertaining writ petitions also the aforesaid argument was specifically noticed, inasmuch as the Court recorded that the petitioner had produced printouts of the GST portal to contend, *inter alia*, that the impugned demand was liable to be quashed. Before raising such demand, neither was any notice validly served upon the petitioner, nor was an opportunity of hearing, in terms of Section 75(4) of the Act of 2017 was granted. On visiting the petitioner's dashboard/account on the GST portal, there is no flash of any penal proceedings contemplated or pending against the petitioner; thereafter, even if one clicks on the tab 'Services' (not Notices or Orders), it leads to the popping up of several sub-tabs like '*Registration*', '*Ledgers*', '*Returns*', '*Payments*', '*User Services*', 'Refunds', '*e-Way Bill System*' and '*Track Application Status*', none of which even give a slight indication as to issuance of any notice to the petitioner with regard to any contemplated penal proceedings. It is only after one clicks on the aforesaid sub-tab '*User Services*', that one is lead to the opening of another 14 sub-tabs one of which is '*Notices and Orders*'. Even when this tab is clicked, no SCN or order, as in the present case, gets displayed, because such notices and/or the impugned order gets displayed only when a sub-tab within the sub-tab '*Notices and Orders*' *i.e.* '*Additional Notices and Orders*' is clicked upon. Thus, to locate the

RAHUL JOSHI
2026.07.21 17:31
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Punjab & Haryana High Court, CHD

same is like virtually playing a game of treasure hunt, the level of which game is extremely difficult, as the tabs in this game are not appropriately marked or labelled. In the above scenario, till recently, the petitioner was not aware of the passing of the impugned order, nor was it made aware of any notice issued to it, and that in any case, in terms of Section 75(4) of the Act of 2017, prior to the issuance of the impugned demand, no opportunity of hearing was afforded to the petitioner. Reliance was placed upon orders passed by different High Courts noticing the cumbersome process by which a registered entity could get to know about issuance of SCN or any order, even when it does access its dashboard on the Common Portal.

36. Section 169 provides in categorical terms that any decision, order, or notice under the Act of 2017 or the Rules made thereunder, has to be served by any of the methods specified in sub-section (1) thereof. It is undisputed that the notice and order were served upon the petitioner only by making them available on the Common Portal. Apart from sending a communication to the e-mail address provided at the time of registration regarding the uploading of the notice/order, none of the other modes of service of notice/order specified in sub-section (1) of Section 169 of the Act of 2017 have been resorted to by the Department.

37. As per Section 169(1) any decision, order, summons, notice or other communication under this Act, or the Rules made thereunder, shall be served by any one of the following methods:

(a) Tendering it directly or by a messenger, including by

RAHUL JOSHI
2026.07.21 17:31
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Punjab & Haryana High Court, CHD

courier to the taxable person.

(b) By Registered Post or Speed Post or courier with acknowledgement due.

(c) Communication to his email address.

(d) By making it available on the common portal.

(e) By publication in a newspaper circulating in the locality in which the taxable person resided, carried on business or personally worked for gain.

(f) If none of the modes are practicable, by affixing it in some conspicuous place at his last known place of business or residence, and if such mode is not practicable for any other reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who has passed such decision or order issued.

38. Further, Section 169(2) of the Act of 2017 states that every decision, order, summons, notice or any communication shall be deemed to have been served, on the day on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1). On the other hand, Section 169(3) of the Act of 2017 states that when such decision, order or summons is sent by registered post, it shall be deemed to have been received by the addressee on the expiry of the period normally taken by such post in transit, unless the contrary is proved. Therefore, for the modes prescribed under Section 169(1)(a), Section 169(1)(b), Section 169(1)(e), Section 169(1)(f), there is a deeming fiction

RAHUL JOSHI
2026.07.21 17:31
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under Section 169(2) and Section 169(3) of the Act of 2017, whereas there is no deeming fiction for the service of order/notices by the modes prescribed under Section 169(1)(c) (e-mail) and Section 169(1)(d) (Common Portal).

39. Undisputedly, though multiple modes of service of order are available with the Department, but the impugned order-in-original is served upon the petitioner only by way of uploading it on the tab '*View Additional Notices and Orders*' on the Common Portal.

40. Section 146 of the Act of 2017 makes it explicit that the Government may, on the recommendation of the GST Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, and issuance of electronic way bills. In addition to the purposes already specified, the Common Goods and Services Tax Electronic Portal may also be notified for carrying out *such other functions and for such other purposes as may be prescribed*.

41. There are three notifications issued by the Government specifying the Common Goods and Services Tax Electronic Portal for distinct purposes. The first notification, dated 19.06.2017, provides that www.gst.gov.in shall be the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, and generation of electronic way bills only. This notification does not authorize the use of the Common Portal, www.gst.gov.in, for uploading orders and notices issued

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under various provisions of the Act of 2017. The next notification, issued on 23.01.2018, notifies www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bills. This notification does not notify the Common Portal for the service of notices or orders under the Act of 2017. The third notification, dated 13.12.2019, is limited to notifying the Common Portal for the purpose of preparation of invoices in terms of sub-rule (4) of Rule 48 of the Rules framed under the Act of 2017.

42. The respondents, though they have filed their written statements but, have not disputed the petitioner's contention that, apart from the three notifications dated 19.06.2017, 23.01.2018, and 13.12.2019, referred to above, there is no other notification issued by the Government under Section 146, notifying the Common Portal for the service of notices/orders passed under the Act of 2017.

43. We may reiterate that our attention has not been invited to any notification issued by the Government authorizing the service of notices/orders passed under the Act of 2017 by uploading them on the Common Portal, *i.e.*, www.gst.gov.in.

44. Learned counsel for the Revenue has submitted that even though no express notification has been issued under Section 146 of the Act of 2017 for uploading notices/orders on the Common Portal, yet the service of the notice/order would be sufficiently complete, since an e-mail in this regard is sent to the petitioner, which is a permissible mode of service of notice/order under the Act of 2017 by virtue of Section 169(1)

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(c) of the Act of 2017.

45. The argument of the learned counsel for the Revenue, in this regard, cannot be accepted for the simple reason that the notice/order is not sent on the registered e-mail address of the assessee. What is sent by e-mail is merely an intimation that a SCN/order has been uploaded on the Common Portal. Unless the notice/order is sent by e-mail on the address furnished at the time of registration, the respondents cannot take shelter of Section 169(1)(c) of the Act of 2017.

46. Law is well-settled that when a statute prescribes a thing to be done in a particular manner then it has to be done in that manner alone, and not in any other manner. [***See:- Taylor Vs. Taylor, [(1875) 1 Ch.D 426] and Shri Khereshwar Mahadev Va Dauji Maharaj Samiti, Aligarh Vs. State of Uttar Pradesh & Ors, 2025 INSC 362 (decided on March 5, 2025].***

47. The legislative intent in the creation of a Common Portal under Section 146 of the Act of 2017 is quite explicit. The creation of the Common Portal is for the purposes of facilitating various activities like registration; payment of tax; furnishing of returns; computation and settlement of integrated tax; electronic way bill and can also be used for carrying out *such other functions and for such purposes as may be prescribed.*

48. When the statute is carefully analyzed along with notifications issued by the Government under Section 146 of the Act of 2017, it leads us to an inescapable conclusion that the uploading of notice

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and orders on the Common Portal, is not an authorized mode of service of notice/order passed under the Act of 2017.

49. We have otherwise taken note of the fact that the uploading of notice/order is not immediately reported to the assessee when they visit the Common Portal on their dashboard. On the portal itself, there is no separate tab for notice/order. One has to click on the tab '*Services*' which leads to the popping up of several sub-tabs including '*User Services*', which then leads to the opening of another 14 sub-tabs one of which is '*Notices and Orders'*. As a matter of fact, notices and orders are not to be found in the sub-tab '*Notices and Orders*' inasmuch as one has then to click another sub-tab '*View Additional Notices and Orders*'. Thus, it is by way of a complex process that one ultimately gets to know that notices/orders under the Act of 2017 have been uploaded on the Common Portal which renders it quite cumbersome.

50. Introduction of GST regime has set into motion a noticeable shift from a predominantly paper-based tax administration to a technology driven compliance ecosystem. A Common Portal constitutes the primary statutory interface for discharge of obligations under the Act of 2017. The Common Portal is intended to act as an instrument to simplify compliance, promote transparency in GST regime and thereby secure the larger legislative objective of facilitating trade and improving the ease of doing business.

51. Once it be so, the Common Portal is recognized as the interface between the tax administration and the registered person, its

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accessibility and intelligibility acquires legal significance. A digital platform through which statutory rights are to be recognized cannot be designed in a manner such that it renders the existence of SCN or orders - in-original on a taxpayer dependent upon his ability to navigate an obscure or unintuitive interface.

52. An interpretation which allows serious statutory consequences to follow upon a taxpayer on account of SCN/order being uploaded in an inconspicuous location of the portal, without any reasonable indication to the taxpayer, would clearly undermine the legislative purpose of establishing a Unified Electronic Compliance Platform. The object is to facilitate compliance and ensure communication rather than to create procedural traps which could defeat substantive statutory remedies.

53. We, in the aforesaid circumstances, call upon the Department to revisit the manner and methodology as per which SCN/orders are served upon the taxpayers. In addition to notifying the Common Portal for effecting service of SCN/order etc., the respondents ought to introduce prominent dashboard alerts for statutory communications; mandatory pop-up notifications; OTP based acknowledgement of important legal communications; automated SMS alerts and a separate section altogether on the dashboard of taxpayer for service of statutory notices/orders etc. Only then would the Common Portal become an instrument of effective communication.

54. Large number of writ petitions are being filed everyday by

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persons aggrieved who are not made aware of notice(s) issued against them or the orders passed against them by the GST authorities. Huge financial and penal liabilities are imposed in the process, causing not only difficulty for the taxpayer but this generates uncalled for litigation on account of non-compliance of the orders passed under the Act of 2017.

55. In the absence of knowledge of the notice/order, the assessee concerned is not able to participate in the proceedings before the Assessing Officer, or is prevented from filing an appeal within the limitation period. This creates an unnecessary burden upon the taxpayer.

56. Once the statutory scheme is analyzed and the consequences are taken into consideration with respect to the non-service of a notice/order, we are of the considered view that mere uploading of notice/order on '*View Additional Notices and Orders*' cannot be held to be a valid mode of its service on the registered entity.

57. Learned counsel representing the revenue has also invited our attention to Section 160 of the Act of 2017, sub-clause (2) whereof provides as under:-

> *"**(2)** The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication."*

58. With reference to the above provision, it is submitted on behalf of the revenue that service of notice by uploading it on the

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Common Portal cannot be discarded where the person concerned has knowledge of it and has contested the proceedings by filing reply etc. In such cases, the SCN cannot be said to have not been served upon the assessee.

59. The contention advanced on behalf of the revenue, in this regard, merits consideration. In cases where the SCN has been responded to by the person concerned, and after contest, the order-in-original is passed by the competent authority, the order-in-original cannot be challenged merely due to defect in service of SCN/order on the taxpayer by uploading it on the Common Portal.

60. On the basis of discussions and deliberations aforesaid, we come to the following conclusions:-

(i) Service of SCN upon the petitioner/assessee concerned cannot be deemed sufficient merely on account of its uploading on the Common Portal, unless its receipt is acknowledged or a reply is filed.

(ii) Where SCN is served only by way of uploading it on the Common Portal and in the absence of reply filed by the petitioner/assessee concerned, *ex parte* order is passed in original, the proceedings would stand restored to the stage of issuance of SCN and the petitioner would be at liberty to file reply to the SCN within a period of ***four weeks*** from today whereafter, the Department shall proceed further after affording required opportunity of hearing.

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(iii) In cases where the order-in-original is passed after contest, and is served only by uploading it on the Common Portal, the period of limitation for filing of appeal would not be triggered, and the assessee aggrieved will have the right to file an appeal within a period of ***four weeks*** from today.

(iv) Where appeals filed against the order-in-original, which was served only by uploading it on the Common Portal are dismissed on the ground of limitation, the order of the Appellate Court shall be set aside and the appeal would stand restored to its original number, and would be heard and decided on merits.

(v) In cases where SCNs were served only on portal and *ex parte* adjudication order was passed for want of reply of assessee and appeal against the said order was dismissed on the ground of delay, both adjudication order and order-in-appeal shall be set aside and proceedings will be restored at the stage of issuance of SCN and petitioner/assessee shall be at liberty to file reply to SCN within ***four weeks*** from today, whereafter, the department shall proceed further after affording due opportunity of hearing.

61. With these observations, all the writ petitions are ***disposed of***.

62. All pending miscellaneous application(s), if any, shall also stand disposed of.

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63. A copy of this order be placed on the files of other connected cases.

[ASHWANI KUMAR MISHRA]
ACTING CHIEF JUSTICE

[ROHIT KAPOOR]
JUDGE

JULY 21, 2026
Rahul Joshi

1. Whether Speaking/reasoned Yes/No
2. Whether Reportable Yes/No

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CASE 11 OF 34 · GROUP A

M/s. BSN Life Sciences v. Assistant Commissioner ST, Gajuwaka Circle, Visakhapatnam and Others

Court	High Court of Andhra Pradesh
Bench	Ninala Jayasurya and T.C.D. Sekhar, JJ.
Date	01.10.2026
Case no. / citation	Writ Petition No. 27647 of 2026

Holding in brief

Mechanical orders without reasonable opportunity of hearing are set aside. Impugned orders and consequential proceedings set aside.

Provisions involved

CGST Act, 2017: Sections 79, 161 and 169 (79(1)(c), 169(1)(d))

Status

Allowed; held in favour of the taxpayer. Directions: Proper officer may issue notices to the address in the cause title by registered post and proceed in accordance with law.

The judgment begins on compendium page 186.

APHC010494092026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

THURSDAY, THE 1st DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 27647 OF 2026

Between:

1. M/s. BSN Life Sciences,, 201, R.K. Towers, Ashoknagar Radio Station, Kurmannapalem, Visakhapatnam -530046, Rep. By its proprietor Bojaraju Satyanarayana. .

...Petitioner

AND

1. ASSISTANT COMMISSIONER ST, Gajuwaka Circle, Visakhapatnam.

2. Deputy Assistant Commissioner ST, Gajuwaka Circle, Visakhapatnam.

3. The Chief Commissioner State Taxes, D. No. 12-468, Adjacent to NH-16, Service Road, Kunchanapally, Guntur District-522501, A.P.

4. The State of Andhra Pradesh, represented by Secretary to Government Finance (CT) Department, Secretariat, Amaravathi, Guntur District.

5. The Branch Manager, ICICI Bank Limited, Flat No. 7, Ground Floor, A Block, KBC Heights Apartments, Visakhapatnam-530026.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be

pleased toTo issue an order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ or order or direction declaring the orders bearing Nos. ZD3708230019384, ZD371225037625C and ZD371225043063Q, dated 31.07.2023, 29.12.2025 and 31.12.2025, passed by the 1St respondent for the period 2021-22 under the Goods and Services Tax Act, 2017 and the consequential notice in Form GST DRC-13, dated06/07.07.2026, issued under section 79(1)(c) of the GST Act, as illegal, arbitrary, contrary to law, violation of principles of natural justice, contrary to the provisions of the Act and violative of Articles 14, 300A and 19(1)(g) of the Constitution of India and consequently set aside the same in the interests of justice,

Counsel for the Petitioner: SINGAM SRINIVASA RAO

Counsel for the Respondents: I KASI ANNAPURNA CENTRAL GOVERNMENT COUNSEL

The Court made the following order:

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 27647 OF 2026

ORDER: *(per Hon'ble Sri Justice Ninala Jayasurya)*

Heard Mr. Balaji Varma, learned arguing counsel for the petitioner and Mr. R. Kalyan Chakravarthy, learned Government Pleader for Commercial Tax, appearing for respondent Nos.1 to 4.

2. The petitioner, a registered dealer under the GST Act, was served with orders in Form DRC-07 bearing Nos.ZD3708230019384, ZD371225037625C and ZD371225043063Q, dated 31.07.2023, 29.12.2025 and 31.12.2025 respectively, passed by the 1st respondent, under Section 79 of the GST Act, in relation to the tax period 2021-22 and the petitioner did not respond to the same. Subsequently, the 2nd respondent issued garnishee notice 07.07.2026 to the 5th respondent to attach the bank of the petitioner, since the petitioner failed to pay the tax dues. Hence, the writ petition.

3. It is case of the petitioner that due to losses occurred in business, the petitioner has closed its operations from March, 2022 *vide* Order for Cancellation of Registration dated 14.02.2023 and passing of the proceedings by the 1st respondent, therefore was not in the knowledge of the petitioner.

4. Learned counsel for the petitioner contends that the notice issued prior to the impugned orders, as well as the orders were not served on the petitioner, inasmuch as they were uploaded in the portal, which cannot be

treated as sufficient service under law as held by this Court in a catena of cases. He would further submit that as the registration of the petitioner was cancelled on 14.02.2023, petitioner was unaware of the initiation of proceedings at all, in as much as, it will not have access to the portal. He contends impugned orders are violative of principles of natural justice and liable to be set aside.

5. On the other hand, the learned Government Pleader would submit that, making the notices and order available on the common portal is one of the recognized mode of services under Section 169(1)(d) of the Act. He would further submit that, as the notices and the assessment orders were uploaded in the portal in accordance with law, the same cannot be found fault with, inasmuch as the 1st respondent had strictly followed the procedure contemplated under Section 161(d) of the Act.

6. Having considered the respective submissions made by the counsel on either side, though Section 169(1)(d) recognizes service of notice and other communications through common portal, in the present case the undisputed fact is that petitioner's registration was cancelled on 14.02.2023. A perusal of the reference in the impugned orders clearly show that the Show-Cause-Notices and notice of personal hearings were issued after cancellation of registration. In the said situation, the question of their service through portal, to which the petitioner cannot have access much less effective service does not arise at all. Though in one of the impugned order there was mention about sending notice in Form ASMT-10 through registered mail-id of taxable

person on 10.03.2023, it would appear that only one opportunity of personal hearing was afforded, which cannot be treated in compliance with provisions of the GST Act. In so far as, Form GST DRC-07 dated 29.12.2025, there is no mention of issuing any notice of personal hearing. Though, in the other assessment order dated 31.12.2025, a reference to notice of personal hearing dated 29.12.2025 was made, that cannot be treated as affording reasonable opportunity. Curiously, in the said order, it was mentioned that opportunity of two personal hearings were afforded *vide* same reference dated 29.12.2025, which itself indicates that the said order was passed mechanically. In such circumstances, the contentions advanced on behalf of the petitioner merits acceptance.

7. Considering the material on record and being satisfied that the impugned orders are violative of principles of natural justice and provisions of the Act, the same are set aside. However, this Order will not preclude the proper officer to issue appropriate notices to the petitioner's address as furnished in the Cause title of present writ petition by registered post and proceed further in the matter with regard to assessment proceedings for relevant tax periods, in accordance with Law.

8. In view of setting aside of impugned orders, all consequential proceedings shall stand revoked.

9. The writ petition is disposed of, with the observations as indicated above. No costs. Miscellaneous petitions pending, if any, shall stand closed.

NINALA JAYASURYA, J

T.C.D.SEKHAR, J

Date: 01.10.2026

GVK

34

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

AND

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No. 27647 OF 2026

Dt. 01.10.2026

GVK

CASE 12 OF 34 · GROUP A

M/s Manoj Kumar Yadav v. State of U.P. and Another

Court	High Court of Judicature at Allahabad
Bench	Saumitra Dayal Singh and Swarupama Chaturvedi, JJ.
Date	06.10.2026
Case no. / citation	WRIT TAX No. 4061 of 2026

Holding in brief

After cancellation of registration, notice must be served physically as per Commissioner's Circular dated 07.05.2025. Impugned order set aside; writ petition disposed of.

Provisions involved

CGST Act, 2017: Section 74

Status

Remanded; held in favour of the taxpayer. Directions: Reply within two weeks; application for cross-examination/documents with reply; hearing with 15 days' notice; order by 31.12.2026.

The judgment begins on compendium page 194.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 4061 of 2026

M/S Manoj Kumar Yadav

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Ajay Kumar Yadav, Ashish Bansal, Ayush Kumar Mishra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 39

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the revenue.

2. Challenge has been raised to the adjudication order dated 28.03.2026 passed by the respondent no. 2 under Section 74 of the UP GST Act, 2017.

3. Short ground pressed is that the registration of the petitioner was cancelled on 21.11.2020 whereas the show-cause notice was issued only through the Common Portal i.e. through electronic mode on 30.09.2025, almost five years after cancellation of the registration. For that reason, the petitioner was not aware of the adjudication proceedings. It thus remained *ex parte*.

4. Only upon recovery being pursued against the petitioner as a consequence of *ex parte* adjudication order dated 28.03.2026, the petitioner acquired knowledge of the same. It may be noted that the Commissioner of Commercial Tax, U.P. vide its Circular dated 07.05.2025 issued binding instructions to its subordinate authorities to

ensure service of physical notice on the noticees facing adjudication proceedings initiated after cancellation of their respective registration.

5. The above Circular is founded on sound common sense inasmuch as once the registration of a person is cancelled, he may remain disabled and in any case he may not be obligated to work on the Common Portal, thereafter. Unless the person works on the Common Portal against the registration number assigned to him, he may remain unaware of any proceedings instituted against him, after cancellation of its registration.

6. Confronted with the situation, learned Standing Counsel would submit, in face of the Circular issued by the Commissioner, there can be no quarrel with the above proposition.

7. In view of the above, no useful purpose may be served in keeping the present petition pending or calling for a counter affidavit, at this stage.

8. Accordingly, the present writ petition is **disposed of** on the following terms :

(i) The impugned adjudication order dated 28.03.2026 is set aside.

(ii) The petitioner may file its final reply to the show-cause notice dated 30.09.2025 within a period of two weeks from today.

(iii) If the petitioner wants to claim an opportunity to cross-examine any witness or to be supplied documents relied upon etc., the petitioner may necessarily make such application alongwith reply. Such application, if filed may be dealt with and decided before fixing any date for final hearing.

(iv) Thereafter, the adjudicating authority may fix and communicate the petitioner the date for personal hearing with at least 15 days advance notice.

(v) The adjudicating authority may then pass appropriate reasoned order within a further period of one month such that the proceedings may be concluded on or before 31.12.2026.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

October 6, 2026
Abhilash

Digitally signed by :-
ABHILASH SINGH
High Court of Judicature at Allahabad

CASE 13 OF 34 · GROUP B

M/s. Poomika Infra Developers v. State Tax Officer, Roving Squad-VI, Erode

Court	High Court of Madras
Bench	Mohammed Shaffiq, J.
Date	09.04.2025
Case no. / citation	W.P. Nos. 33562 of 2024 and batch

Holding in brief

Uploading on the common portal is a valid mode of service under Section 169; remand granted by consent on payment of 25% of disputed tax. Impugned orders set aside by consent, subject to 25% pre-deposit.

Provisions involved

CGST Act, 2017: Sections 73, 74, 146 and 169 (169(2))

Status

Remanded; relief in part to both sides. Directions: Deposit 25% within four weeks; file reply; fresh decision after hearing; listed for reporting compliance after four weeks.

The judgment begins on compendium page 198.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.01.2025

PRONOUNCED ON : 09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. Nos.33562, 33563, 33565, 33573, 33692, 33758of 2024, 1842, and 1949 of 2025
and
WMP Nos. 36484, 36481, 36362, 36350, 36347, 36346, 36345, 36344, 36361, 36351, 36559, 36558 of 2024, 2106, 2110, 2242 and 2246 of 2025

W.P. Nos.33562, 33563, 33565, 33573, 33692, 33758 of 2024:

M/s.Poomika Infra Developers,
Represented by its Proprietor K.S.Udhayashankar,
No.55/1, Minnakam Illam,
St.Shed Road, Gandhi Nagar,
Sathyamangalam, Erode-638 402. ... Petitioner(s)

V.

State Tax Officer,
Roving Squad-VI,
Meenakshi Sundaranar Salai,
Erode-638 001. ... Respondent(s)

W.P. Nos.1842 and 1949 of 2025:

1.M/s.MV Creations
Rep by its Proprietor
Madappan Venkateswaran,
No. 10/26-B, Ghandhi Nagar,
Elampillai, Salem-637502.

Petitioner(s)

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Compendium: Service of Notice (Sec. 169) | page 198 of 836 Back to Index

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Vs

1.The Assistant Commissioner (ST)(FAC)
Salem Rural Circle, Commercial Taxes
Complex, Pitchards Road,
Asthampatti, Salem-636 007.

2.The Assistant Commissioner (ST),
Salem Rural Assessment Circle,
Commercial Taxes Complex,
Pitchards Road, Asthampatti, Salem 636 007.

3.The State Tax Officer, (Audit)
Arisipalayam Assessment Circle,
Commercial Taxes Complex,
Pitchards Road, Asthampatti, Salem 636 007.

4.Joint Commissioner of Commercial Tax
Salem Division, Commercial Taxes Complex,
Pitchards Road, Asthampatti, Salem 636 007

5.The Deputy Commissioner of
Commercial Tax, (Appeal),
Salem, Commercial Taxes Complex,
Pitchards Road, Asthampatti, Salem 636 007.

Respondent(s)

PRAYER in W.P.No.33562 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari calling for the records relating to the impugned order bearing GSTIN 33AAPPU6384C1ZC/2021-2022 dated 06.08.2024 passed by the Respondent and quash the same.

PRAYER in WP No. 33563 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari calling for the records relating to the impugned order bearing GSTIN 33AAPPU6384C1ZC/2022-2023 dated 06.08.2024 passed by the

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Compendium: Service of Notice (Sec. 169) | page 199 of 836 Back to Index

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Respondent and quash the same.

PRAYER in WP No.33565 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari calling for the records relating to the impugned order bearing GSTIN 33AAPPU6384C1ZC/2019-2020 dated 06.08.2024 passed by the Respondent and quash the same.

PRAYER in WP No.33573 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari calling for the records relating to the impugned order bearing GSTIN 33AAPPU6384C1ZC/2020-2021 dated 06.08.2024 passed by the Respondent and quash the same.

PRAYER in WP No.33692 of 2024: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari calling for the records relating to the impugned order bearing GSTIN 33AAPPU6384C1ZC/2018-19 dated 06.08.2024 passed by the Respondent and quash the same.

PRAYER in WP No.33758 of 2024:
Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari calling for the records relating to the impugned order bearing GSTIN 33AAPPU6384C1ZC/2017-18 dated 06.08.2024 passed by the Respondent and quash the same.

PRAYER in W.P.No.1842 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records of the Respondent No.1 in his Proceedings dated 18.11.2024 in FORM GST DRC -16 arising out of the Order of Demand made by the Respondent No.2 in his proceedings in FORM No.DRC 07 Ref.No.ZD3304242590561 dated 30.04.2024 and quash the same.

PRAYER in W.P.No.1949 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records of the Respondent No.1 in his Proceedings dated 18.11.2024 in

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Compendium: Service of Notice (Sec. 169) | page 200 of 836 Back to Index

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FORM GST DRC -16 arising out of the Order of Demand made by the Respondent No.2 in his proceedings in FORM No.DRC 07 in GSTIN-33ADQPPV1929C1ZF/2017-18 dated 29.05.2024 and quash the same.

For Petitioner in W.P.Nos.33562, 33563, 33565, 33573, 33692 and 33758 of 2024	: Mr.G.Natarajan
in W.P.Nos.1842 and 1949 of 2025	: Mr.S.Senthilnathan for Mr.K.Chandrasekaran
For Respondents in W.P.Nos.33562, 33563 33565, 33573, 33692, and 33758 of 2024	: Mr.Hajanazarudeen Additional Advocate General assisted by Mr.V.Prashanth Kiran Government Advocate
in W.P.Nos.1842 and 1949 of 2025	: Mr.G.Nanmaran Special Government Pleader

COMMON ORDER

Common question that arises for consideration in this batch of writ petitions is whether service of notice/order by making available in the Common Portal is valid. The writ petitions are thus disposed of by a common order with regard to the above question. The writ petition titled M/s.Poomika Infra Developers is being treated as the lead matter, for the purpose of disposing of the common question that arises in the present batch of writ petitions. This court shall refer to the facts in the above lead

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Compendium: Service of Notice (Sec. 169) | page 201 of 836 Back to Index

WEB COPY

matter i.e., in the case of Poomika W.P.No.33562 of 2024.

2. Brief facts:

2.1. Petitioner in W.P. No.33562 of 2024 was engaged in providing works contract service primarily to Central and State Government. Petitioner was registered under Goods and Service Tax Act, 2017 (hereinafter referred to as "GST Act"). Petitioner filed statutory returns and it is stated that appropriate taxes were also duly discharged. Petitioner was assigned to Central jurisdiction.

2.2. While so, petitioner's place of business was visited by GST Intelligence on 01.12.2023, and their books were verified by the State Tax Officers. During the course of such inspection, discrepancies were noticed relating to short payments of taxes for the period 2017-18 to 2022-23. An intimation in Form DRC-01A dated 01.04.2024 for the period 2018-19 was issued. The intimation contained allegations of discrepancies between Profit and Loss Account and GSTR 3B, GSTR 7 and GSTR 3B, Availment of ITC contrary to Section 16 of the Act. The above intimation was uploaded in GST Common Portal. This was followed by a show cause notice in DRC-01 dated 22.04.2024 which was

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 202 of 836 Back to Index

WEB COPY

uploaded in the Common Portal for the period 2021-22. The contentions/ allegations in DRC-01 was similar to that raised in DRC-01A. Thereafter, impugned order for the period 2021-22 dated 06.08.2024 came to be passed. It is this order which is the subject matter of challenge in this writ petition. I must add that the facts are almost similar if not identical in other writ petitions.

2.3. The challenge is on the premise that intimation in DRC-01A, show cause notice in DRC-01 and order of adjudication in DRC-07, were uploaded in the GST Common Portal, petitioner was not aware of the same. Petitioner was thus unable to participate in the adjudication/ assessment proceedings. Petitioner challenged the order of assessment, on the premise that the service of notice / order is improper and invalid.

3. Case of the petitioner:

3.1. The learned counsel for the petitioners Mr.G.Natarajan submitted as under:

3.2. That as per Sections 73 and 74 of the CGST Act, the proper officer shall serve a notice before determination of tax. Service is complete only when the same is received by the intended entity. Making

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)
Compendium: Service of Notice (Sec. 169) | page 203 of 836 Back to Index

WEB COPY

available in the common portal cannot be treated as service of notice / order, though it may constitute issuance of notice/order under the GST Act.

3.3. Section 169 of GST Act, prescribes different modes of service of notice/order, summons or other communications and the manner in which date of service is to be reckoned under different modes. However, the date of service is not provided/deemed in respect of service of notice /order by making it available in the Common Portal in terms of sub-clause (d) to sub -section (1) to Section 169, service would thus be complete only when notice/order, summons or other communications is retrieved by the taxable person.

3.4. That in terms of Section 146 of GST Act, the Common Portal under GST Act, has been introduced only for the purpose of facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax. That common portal is not notified for communication of notice or order under the GST Act. The primary purpose of GST portal is only payment of tax and furnishing of returns.

3.5. That the legislature provides for 6 different modes of service of notice/order, summons or other communications including by making

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 204 of 836 Back to Index

WEB COPY

available the same in the common portal. The legislative intent is not to serve notice / order by uploading the same in the Common Portal, as evident from the fact that wherever legislature intended that proceedings are to be communicated by making it available in the common portal, the same is expressly provided. The following rules were relied upon in support thereof viz., Rule 8 (Application for Registration), Rule 26 (Method of Authentication), Rule 60 (GSTR-2A) and Rule 90 (Refund).

3.6. That Rule 142 provides that summary of show cause notice in Form DRC-1 shall be issued electronically, thereby impliedly excluding service of detailed notice by uploading in the common portal.

3.7. That GST Common Portal is not a Designated Computer Resource of the petitioner/taxable person under the GST Act, but designated computer resource of the respondent Department. Consequently in terms of sub-clause (ii) to Clause (a) of sub-section (2) to Section 13 of the Information Technology Act, 2000, the date of receipt can only be the date on which notice/order, summons or other communications is retrieved by the taxpayer. The email id would be the designated computer resource of the taxpayer for the purpose of the GST Act.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 205 of 836 Back to Index

WEB COPY

3.8. Reliance was placed on Section 4 of the Contract Act, 1872, which provides when communication of proposal would be complete, to submit that the said principle ought to be applied in determining the date of service of notice/order under the GST Act.

3.9. That whenever there were technical glitches in the portal, this Court had permitted/directed service of order through registered post in addition to uploading in the portal. This Court had also taken into account lack of technical/computer knowledge on the part of taxable persons and directed revenue to serve the order/notice through registered post. Thus service of notice/order, summons or other communications by making it available in the common portal must be accompanied by additionally serving the same through registered post/speed post.

3.10. That uploading notice/order in the Tab "*view additional notices/orders*" is not a valid service as held by Delhi High Court in the case of Anhad Impex in W.P.(c) No.2356 of 2024.

4. Case of Respondents:

4.1. The learned Additional Advocate General Shri.Haja Nazirudeen would submit as under:

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 206 of 836 Back to Index

WEB COPY

4.2. That Section 169 of GST Act, provides for the mode in which any decision/ order/ summons/ notice or other communications under the GST Act / Rules shall be served. It enumerates the following modes of service viz.,

a) by tender

b) by registered post or speed post or courier

c) by sending to Email address

d) by making it available in the Common Portal

e) by publication in news paper

f) if none of the modes aforesaid is practicable

4.3. The above modes of service in clauses (a) to (e) are alternative to each other. The contentions that making available any decision/notice/order, summons or other communications on the common portal is not a valid service is contrary to the express provisions under GST Act.

4.4. Reliance on Section 146 of the GST Act, to submit that there is no common portal notified for service of notice / order issued in the course of adjudication, overlooks the express provisions contained in

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 207 of 836 Back to Index

WEB COPY

Section 169 of GST Act. It does not contemplate notifying a Common Portal for service of notice / order in terms of Section 146 of GST Act.

4.5. Reliance on Rule 142(1) of GST Rules, to submit that what is contemplated is only issuance of summary of show cause notice in Form DRC-01 and not the detailed notice which has to be issued otherwise, thus service of detailed notice by making it available in the common portal is invalid, is contrary to the express provisions of Section 169 of the Act.

4.6. That it is not in dispute that common portal is a computer resource for the purpose of Information Technology Act, 2000 (hereinafter referred to as "IT Act"). It is also not in dispute that each of the taxable person registered under GST Act are given an unique login ID and Password to enable them to have access to the portal. Common portal is thus a *"Designated Computer Resource",* for both Department and taxable persons. That in terms of Section 13 (2) (a) of IT Act, 2000, receipt occurs when the electronic record in the present case notice/order enters the *"Designated Computer Resource"* i.e., Common Portal.

4.7. That in the absence of a challenge to the vires of Clause (d) to sub-section (1) to section 169 of the Act, it would not be open to the

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 208 of 836 Back to Index

WEB COPY

petitioner to question the validity of service made in accordance thereof.

4.8. The submission that the petitioner/taxable person do not have adequate technical knowledge nor computer literate, resulting in hardship in responding to notices/orders cannot render the mode of service provided under the statute invalid.

5.Analysis:

5.1. To resolve the above controversy, it may be relevant to refer to section 169 of the Act:

Section 169 of Goods and Services Tax Act, 2017:

Section 169. Service of notice in certain circumstances.-

> *"(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:-*
>
> *(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business,or to any adult member of family residing with the taxable person; or*
>
> *(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 209 of 836 Back to Index

WEB COPY

authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal;or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved."

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 210 of 836 Back to Index

WEB COPY

5.2. On a plain reading of Section 169 of the Act, it is clear that various modes of service from (a) to (e) are alternate modes of service. This would be evident from the expressions *"shall be served by any one of the following modes",* employed in Section 169 of the Act before enumeration of various methods of service viz.,

a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorized representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business,or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgment due, to the person for whom it is intended or his authorized representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 211 of 836 Back to Index

WEB COPY

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain;

5.3. Service by affixture under sub clause (f) to sub section (1) to Section 169 of the Act, is to be resorted only if none of the methods from (a) to (e) is practicable. The above provision has been considered on more than one occasion by this Court and divergent views are expressed. This Court in W.P.(MD).No.26481 of 2024 dated 06.01.2025 and W.P.No.5539 of 2025 dated 24.02.2025 had taken a view that clauses (a) to (c) to sub-section (1) of Section 169 of the Act, must be treated as alternate modes of service and only if the above three modes are found to be not practicable, then the modes provided under Clauses (d) to (f) to sub-section (1) of Section 169 of the Act, would have to be resorted to, and it is only such interpretation that would render Section 169 of the Act, in compliance with principles of natural justice.

5.4. With respect I am unable to concur with the above view for the following reasons:

A) Construction contrary to the Division Bench of this Court:

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 212 of 836 Back to Index

WEB COPY

5.5. The above construction is contrary to the Division Bench of this Court in ***A.Sanjeevi Naidu vs. The Deputy Commercial Tax Officer, Kanchipuram and Others*** reported in ***1972 SCC OnLine Mad 347,*** wherein while considering Rule 52 of Tamil Nadu General Sales Tax Rules, 1959 which dealt with modes of service of notice, order, summons under the Tamil Nadu General Sales Tax Act, 1959, held that the authority may serve the notice/order, summons by any of the three modes provided under clauses (a), (b) and (c) of Rule 52 and if service under the above three modes was not effective, then service could be made by resorting to clause (d) of Rule 52. The above clause (d) to Rule 52 of TNGST Rules,1959 corresponds to clause (f) to sub section (1) to Section 169 of the GST Act. To appreciate the relevance of Rule 52 of the Tamil Nadu General Sales Tax Rules, 1959 while construing Section 169 of the GST Act, 2017, it may do well to compare and contrast Rule 52 of the Tamil Nadu General Sales Tax Rules, 1959, with Section 169 of the GST Act. The following Table is relevant in this regard:

Rule 52 of TNGST Rules, 1959	***Section 169 of GST Act***
Rule 52(1). Service of notices – The service on a dealer of any notice, summons or order under the Act or these rules may be effected in any of	*(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 213 of 836 Back to Index

WEB COPY

Rule 52 of TNGST Rules, 1959	Section 169 of GST Act
the following ways, namely: – *(a). by giving or tendering it to such dealer or his manager or agent or the legal practitioner appointed to represent him or to his authorised representative, or Explanation.- Endorsement by person who delivers the notice, etc., of having tendered or given it will be proof for the purpose of this sub-rule.* *(b). if such dealer or his manager or agent or the legal practitioner appointed to represent him, or his authorised representative is not found, by giving or tendering it to any adult member of his family;* *(c). if the address of such dealer is known to the assessing authority, by sending it to him by registered post;* ***<u>(d). if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence.</u>***	*following methods, namely:--* *(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or* *(b) by registered post or speed post or courier with acknowledgment due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or* *(c) by sending a communication to his email address provided at the time of registration or as amended from time to time; or* *(d) by making it available on the common portal; or* *(e) by publication in a newspaper circulating in the locality in which the*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 214 of 836 Back to Index

WEB COPY

Rule 52 of TNGST Rules, 1959	Section 169 of GST Act
52(2). Where any Hindu undivided family, firm or other association of persons is partitioned, dissolved or discontinued, notice, summons or orders issued under the Act or these rules may be served on any member of the Hindu undivided family, any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before such partition, dissolution or discontinuance.	taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or **(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.** (2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in subsection (1). (3) When such decision, order, summons, notice or any

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)
Compendium: Service of Notice (Sec. 169) | page 215 of 836 Back to Index

WEB COPY

Rule 52 of TNGST Rules, 1959	***Section 169 of GST Act***
	communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

5.6. The above table would show that Section 169 of the Act, is similarly, if not identically structured to Rule 52 of the Tamil Nadu General Sales Tax Rules, in the sense that various modes of service from clauses (a) to (c) under Rule 52 of TNGST Rules and clauses (a) to (e) to Section 169 of the GST Act, are alternate before resorting to service of notice/order, summons or other communications by affixture under clause (d) to Rule 52 of TNGST Rules and clause (f) to sub-section (1) of Section 169 of the Act. It thus appears that construction placed on Rule 52 of TNGST Rules, would have a material bearing on construction of Section 169 of the GST Act. Applying the above decision of the Division Bench of this Court in *Sanjeevi Naidu case* referred supra, it appears that the modes of service provided in clauses (a) to (f) to Section

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)
Compendium: Service of Notice (Sec. 169) | page 216 of 836 Back to Index

WEB COPY

169 of the GST Act are alternate to each other before resorting to clause (f) to sub-section (1) to Section 169 of the Act. However, this Court in W.P.(MD).No.26481 of 2024 and W.P.No.5539 of 2025 relied upon by the petitioners, had found that the modes of service provided in sub-clause (a) to (c) to sub-section (1) to Section 169 are alternate modes and sub-clause (d) to (f) could be resorted to only after sub-clause (a) to (c) to sub section (1) to Section 169 of the GST Act is exhausted and not found practicable, which is plainly contrary to the law laid down by Division Bench of this Court in *Sanjeevi Naidu case* referred supra.

B. Constitution imputing superfluity in legislature – To be avoided

5.7. Secondly, the above interpretation placed by this Court, renders the expression *"shall be served by any one of the following modes"* redundant/superfluous. It is trite law that the legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the legislature will not be accepted. If the construction placed by this Court is to be accepted, Section 169 of the Act would read as under :

Section 169. Service of notice in certain circumstances.-

"(1) Any decision, order, summons,

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 217 of 836 Back to Index

WEB COPY

notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, from (a) to (c) and if found not practicable by following (d) to (f).

....”

a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorized representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business,or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgment due, to the person for whom it is intended or his authorized representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time;

“if the modes in (a) to (c) is not practicable, the decision order, notice shall be served by the methods enumerated in (d) to (e) namely:-

(d) by making it available on the common portal;

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 218 of 836 Back to Index

WEB COPY

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain;

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

5.8. The underlined portions would have to be inserted if the construction by the petitioner is to be accepted. In other words the above construction would result in recasting the provision, which is impermissible. The role of a Court is limited to interpret the law made by a competent legislature. Addition of words or supplying omission or omitting words in a legislation through a process of interpretation would amount to judicial legislation which ought to be avoided.[1]

C. Hardship – No reason to depart from plain language

1 (i) ***Dr.Ganga Prasad Verma and Others vs. State of Bihar and Others,*** reported in ***1995 Supplement 1 SCC 192;***

(ii) ***V.K.Naswa vs. Home Secretary, Union of India and Others*** reported in ***2012 (2) SCC 542***

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 219 of 836 Back to Index

WEB COPY

5.9. The next reason which weighed with the learned judge in W.P. No. 5539 of 2025, wherein after adopting the above reasons, proceeded to find that uploading of the notice / order in common portal, may not be desirable, if not a valid mode of service, on the premise that it causes grave hardship to the taxable person after finding that taxable persons are generally illiterate and common plebeians and engage consultants to comply with GST Laws.

5.10. With respect, I am unable to concur with the above reasoning of the learned Judge inasmuch hardship faced by the petitioner (or) a section of taxable persons which is apparently negligible, assuming to be true cannot be a reason to depart from plain language of Section 169 of the Act. It must be borne in mind that legislature in its wisdom has provided that making available the notice/order , summons or other communication would be a valid mode of service. On the basis of assumed hardship one cannot depart from the plain meaning. It may do well to remind ourselves of the latin maxim '*dura lex sed lex*', i.e., when there is a conflict between law and equity it is law which ought to prevail. In this regard, it may be relevant to refer to the judgment of the Supreme Court in the case of *Raghunath Rai Bareja v. Punjab National*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 220 of 836 Back to Index

WEB COPY

Bank, reported in *(2007) 2 SCC 230,* wherein it was held as under:

> *"29. .... we must, however, state that it is well settled that when there is a conflict between law and equity, it is the law which has to prevail, in accordance with the Latin maxim 'dura lex sed lex', which means 'the law is hard, but it is the law'. Equity can only supplement the law, but it cannot supplant or override it."*

5.11. The learned Senior counsel for the respondent would submit that out of more than one lakh orders had been passed, grievance regarding service is raised by less than 1% of taxable persons out of which some of the taxable persons had responded at some stage of adjudication proceeding, any difficulty in responding or availing the remedies under the Act on the ground of service of notice/order not being sufficient is attributable to negligence of the taxable person and would not in any manner invalidate the service or proceeding. Without expressing any view on the above submission, it appears that these are possibly hard cases, it is a well known adage that, hard cases make bad law.[2]

D) Absence of notification under Section 146 of the Act for service of notice/order, summons or other communications by making available on

2 *Umesh Chandra Shukla v. Union of India, (1985) 3 SCC 721*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 221 of 836 Back to Index

WEB COPY

the common portal – Relevance:

5.12. It is not in dispute that the Common Portal under Section 169 (1) (d) of CGST Act is a *"computer resource"*, for the purposes of IT Act, 2000. *"Common Portal"* is defined under sub-section (26) to Section 2 of the GST Act as under:

> ***2(26) "common portal"*** *means the common goods and services tax electronic portal referred to in section 146;*

5.13. On a reading of the above definition, it would be clear that Common Portal is Common Goods and Service Tax Electronic Portal "*referred*" in Section 146 of the Act. It may thus be relevant to refer to Section 146 of the GST Act which reads as under:

> "*146.Common portal:*
>
> *The Government may, on the recommendation of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed."*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 222 of 836 Back to Index

WEB COPY

5.14. Submission of petitioner that Section 146 of the GST Act does not enable notifying common portal for serving notice/ orders/ communications, thus service of notice/ order by making it available in the common portal would not constitute valid mode of service is untenable. Section 146 of GST Act, provides that common portal may be notified for carrying out various functions and purpose of the Act. While the Government may in excersise of its power under Section 146 of GST Act, identify the portal and notify the purpose for which it is to be employed, however, the purpose/ functions for which the common portal may be employed in terms of notification issued under Section 146 of the Act is not exhaustive. Sub-clause (d) to sub-section(1) to Section 169 of the GST Act, while providing that the decision, order, summon, notice shall be served by making it available in the common portal does not contemplate a notification under Section 146. Section 169 of the Act is a standalone independent provision, its operation is not dependent on any notification under Section 146 of the Act.

5.15. *"Common Portal"* would mean in terms of the definition in sub-section (26) to Section 2 of the GST Act, common portal "*referred*" to in Section 146 of the GST Act. It is not in dispute that the

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 223 of 836 Back to Index

WEB COPY

notices/orders are served by making available in the common portal www.gst.gov.in which is one of the common portal notified under Section 146 of the GST Act. In other words www.gst.gov.in is a common portal "*referred*" to in Section 146 of the Act and resultantly a common portal in terms of Sub section (26) to Section 2 of the Act. It would thus be clear that making the order/notice available in common portal viz., www.gst.gov.in, would constitute a valid service in terms of Section 169 of the Act.

5.16. It may be necessary to clarify that there are other common portals notified under Section 146 of the GST Act , some of them being;

(i) www.einvoice1.gst.gov.in;
(ii) www.einvoice2.gst.gov.in;
(iii)www.einvoice3.gst.gov.in;
(iv) www.einvoice4.gst.gov.in;
(v) www.einvoice5.gst.gov.in;
(vi) www.einvoice6.gst.gov.in;
(vii) www.einvoice7.gst.gov.in;
(viii) www.einvoice8.gst.gov.in;
(ix) www.einvoice9.gst.gov.in;
(x) www.einvoice10.gst.gov.in.

5.17. Any doubts as to whether notice or order may be served in the above GST portals as well, is unfounded and hypothetical. This court is informed that notices and orders and other proceedings under Section 169 of GST Act are served only in the common portal www.gst.gov.in.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)
Compendium: Service of Notice (Sec. 169) | page 224 of 836 Back to Index

WEB COPY

5.18. Learned counsel for Respondent would also submit that they do not serve notice in any other common portal other than www.gst.gov.in.

E) Rule 142 of GST rules – Relevance:

5.19. Reliance on Rule 142 of the GST Rules was made to submit that in terms of the above Rules, what is contemplated is only service of summary of notice/order, summons or other communications in the common portal and thus service of detailed notice/order, summons or other communications by making available in the common portal is impermissible. The above contention is liable to be rejected inasmuch is it is contrary to the plain language of Section 169 of the Act which provides that notice/orders, summons or other communications shall be served by making available the same in "*common portal*". The above construction is also contrary to settled position that in case of conflict between the enabling Act and a rule or any other delegated legislation, the former shall prevail and the delegated legislation has to be read and construed consistent with the enabling Act.[5] As discussed above Section 169 of the GST Act, is a standalone independent provision and cannot be

5 ITW Signode India Ltd. v. Collector of Central Excise, (2004) 3 SCC 48, p. 71 (para 56): (2004) 6 JT 456; Nowa ADS v/ Secretary, Department of Municipal Administration and Water Supply, (2008) 8 SCC 42 para 41 : AIR 2008 SC 2941

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 225 of 836 Back to Index

WEB COPY

controlled by Section 146 of the Act or any Rules.

F) Relevance of Section 13 of Information Technology Act, 2000:

5.20. It is submitted by the learned counsel for the petitioner that there is a distinction in law between issuance of notice/order, summons or other communications and service. Reliance was sought to be place on the Information Technology Act, 2000, in particular Section 13 of the Information Technology Act, 2000, to submit that in terms thereof GST common portal is not a designated computer resource of the petitioner/taxable person under the GST Act, but a designated computer resource of the respondent Department. Consequently in terms of sub-clause (ii) to Clause (a) of sub-section (2) to Section 13 of the Information Technology Act, 2000, the date of receipt can only be the date on which notice/order, summons or other communications is retrieved by the taxpayer. The email id alone would be the designated computer resource of the taxpayer for the purpose of the GST Act. It may be relevant to refer to Section 13 of Information Technology Act, 2000:

Section 13 of Information Technology Act, 2000:

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 226 of 836 Back to Index

WEB COPY

"13. Time and place of despatch and receipt of electronic record.—

(1) Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:—

(a) if the addressee has designated a computer resource for the purpose of receiving electronic

records,—

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not the designated

computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be despatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

(4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

(5) For the purposes of this section,–

(a) if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 227 of 836 Back to Index

WEB COPY

(b) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;

(c) -usual place of residence?, in relation to a body corporate, means the place where it is registered."

5.21. It appears to me that the common portal is a designated computer resource for both Department as well as taxable person inasmuch as the taxable person is given an unique login ID and password to enable them to have access to the portal. The common portal would thus constitute a "*designated computer resource*" for the taxable person as well.

5.22. Keeping this in view, Section 13 of the IT Act, 2000, may have a bearing in determining the time and place of service under the GST regime. In terms of Section 13 of the IT Act, 2000, if the addressee i.e., taxable person in the present case had designated a computer resource, for the purpose of receiving electronic records, receipt occurs at the time when the electronic record enters the designated computer resource i.e., the common portal. If the electronic record is sent to a computer resource other than the designated computer resource, receipt occurs when the electronic record is retrieved by the addressee. If the taxable person has not designated a computer resource, receipt would

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 228 of 836 Back to Index

WEB COPY

occur when the electronic record enters the computer resource of the addressee. Having found common portal to be a "*designated computer resource*" of the taxable person as well, receipt would occur when it enters the common portal i.e., when it is made available in the common portal, in terms of clause (a) to sub section (2) to section 13 of the Act.

5.23. We have dealt with the question of validity of service inasmuch as service goes to the root of jurisdiction and if service is invalid the proceedings would be *non est* and the question of orders of adjudication being barred by limitation would arise. Service by making it available in the common portal is a valid mode of service in terms of section 169 of the GST Act. Service is complete when it enters the common portal i.e., when it is made available in the common portal. In this regard, it may be relevant to refer to the decision of this Court in ***Pandidorai Sethupathi Raja vs. Superintendent of Central Tax, Nandanam*** reported in **2022 *SCC OnLine Mad 9162,*** wherein it was held as under:

> *"35.This is countered by the petitioner by drawing attention to Section 169(2), which deploys the terms 'tendered' 'published' or 'affixed'. Thus, according to petitioner, the absence of the term 'uploaded' as a mode of service, is conscious, and should not be taken to be proper service.*
>
> *36. I find no merit in this argument. In my view,*

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 229 of 836 ▲ Back to Index

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making an order available on the common portal would tentamount to 'tendering' of that order to the recipient. That apart, I am also unable to ascribe my conscious intention on the part of the Legislature to exclude uploading as one of the modes of service. This argument is rejected.

37. There is yet another aspect to the matter. The Income-tax Act, 1961 permits uploading of orders upon the portal, or on the web application, and construes the same as a proper method of service. However that statute, in Explanations (r) to (u) of Section 144B thereof, contains a requirement that the official concerned, issue an alert either to the registered e-mail of the assessee or by way of SMS to the registered mobile number of the assessee, to bring to the notice of the assessee that such order/communication has been uploaded. Such a facility is not available under the GST Act.

38. The explanation put forth by the revenue in this regard, is that an assessee under the provisions of the Goods and Services Tax Act enactments is under a statutory obligation to file a return on monthly basis and hence is expected to visit the portal once a month for this purpose. The necessity for an alert thus stands obviated, for this reason.

39. I find this explanation acceptable and hence conclude that uploading of orders upon the common portal constitutes proper mode of service."

5.24. Though normally, this Court would have in the event of disagreeing with a Coordinate Bench referred the matter to a Larger Bench, however, that exercise may not be required in the present case inasmuch as this Court finds that the judgment of the Division Bench in *Sanjeevi's case (1972 SCC OnLine Mad 347)* covers the issue.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 230 of 836 Back to Index

WEB COPY

6. The learned counsel for the petitioner would then place reliance upon the judgment of this Court in the case of ***M/s.K.Balakrishnan, Balu Cables vs. O/o. the Assistant Commissioner of GST & Central Excise in W.P.(MD)No.11924 of 2024 dated 10.06.2024,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Counsels for the Revenue does not have any serious objection.

7. By consent of both parties,

a) The impugned orders are set aside.

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 231 of 836 Back to Index

WEB COPY

c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of 25% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance of the above direction, shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) Failure to comply with the above condition viz., payment of 25% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 232 of 836 Back to Index

WEB COPY

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

g) On complying with the above condition, the impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four (4) weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. It is made clear that if the above conditions viz., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

8. Before parting, I must state that the matter was listed under the caption for clarification on 08.04.2025, this Court suggested the Commissioner of Commercial Taxes, be present on 09.04.2025, with a view to see if a circular/instruction is issued whereby the respective

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)
Compendium: Service of Notice (Sec. 169) | page 233 of 836 Back to Index

WEB COPY

Assessing Officers while issuing/passing notice/order, summons or other communications and served in terms of clause (d) to sub-section (1) of Section 169, simultaneously issue an alert SMS to the mobile number of the taxable persons and send an e-mail to the registered email ID of the taxable persons independent of the email and SMS being auto generated and issued by the GST Network.

9. The above exercise was suggested by this Court only to try and make aware taxable persons that such notice/orders/proceedings has been uploaded in the common portal. Apprehensions were expressed by the respondent that this may constitute a requirement in addition to whatever is provided under the Act to constitute a valid service. It is clarified that instructions to be issued may state that it is an inter departmental instruction/confidential and meant for administrative purpose and would not in any manner have a bearing in deciding the validity of service which must be made solely on the basis of extant provisions/rules under GST Act/Rule.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 234 of 836 Back to Index

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10. The above writ petitions stand disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11. To be listed under the caption "For Reporting Compliance" after four weeks.

09.04.2025

Index : Yes/No
Neutral Citation : Yes/No
mka/pam

To:

1.State Tax Officer,
Roving Squad-VI,
Meenakshi Sundaranar Salai,
Erode-638 001.

2.The Assistant Commissioner (ST)(FAC)
Salem Rural Circle, Commercial Taxes
Complex, Pitchards Road,
Asthampatti, Salem-636 007.

3.The Assistant Commissioner (ST),
Salem Rural Assessment Circle,
Commercial Taxes Complex,
Pitchards Road, Asthampatti, Salem 636 007.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)
Compendium: Service of Notice (Sec. 169) | page 235 of 836 Back to Index

WEB COPY

4.The State Tax Officer, (Audit)
Arisipalayam Assessment Circle,
Commercial Taxes Complex,
Pitchards Road, Asthampatti, Salem 636 007.

5.Joint Commissioner of Commercial Tax
Salem Division, Commercial Taxes Complex,
Pitchards Road, Asthampatti, Salem 636 007

6.The Deputy Commissioner of
Commercial Tax, (Appeal),
Salem, Commercial Taxes Complex,
Pitchards Road, Asthampatti, Salem 636 007.

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)
Compendium: Service of Notice (Sec. 169) | page 236 of 836 Back to Index

WEB COPY

MOHAMMED SHAFFIQ, J.

mka/pam

W.P. Nos.33562 of 2024 and etc., batch

09.04.2025

https://www.mhc.tn.gov.in/judis (Uploaded on: 30/04/2025 10:47:37 pm)

Compendium: Service of Notice (Sec. 169) | page 237 of 836 Back to Index

CASE 14 OF 34 · GROUP B

M/s. Axiom Gen Nxt India Private Limited v. Commercial State Tax Officer, T.Nagar Assessment Circle

Court	High Court of Madras
Bench	Krishnan Ramasamy, J.
Date	22.04.2025
Case no. / citation	W.P.No.1114 of 2025 and batch

Holding in brief

Uploading under Section 169(1)(d) read with Section 13(2) IT Act is valid service; relief is limited to a one-time remand on deposit. Writ petitions disposed of; orders set aside on conditions.

Provisions involved

CGST Act, 2017: Sections 73 and 169 (169(1)(a), 169(1)(b), 169(1)(c), 169(1)(d), 169(1)(e), 169(1)(f), 169(2))

Status

Remanded; relief in part to both sides. Directions: Deposit 25% of disputed tax; reply in three weeks; 14 days' notice for personal hearing; bank attachments to be lifted.

The judgment begins on compendium page 239.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.1114, 2720, 2723, 2819, 2832, 3084, 3097, 3119, 3288, 3487, 3493, 3498, 3501, 3510, 3593, 3595, 3598, 3623, 3671, 3777, 3782, 3923, 3926, 3929, 3945, 4015, 4032, 4056, 4104, 4296, 4403, 4430, 4459, 4463, 4576, 4707, 4711, 4840, 4848, 4854, 5038, 5055, 5437, 5561, 5633, 5687, 5806, 6000 & 6033 of 2025

&

W.M.P.Nos.4353, 1357, 3064, 3063, 3062, 3065, 3136, 3130, 3399, 3397, 3645, 3647, 3879, 3878, 3875, 3873, 3872, 3870, 3863, 3862, 3890, 3889, 3979, 3980, 3982, 3986, 4015, 4018, 4060, 4061 4200, 4198, 4196, 4195, 4349, 4347, 4354, 4352, 4360, 4359, 4380, 4381, 4561, 4560, 4609, 4606, 4806, 4805, 4913, 4912, 4944, 4943, 4964, 4963, 4966, 4965, 5096, 5094, 5093, 5227, 5226, 5230, 5229, 5362, 5361, 5372, 5370, 5381, 5378, 5990, 5989, 6143, 6142, 6223, 6222, 6271, 6272, 6606, 6631, 4525, 3439, 3442, 4502, 4500, 5592, 5608, 6393 & 6391 of 2025

W.P.No.1114 of 2025:

M/s.Axiom Gen Nxt India Private Limited,
Rep by its Director, Mr.A.Arunkumar,
Old No.75/1, New No.199, Habibullah Road,
T.Nagar, Chennai 600 017

... Petitioner

Vs.

1/99

https://www.mhc.tn.gov.in/judis

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Commercial State Tax Officer,
T.Nagar Assessment Circle,
Station 46, Greenways Road,
R.A.Puram, Chennai 28

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed vide Ref.No.ZD330724093205F dated 08.07.2024 demanding a sum of Rs.24,59,347.22/- towards tax, interest and penalty and quash the same.

For Petitioner : Mr.R.Mansoor Ilahi

For Respondent : Mr.P.S.Raman, Sr.Adv.,
Assisted by Mr.U.Baranidharan,
Special Government Pleader,
Mr.C.Harsha Raj, Spl.G.P.,
Mr.V.Prashanth Kiran, GA,
Ms.Amirta Poonkodi Dinakaran, GA
for R1

Mr.AR.L.Sundaresan,
Addl. Solicitor General,
Assisted by Mr.A.P.Srinivas,
Sr. St. counsel for R2 & R3

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W.P.No.2720 of 2025:

Esarams Bio Tech
Represented By Its Authorised Signatory
Mr.N P Shanmugam No.1/6, Nandhavana
Thottam, Puduchatram Post, Namakkal-
637018

... Petitioner

Vs.

1. State Tax Officer (intelligence), Group-2
Office Of The Joint Commissioner
(st),Intelligence,Salem,Commercial Taxes
Building,Hasthampatti,Salem 636007

2. State Tax Officer,namakkal (rural)(c)
Namakkal Rural, Integrated Commercial Taxes Building, Opposite To
Bsnl, Mohanur Road, Namakkal 637001

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the Impugned Order dated 06.06.2024 bearing reference 33AADFE5585B1ZQ/2019-20, as modified by Order bearing reference number 33AADFE5585B1ZQ/2019-20 dated 18.10.2024 issued by the 1st Respondent and quash the same

For Petitioner : Mr.Vaidya Shakar D.

For Respondent : Mr.U.Baranidharan,
Special Government Pleader

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W.P.No.2723 of 2025:

Esarams Bio Tech
Represented By Its Authorised Signatory
Mr.N P Shanmugam No.1/6, Nandhavana
Thottam, Puduchatram Post, Namakkal-
637018

... Petitioner

Vs.

State Tax Officer (intelligence), Group-2
Office Of The Joint Commissioner
(st),Intelligence,Salem,Commercial Taxes
Building,Hasthampatti,Salem 636007

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the Impugned Order dated 06.06.2024 bearing reference 33AADFE5585BIZQ/2018-19 issued by the Respondent and quash the same

For Petitioner : Mr.Vaidya Shakar D.

For Respondent : Mr.U.Baranidharan,
Special Government Pleader

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W.P.Nos.2819 & 2832 of 2025:

Tvl Asian Industrial Valves and Instruments
Rep by its partner/Authorised signatory,
Mr.Soundara Rajan, A18/1,Industrial Area,
Mogappair East, Chennai-600 037

... Petitioner

Vs.

The Assistant Commissioner(st)
J.J.Nagar Assessment Circle, Chennai Central -ii

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the Respondent herein in descriptive order and summary order in Form GST-DRC 07, both under Reference No.ZD330824281670A dated 29.08.2024 & Reference No.ZD330424145745E both dated 18.04.2024 and quash the same

For Petitioner : Ms.D.Vishalee for Mr.C.Bosco

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

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W.P.No.3084 of 2025:

Vijayalakshmi Enterprises
Represented by its Proprietor, Dillibabu,
No.33, Vinayagar Koil Street, Kadigai Via
Mittanamalli I.A.F.Post, Chennai 600 55

... Petitioner

Vs.

1. The Deputy Commissioner (CT)
o/o the Deputy commissioner (ST) GST Appeal
Chennai 1, Room No 210, 2nd Floor, C.T. Annexe
Building, No 1 Greams Road Chennai 600 006

2. The Assistant Commissioner (ST)
AVADI Assessment Circle, Chennai North Division
Integrated Commercial Taxes Building No.32,
Elephant Gate Bridge Road, Vepery, Chennai

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the 2nd respondent demand order made in No. ZD331223141921T dated 19.12.2023 and quash the same and consequently direct the respondent to given an opportunity of personal hearing

For Petitioner : Mr.P.Suresh Babu

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

6/99

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W.P.No.3097 of 2025:

Tvl.Nambi India Engineering
Rep by its Proprietor Devi Chandran
16A,Venkateshwara Nagar, 4th Cross
Street,Thirumullaivoyal, Tiruvallur- 600062

... Petitioner

Vs.

The State Tax Officer (ST)
Thirumullaivoyal Assessment circle, Station
Door No. 32, Room No. 114, 1st Floor,
Tiruvallur Division, Integrated Commercial
Taxes offices Building Elephant Gate Bridge
Road, Vepery, Chennai- 600 003.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating an impugned order under section 73 of the GST Act dated 02.08.2024 vide Reference No. ZD330824035986Z in Form GST DRC 07 bearing GSTIN. 33BERPC4353J1ZF pertaining to FY.2019-20 issued by the respondent as arbitrary and illegal and quash the same and further direct the respondent to redo the adjudication in accordance with law after granting opportunity of personal hearing to the petitioner

For Petitioner : Ms.B.Mitra

For Respondent : Mr.U.Baranidharan,
Special Government Pleader

7/99

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W.P.No.3119 of 2025:

Ideal Textiles
Rep by its Proprietor Mr.Prakash, No.17/99-
B6 sarathambal nagar karumathampatti sulur
TK Tamilnadu-641659

... Petitioner

Vs.

Assistant Commissioner (st)
Karumathampatti Assessment Circle,
Dr.Balasundaram Road, Att Colony,
Gopalapuram, Pappanaickenpalayam,
Coimbatore

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records of the respondent proceedings in GSTIN33BDPPPS049HIZ8 dated 29.12.2023 and quash the same being illegal, invalid and violated the principles of natural justice

For Petitioner : Mr.D.Vivekanandan,
for Ms.A.Anuradha

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

8/99

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W.P.No.3288 of 2025:

MPM Enterprises
A proprietorship firm, Rep by its Proprietor
Mr.Peermohideen Zakheer, No.19/45, Nehru
Market, Sydenhams Road, Periyamet,
Chennai-600 003

... Petitioner

Vs.

Deputy State Tax Offier
Moore Market Assessment Circle, No.32,
Integrated Commercial Taxes Office
Complex, Elephant Gate Bridge Road,(off
Wall Tax Road), Vepery, Chennai-600 003

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed vide reference No.ZD331223110929K dated 14.12.2023 and quash the same

For Petitioner : Mr.F.John Joseph

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

https://www.mhc.tn.gov.in/judis

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W.P.Nos.3487, 3493, 3498 & 3501 of 2025:

Sri Annamalai Traders
Rep by its Proprietor Saravanan Kayalvizhi,
14, 17th East Cross Road, Gandhinagar,
Katpadi, Vellore, Tamil Nadu,632006

... Petitioner

Vs.

Deputy State Tax Officer 2
Gudiyatham East Assessment Circle No. 127,
Gandhi Road, nadupet, Gudiyatham- 632 602.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the Respondent in the Impugned Order bearing Ref ZD331223222933Q dated 27.12.2023, Ref ZD330424244530T dated 30.04.2024, Ref ZD330524292671B dated 29.05.2024 & Ref ZD331223254470U dated 29.12.2023 respectively issued by the Respondent under Section 74 of the TNGST Act and quash the same and direct the Respondents to provide an opportunity to be heard and decide in accordance with law

For Petitioner : Mr.Senguttuvan K.

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

10/99

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W.P.No.3510 of 2025:

Chota Dhobi Laundry Solutions Private Limited
Rep by its Manager R.Suganya, V-8, Lotus Colony, Nandanam, Chennai-600 035

... Petitioner

Vs.

Deputy State Tax Officer-ii
Nandanam Assessment Circle, No.46, Greenways Road, Mylapore Taluk Office Building, 2nd Floor, Chennai-600 028

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the assessment proceedings in GSTIN 33AAGCC5271Q1Z9 dated 16.08.2024 for the year 2019-20 and to quash this impugned order passed by the respondent and direct the respondent to pass fresh orders in this case as per the amended provisions of Section 16(5) of CGST Act as decided by the Madras High Court in the batch case in W.P. 25081 and Others dated 17.10.2024

For Petitioner : Mr.C.Baktha Sironmani

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

11/99

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W.P.No.3593 of 2025:

Tvl Sri Vinayaga Tiles and Granites,
Rep by its Proprietor Mr.Shanmugam
Murugeshan,)No. 449/1B,
Avinashilingampalayam, Palangarai,
Tiruppur-641 654

... Petitioner

Vs.

Deputy State Tax Officer(st)
Avinashi Assessment Circle, Avinashi

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC-07 with Reference No. ZD330324108487J dated 18.03.2024 along with detailed order in GSTIN 33AYAPM9399N1ZM/ 2018-19 Dated 16.03.2024, for the assessment period 2018-19 and quash the same

For Petitioner : Mr.N.Chandirasekar

For Respondent : Ms.K.Vasanthamala,
Government Advocate

12/99

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W.P.Nos.3595 & 3598 of 2025:

M/s.Incarnus Technologies India Private Limited
Rep. by the Insolvency Professional
Shanmugakani Saraskumar, having registered office at Flat No. 4157, Tower 4B, 13th Floor, Presitge Bella Vista, Mount Poonamalle Road, Ayyappanthangal, Poonamalle, Kancheepuram, Chennai 600 056

... Petitioner

Vs.

Commercial Tax Officer / Assistant Commissioner (fac)
Porur Assessment Circle, Station No.4/109, 1st Floor, Bangalore Chennai Highway Road, Varadharajapuram, Nazarathpet, Chennai-600 123.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records pertaining to the impugned order passed vide Reference No. ZD3308241645853 dated 20.08.2024 confirming a sum of Rs.7,84,100/- & Reference No. ZD330824216490L dated 23.08.2024 confirming a sum of Rs.55,43,427/- towards tax, interest and penalty and quash the same

For Petitioner : Mr.R.Mansoor Ilahi

For Respondent : Ms.K.Vasanthamala, Government Advocate

13/99

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W.P.No.3623 of 2025:

Tvl Pluto Shipping and Logistics Private Limited
Represented by its Director, Mr. Muralidharan
No. 105, 2nd Floor, Armenian Street, Parrys,
Chennai- 600 001.

... Petitioner

Vs.

The Assistant Commissioner (ST)
Broadway Assessment Circle, No.32,
Integrated Commercial Taxes Office complex,
Room No. 304, 3rd Floor, Elephant Gate
Bridge Road, Vepery, Chennai- 600 003.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned order u/s.73 dated 23/08/2024 having reference ZD3308242158748 passed by the respondent for the F.Y.2019-20, and quash the same as it was passed in violation of principles of natural justice

For Petitioner : Mr.S.Anandh

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

14/99

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W.P.No.3671 of 2025:

Chennai Polymer House,
Rep by its Partner Dilip Partani No.215/105,
Ground Floor Angappa Naicken Street,
Chennai- 600 001.

... Petitioner

Vs.

The Assistant Commissioner ST
Harbour Assessment Circle, Integrated
Commercial Taxes Officer Complex, Room
No.326 Elephant Gate Bridge Road, Chennai-
003.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent order dated 09.10.2024 passed in GSTIN 33AAFFC3300E1ZB/2018-19 and quash the same

For Petitioner : Mr.Joseph Prabakar
for Mr.Adithya Reddy

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

15/99

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W.P.Nos.3777 & 3782 of 2025:

Tvl SVN Leathers
Rep. by its Proprietrix, S.Bhanu Mathy, No 26
1st Floor Karpura Street Periamet Chennai,
Tamil Nadu-600 003.

... Petitioner

Vs.

The State Tax Officer
Vepery Assessment Circle, No.1, (papjm)
Annex Building, 1st Floor, Room No.1-110,
Greams Road, Chennai-600 006.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in GSTIN 33AUAPB0146J1ZA/ 2019-2020 dated 27.11.2024 & GSTIN 33AUAPB0146J1ZA/ 2020-2021 dated 27.11.2024 on the file of the respondent and quash the same as illegal, error of law and error on the face of record and contrary to the provisions of the Goods and Service Tax Act 2017 and consequentially direct the respondent to pass orders as per the law by providing an opportunity of personal hearing

For Petitioner : Ms.L.Sweety

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

16/99

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W.P.No.3923 of 2025:

Tvl.Katyayani Granites
Rep. By Its Proprietor Pema Ram, 451/a2a1,
Malapadi Village, Bargur Post, Krishnagiri,
Tamil Nadu 635104.

... Petitioner

Vs.

Assistant Commissioner (ST)
Krishnagiri -ii Circle, Hosur, Tamilnadu
635104.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned Order dated 05.01.2024 and its consequential Demand Order dated 06.01.2024 having Reference No. 7D330124029178O (FY 17-18) issued by the Respondent and quash the same

For Petitioner : Mr.Sanskar Samdaria

For Respondent : Ms.K.Vasanthamala,
Government Advocate

17/99

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W.P.No.3926 of 2025:

Tvl Sri Mahalakshmi Traders
(GSTIN.33AZEPS0460P1Z2)Rep by its
Proprietor Suresh Kumar, Site No.40, FCI
Main Road, Varadharajulu Nagar 4th Street,
Ganapathy, Coimbatore 641006

... Petitioner

Vs.

The Deputy State Tax Officer
Avarampalayam Circle, Commercial Tax
Building, Dr.Balasundaram Road,
Coimbatore-641 018

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records pertaining to the impugned order in Form GST DRC 07 bearing reference no. ZD330424069605D/2018-19 dated 08.04.2024 issued by the respondent and quash the same

For Petitioner : Mr.S.Durairaj

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

18/99

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W.P.No.3929 of 2025:

Tvl Sri Mahalakshmi Traders
(GSTIN.33AZEPS0460P1Z2)Rep by its
Proprietor Suresh Kumar, Site No.40, FCI
Main Road, Varadharajulu Nagar 4th Street,
Ganapathy, Coimbatore 641006

... Petitioner

Vs.

The Deputy State Tax Officer
Avarampalayam Circle, Commercial Tax
Building, Dr.Balasundaram Road,
Coimbatore-641 018

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records pertaining to the impugned order in Form GST DRC 07 bearing reference no. ZD330824047688X dated 06.08.2024 issued by the respondent and quash the same

For Petitioner : Mr.S.Durairaj

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

19/99

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W.P.No.3945 of 2025:

Clar Auqa Private Limited
Rep By Its Director Sp Lakshmanaan
No.10/81, Ganesh Avenue, 4th Street Sakthi
Nagar, Porur, Chennai-600 116

... Petitioner

Vs.

Assistant Commissioner St
Ayyapanthangal Assessment Circle,
No.4/109,Bangalore Highway Road,
Varadharajapuram, Chennai-600 123

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned order of the respondent passed in GSTIN 33AADCC6189LZB/2019-20 dated 07.08.2024 and quash the same

For Petitioner : Mr.N.Murali

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

20/99

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W.P.No.4015 of 2025:

VPR Enterprises
Old No 32, New No 24, 2nd Floor, First Street, Lakshmi Nagar, Velachery, Chennai 600042 Rep by its proprietor Mr.R. Renganathan.

... Petitioner

Vs.

The State Tax Officer (ST)
Velacherry Assessment circle, Integrated Commercial Taxes Department Building (South Tower) 2nd Floor, Room No. 234, Nandanam, Chennai- 035.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent leading to issuance of Impugned Order dated 27.08.2024 vide GSTIN. 33AAPFV9379N1Z0/2019-2020 and quash the same and direct the Respondent to pass order after considering the reply to be filed by the Petitioner

For Petitioner : Mr.S.Sathya Narayanan

For Respondent : Ms.K.Vasanthamala, Government Advocate

21/99

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W.P.No.4032 of 2025:

M/s Md Kitchen Appliances
Rep by its Proprietor Krishnasamy
Selvakumar No 137, West Avenue,
Vysarpadi, Chennai, Tamil Nadu600 039

... Petitioner

Vs.

1. The Deputy Commercial Tax Officer
Washermenpet Assessment Circle Integrated
Commercial Taxes offices Complex Room No 207
2nd Floor, Elephant Gate Bridge Road vepery,
chennai 600 003

2. Deputy Commissioner St
Toom No. 210, 2nd Floor, Greams Road,
Chennal 600 006.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned Order dated 21.11.2023 and its Consequential Demand Order dated 21.11.2023 having Reference No. ZD331123129175U issued by the 1 Respondent and quash the same

For Petitioner : Mr.Micheal S

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

22/99

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W.P.No.4056 of 2025:

M/s VSL Earth Movver,
Rep by its Proprietor Palanivel Natarajan,
No.60-B Nellikuppam Main Road, Cuddalore
607001

... Petitione

Vs.

The Deputy State Tax Officer-ii(fac)
Cuddalore Town Assessment Circle,
Cuddalore

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in GSTIN.33AITPN8569J1ZC/2018-19 quash the order dated 29.4.2024 passed therein

For Petitioner : Mr.P.V.Sudhakar

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

23/99

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W.P.No.4104 of 2025:

Tvl K V K Senthilnathan Contractor
No. 13, 18th Street Cross Cut Road
Gandhipuram Coimbatore 641 012

... Petitioner

Vs.

The Deputy State Tax Officer
Gandhipuram Assessment Circle,
Gandhipuram, Coimbatore-641 018.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in passing the impugned order bearing GSTIN/ 33CCJPS4951D1ZJ/ 2017 - 18 dated 28.12.2023 along with Reference No. ZD331223237872J dated 28.12.2023 and quash the same as the same lacks jurisdiction, since the same has been passed in contravention of Section 16, 73 (9), read with Rule 142 of CGST Rules, 2017 and articles 14, 19 (1) (g) and 265 of the Constitution

For Petitioner : Mr.G.Natarajan

For Respondent : Ms.K.Vasanthamala,
Government Advocate

24/99

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W.P.No.4296 of 2025:

Tvl Devi Hardware and Electricals
Rep by its Proprietor Mr. Sukhalal,
No.04/147, Cherran Street, Medavakkam
Main Road, Velakkal. Chennai -100

... Petitioner

Vs.

The Deputy State Tax Office
Medavakkam Assessment Circle Room No
232, 2nd Floor Integrated commercial Taxes
and Registration Department Building,
Nandanam chennai 35

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in the files of the respondent in GSTIN 33CEMPS8618LIZR/ 2017 - 18 dated 29.12.2023 and quash the same is illegal, invalid without Jurisdiction and violated the principles of natural Justice

For Petitioner : Mr.D.Vijayakumar

For Respondent : Ms.K.Vasanthamala,
Government Advocate

25/99

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W.P.No.4403 of 2025:

Tvl.Chem Blue Diamond Sales And Service
Rep. By Its Proprietor Mr. Ganesan
Saravanan, 3/262, Muniyappa Mudhali Street,
Mittahalli Village, Krishnagiri, Tamil Nadu
635112.

... Petitioner

Vs.

State Tax Officer
Krishnagiri -1, Assessment Circle, Hosur,
Tamil Nadu 635109.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned Order dated 14.08.2024 and its consequential Demand Order dated 14.08.2024 having Reference No. ZD3308241157197 issued by the Respondent and quash the same

For Petitioner : Mr.Sanskar Samdaria

For Respondent : Ms.K.Vasanthamala,
Government Advocate

26/99

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W.P.No.4430 of 2025:

Tvl.Vardhan Infraastructure
(gstin 33aahfv4018l1z2) Represented By Its
Partner Manikandan54 Thirumagal Nagar,
Peelamedupudhur, Coimbatore 641004.

... Petitioner

Vs.

The Assistant Commissioner(ST)
Peelamedu South Circle, Commercial Tax
Building, Dr. Balasundaram Road,
Coimbatore 641018.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records pertaining to impugned order in Form GST DRC 07 bearing reference number ZD331223242804P/2017-18 dated 28.12.2023 issued by the Respondent and quash the same

For Petitioner : Mr.S.Durai Raj

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

27/99

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W.P.Nos.4459 & 4463 of 2025:

Tvl Vardhan Infraastructure
(GSTIN.33AAHFV4018L1Z2)Represented by
its Partner Manikandan, 54 Thirumagal Nagar,
Peelamedupudhur, Coimbatore-641004

... Petitioner

Vs.

The Assistant Commissioner(st)(fac)
Peelaedu South Circle, Commercial Tax
Building, Dr.Balasundaram Road,
Coimbatore-641 018

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records pertaining to impugned order in Form GST DRC -07 bearing reference number ZD330424222283U/2018-19 dated 27.04.2024 & ZD330824262332J/ 2019-20 dated 28.08.2024 issued by the Respondent and quash the same

For Petitioner : Mr.S.Durai Raj

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

28/99

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W.P.No.4576 of 2025:

Sindu Priya Enterprises
Rep by its proprietor Venkateswaran
Kanthasamy, 1/25, Bharathi Nagar,
Aerodrome post, Coimbatore, Tamil Nadu-
641014

... Petitioner

Vs.

1. The Deputy Commercial Tax Officer
Peelamedu(north)coimbatore-iii, Coimbatore

2. Assistant Commissioner ST
Peelamedu (North) Circle, Ground Floor,
CTO Complex, Dr. Balasundaram Road,
Coimbatore-641018

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 1st Respondent order dated 26.02.2024 in GSTN No.33ALZPK4494Q1ZX/ 2021-2022 and consequential order of Reference No ZD3302241596686 and to quash the same as it has been passed in violation of principles of natural justice

For Petitioner : Mr.H.Rajasekar

For Respondent : Mr.U.Baranidharan,
Special Government Pleader

29/99

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W.P.No.4707 of 2025:

Tvl .DHANALAKSHMI METAL
FINISHERS
Rep by its PARTNER
KUMARAVENGADAM D Plot No N-38,
SIDCO Industrial Estate, Phase IV, Zuzuvadi,
Hosur, Krishnagiri-635 126

... Petitioner

Vs.

The State Tax Officer
Hosur North-i

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the Respondents Order dated 20.06.2024 with Ref No. ZD330624220082Y and quash the same

For Petitioner : Mr.Joseph Prabakaran,
for Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

30/99

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W.P.No.4711 of 2025:

Tvl Sanskar Corporation
Rep by its Proprietor 67 /4, Adhi
Sakthipuram, Salem-636 009

... Petitioner

Vs.

The Assistant Commissioner (st)
Arisipalayam Assessment Circle.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, Calling for the Respondents Order No. ZD3304241893591 dated 24.04.2024 bearing Ref No. GSTIN 33AGXPR6382H1ZN/ 2018-19 and quash the same

For Petitioner : Mr.Joseph Prabakaran,
for Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

31/99

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W.P.No.4840 of 2025:

Tvl Sri Dhanalakshmi Industries
Represented by its Managing Partner,
Mr.N.Ponnusami, No. 22-E, Jayasimma
Puram, Palayur, Coimbatore, Tamil Nadu. 641
037

... Petitioner

Vs.

The State Tax Officer
(Also known as Commercial Tax officer) P.N.
Palayam Circle coimbatore 18

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records on the files of the Respondent herein in GSTIN 33ABQFS7245G1ZU/2019-20 dated 12.08.2024 and the connected order under section 73 dated 12.08.2024 and the summary of the order in Form GST DRC-07 dated 12.08.2024 issued in Reference No ZD3308240946624 and quash the same

For Petitioner : Mr.A.N.R.Jayaprathap

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

32/99

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W.P.No.4848 of 2025:

M/S.Sakthi Cotton Mills
Represented by its Partner, Mr Avinashi
Ramakrishnan Yuvarajan 4/203 A,
Achampalayam, Annur, Coimbatore 641653

... Petitioner

Vs.

The Deputy State Tax Officer (ST)
Avinashi Assessment Circle, Tiruppur.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in GSTIN. 33AKTPY0970A2ZY /2019-2020 dated 21.08.2024 and the connected order under section 73 dated 21.08.2024 and the summary of the order in Form GST DRC-07 dated 21.08.2024 issued in Reference No. ZD330824186351C and quash the same as passed contrary to the provisions of the Central Goods and Service Tax Act, 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 and also passed in contrary to the principles of natural justice

For Petitioner : Mr.Raj Kumar P

For Respondent : Ms.K.Vasanthamala,
Government Advocate

33/99

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W.P.No.4854 of 2025:

Sree Kumaran Trading Company
Rep By Its Proprietor Mr.Shyamsundari, 1/1-114/2, Naranampalayam, Kottakoindampatti
Omalur Tk Salem 636011

... Petitioner

Vs.

State Tax Officer
Also Known As Deputy Commercial Tax Officer 2/1-15th Ward Periyamariyamman Kovil Backside Visvam Building Street
Omalur Assessment Circle 636455

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, Calling for the records on the files of the Respondent herein in FORM GST DRC-07 with Reference No. ZD330424229550Q dated 29.04.2024 along with detailed order in GSTIN-33GRUPS9397R1ZY/2018-19 dated 24.04.2024, for the assessment period 2018-19 and quash the same

For Petitioner : Mr.N.Chandirasekar

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

34/99

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W.P.No.5038 of 2025:

VBN Builders rep by its partner
Registered partnership, Firm rep by its
partners, K Natarajan, 352/2 Thanner pandal
colony anupparpalayam Tiruppur 641652

... Petitioner

Vs.

Assistant Commissioner(st)
Annuppar Palayam Assessment Circle,
Ground Floor, Emperor Building,No.16,
Indira Nagar First Street, Avinashi Road,
Tiruppur-641 643

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records on the file of the Respondent relating to the Order bearing GSTIN.33AAGFV2975B1ZA/ 2019-20 dated 22.08.2024 and digitally signed on 28.08.2024 and quash the same

For Petitioner : Mr.Haribabu for Mr.R.Arumugam

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

35/99

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W.P.No.5055 of 2025:

Dharmaraj Chithra
Proprietor of J. J.World, residing at No.8th
Floor Tower 2, BBCL VAJRA, VTC
Nolambur, Maduravoyal, Chennai 600 095

... Petitioner

Vs.

The Assistant Commissioner (st)
Koyambedu Assessment Circle, No.4/109,
Bangalore Highway Road, Varadharajapuram,
Nazrethpet, Chennai-600 123.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the respondents in the order dated 31.05.2024 passed by the respondent in GSTIN 33APQPC2892F1ZV/Nov - 2018 and quash the same and direct the respondent to pass orders afresh after affording the petitioner an opportunity of hearing

For Petitioner : Mr.R.Karunagaran

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

36/99

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W.P.No.5437 of 2025:

Tvl AKR Construction
(Represented By its Proprietor K Madhavan)
Ground Floor, 40, Arulanandham Nagar, HP
Petrol Pump, Chinnamathur, Chennai,
Tiruvallur, TamilNadu- 600 068.

... Petitioner

Vs.

1. The Assistant Commissioner (ST) (FAC)
Manali Assessment Circle, Integrated Commercial
Taxes Building, Room No.101, No.32,Elephant Gate
Bridge Road, Vepery, Chennai- 03

2. The Branch Manager,
Indian Bank Sector 2, First Main Road,
Mathur MMDA, Manali-600068

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing GSTIN. 33GIRPM4014F1ZA/ 2023-2024 along with the summary order Form GST DRC-07 bearing Reference No. ZD3307240508658 dated 04-07-2024 passed by the first respondent and quash the same and subsequently directing the first respondent to lift the bank attachment of the petitioner

For Petitioner : Mr.G.Natarajan

For Respondent : Ms.K.Vasanthamala,
Government Advocate

37/99

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W.P.No.5561 of 2025:

Tvl Priyanka Arcade Limited
(Rep by its Director , Francis Basttian)No
11/6 First Floor Rubi Mahal Ramanathan
Street Mahalingapuram Chennai 600 034

... Petitioner

Vs.

1. The Deputy State Tax Officer 1
Valluvarkottam, Chennai.

2. Branch Manager
Indian Bank No 36 Sterling Road Nungambakkam

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records on the files of the 1st Respondent herein in GSTIN. 33AABCP6678F1ZB dated 21.08.2024 for the Tax Period 2019-20 along with his form GST DRC-07 with reference number ZD3308241852747 dated 21.08.2024, quash the same

For Petitioner : Mr.K.A.Parthasarathy

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

38/99

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W.P.No.5633 of 2025:

M/s Amman Tractors
rep by its Proprietrix Mrs Sankaran Gunavathi
shop no. 36/1, Opp. Nalanda Matric
School,Mottur, Salem Bye Pass Road,
Krishnagiri - 635 001

... Petitioner

Vs.

The State Tax Officer
Krishnagiri I Assessment Circle, Krishnagiri-
635 001.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the connected records pertaining to the impugned proceedings of the Respondent herein made in GSTIN. 33ANEPG2334E1ZO/2019-20 dated 14/08/2024 and QUASH the same as illegal, arbitrary and barred by limitation

For Petitioner : Mr.Manoharan S.Sundaram

For Respondent : Mr.Prashanth Kiran,
Government Advocate

39/99

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W.P.No.5687 of 2025:

M/s.Ganesha Electricals
A Proprietorship Firm, Rep By Its Proprietor
M.Palanisamy, No.17, Snvs Layout, 3rd
Street, Kongu Main Road, Tiruppur-641 607

... Petitioner

Vs.

1. The Assistant Commissioner (st)(fac)
Kongu Nagar Circle, No.16, Indira Nagar 1st Street,
Emperor Textile Building, Avinashi Road, Tiruppur-
641 603

2. The Commercial Tax Officer(st)
Kongu Nagar Circle, Tiruppur

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records pertaining to the impugned order passed by the 2nd Respondent dated 19.08.2024 bearing number ZD330824147760C and quash the same as illegal, unconstitutional and against the principles of natural justice

For Petitioner : Mr.Sharukumar S.I.

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

40/99

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W.P.No.5806 of 2025:

Ms Optima Life Sciences Private Limited,
Represented by its Executive Director Vinay
Vasant Kulkarni 47 / 2 / 2 BL 44 LIC Colony
Parvati Pune 411009

... Petitioner

Vs.

Assistant Commissioner ST FAC
Peelamedu South Circle, Ground Floor, CTO
Complex, Coimbatore 641 018

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records relating to impugned Order bearing reference GSTIN 33AABC05164D1ZT/2018-2019. Dated 30.05.2024 passed by the respondent and quash the same and consequently directing the Respondent to release the bank account of the Petitioner

For Petitioner : Mr.G.Natarajan

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

41/99

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W.P.No.6000 of 2025:

M/s. SPP Enterprises Pvt. Ltd.,
Rep. By Its Md Mr.S.Prabhu, Gstin 33aaucs0407j1z9,
160/6 A, Chennai Bangalore, Nh4 Main Road,
Mambakkam, Sriperumbudur, Kancheepuram, Tamil
Nadu 602106

... Petitioner

Vs.

1. The Deputy Commissioner (ST),
Kanchipuram Zone, 1st Floor, Commercial Tax
Building, Collectorate Complex, Kanchipuram
631501.

2. The Deputy State Tax Officer -2
Sriperumbudur Assessment Circle,
Kanchipuram Zone, 4/109 Chennai Bangalore
Road, Varadharajapuram, Thiruvallur 600123.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records in the file of the Impugned Order issued by the 2nd respondent electronically in Common Portal vide FORM DRC-07 No. ZD330824245142N dated 27.08.2024 and to QUASH the same with consequential relief to DIRECT the 1st respondent to defreeze the bank account no. 178201000000204 maintained with the Indian Overseas Bank (IFSC CodeIOBA0001782) Sriperumbudur Branch

For Petitioner : Ms.S.Akila

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

42/99

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W.P.No.6033 of 2025:

M/s SPP Enterprises Pvt Ltd
Rep by its MD Mr. S.Prabhu, GSTIN.
33AAUCS0407J1Z9 160/6 A, Chennai
Bangalore, NH4 Main Road, Mambakkam,
Sriperumbudur, Kancheepuram, Tamil Nadu-
602 106.

... Petitioner

Vs.

1. The Deputy Commissioner (ST),
Kanchipuram Zone, 1st Floor, Commercial Tax
Building , Collectorate campus, Kanchipuram- 631
501.

2. The Deputy State Tax Officer
Sriperumbudur Assessment circle, Kanchipuram
Zone, 4/109, Chennai Bangalore Road,
Varadharajapuram,Thiruvallur- 600 123.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in the file of the Impugned Order issued by the 2nd respondent electronically in Common Portal vide FORM DRC-07 No. ZD3308242496247 dated 28.08.2024 and to QUASH the same with consequential relief to Direct the 1st respondent to defreeze the bank account No. 178201000000204 maintained with the Indian Overseas bank (IFSC Code. IOBA0001782) Sriperumbudur Branch

For Petitioner : Ms.S.Akila

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

43/99

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COMMON ORDER

All the writ petitions have been filed challenging the respective *ex parte* assessment orders/assessment orders passed by the concerned Assessing Officers.

2. Brief Facts of the cases:

2.1 In writ petitions, viz., W.P.Nos.3119, 4015 & 5038 of 2025, the petitioners had filed their reply, however, no opportunity of personal hearing was provided by the respondent prior to the passing of assessment orders. Hence, the said assessment orders were challenged by the petitioners on the ground that the said orders had been passed in violation of principles of natural justice.

2.2 In writ petitions, viz., W.P.Nos.3084 & 4032 of 2025, the appeals were preferred by the petitioners against the assessment orders, however, the said appeals were rejected by the respondents on the aspect of limitation. Now, the challenge is made only against the *ex parte* assessment orders.

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2.3 In W.P.No.5055 of 2025, the *ex parte* assessment order was passed subsequent to the *suo motto* cancellation of GST Registration by the respondent, whereas, in W.P.No.5806 of 2025 is concerned, the GST Registration of the petitioner was cancelled based on the voluntary request made by the petitioner. Subsequent to the said cancellation, the impugned *ex parte* assessment order was passed by the respondent.

2.4 In all the other writ petitions, being unaware of the show cause notices, the petitioners were unable to file their reply. Under these circumstances, the assessment orders have been passed in *ex parte* without providing any opportunity of personal hearing to the petitioners.

3. Submissions made on behalf of the petitioners:

3.1 Mr.Joseph Prabhakar, Mr.S.Durairaj, Mr.G.Natarajan, Mr.K.Sankaranarayan, Mr.S.Sathyanarayan, Mr.N.V.Balaji & Mr.V.Sundaresan, all the learned counsel had advanced their arguments on behalf of the petitioners.

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3.2 According to the petitioners, they were unable to participate in the proceedings for the following reasons:

i) In majority of cases, the Show Cause Notices were uploaded by the respondents in the "View Additional Notices and Orders" column instead of "View Notices" column and hence, though the petitioners had occasions to visit the portal twice in a month for filing their monthly returns, the said show cause notices were remained unnoticed, due to which, the petitioners were unable to participate in the assessment proceedings.

ii) In some matters, the petitioners had nominated the Consultants for handling the GST matter, such as filing the returns, responding to the notices, etc. Since the said consultants had failed to follow up the portal, they were unaware of the assessment proceedings initiated against the petitioner. The said proceedings came to the knowledge of the petitioners only when the recovery notices were issued by the respondent.

iii) In some cases, the employee, who was entrusted by the petitioner for handling GST matters, was indisposed or left the job and hence, they were unable to participate in the assessment proceedings before the respondent-Department.

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iv) In few cases, the petitioners are senior citizens and hence, either due to the lack of knowledge about computer operations or due to ill-health, they had failed to follow up the matters and unable to file their reply for the show cause notice issued by the respondent.

3.3 By referring the provisions of Section 169 of the Goods and Services Tax Act, 2017 (hereinafter called as "GST Act"), the respective learned counsel for the petitioners would submit that in all these cases, the respondents had sent the show cause notices vide the mode of service as provided in Section 169(1)(d) of the GST Act, i.e., making it available in portal and they had not even tried any other alternative modes of services as mandated therein.

3.4 Further, they would contend that when there is no response for the notices, viz., DRC-01A, ASMT-10 or DRC-01 and their subsequent reminders, the Officers were supposed to have adopted a different mode of service for sending the said notices and reminders to the Assessees and there is no bar for them to do so. According to the petitioners, if the respondent had adopted other modes of services, especially, the mode,

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which was prescribed in Section 169(1)(b) of the GST Act, i.e., Registered Post with Acknowledgement Due (RPAD), definitely, the issue of passing the *ex parte* impugned order would not arisen and in such case, the respondent would have passed a detailed speaking order, so that, the precious time of the Assessees and the Officers would have been saved.

3.5 By referring the provisions of Section 169(2) of the GST Act, Mr.Joseph Prabakaran, learned counsel would submit that the sub-section (2) implies three terms, viz., "tendering", "publishing" and "affixing". The term "tendering" relates to Section 169(1)(a), the term "affixing" relates to Section 169(1)(f) and the term "publishing" relates to Section 169(1)(e) of the GST Act. As far as the provisions of Section 169(1)(b) is concerned, it deals with the service of notice vide RPAD, whereas, Section 169(1)(d) only talks about making it available in the portal.

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3.6 Hence, he would contend that the legal fiction mandated in sub-section (2) of Section 169 has no application to the provision of Section 169(1)(d), i.e., making it available in common portal. Therefore, he would submit that the said mode of service is neither sufficient nor effective and thus, in order to comply with Section 169(2) of the GST Act, necessarily the respondents have to send the notices through other modes as well.

3.7 Further, he would submit that in terms of Section 107 of GST Act, a tax payer can prefer an appeal against the assessment order within a period of 3 months from the date on which the said assessment order was communicated. Here, the word "communicated" means serving the assessment order to the Assessee physically, not by simply uploading it through the common portal. In this regard, a comparison has also been made between Form GST DRC-01 and Form GST DRC-07. In terms of Rule 142(1) and 142(5) of the GST Rules, the Form GST DRC-01 has to mandatorily contain the brief facts, grounds, tax dues, interest and other

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penalty and on the other hand, in Form GST DRC-07, the order, which has to be uploaded, will only contain summary of the order, i.e., only the tax amount, interest, penalty. The detailed order would not be made available in the common portal. Rule 142(5) mandates the uploading of the summary order only, whereas the detailed order has to be communicated to the petitioner, based on which the appeal has to be preferred.

3.8 Further, he had advanced his arguments by making comparison of GST Act and erstwhile Tax Acts, viz., Value Added Tax Act, Income Tax Act, etc., with regard to the sending notices for all practical purpose in the said Acts. He had also extensively argued on the aspect of "tendering" and filed his detailed written submissions with regard to the same.

3.9 Mr.G.Natarajan, learned counsel has referred provisions of Sections 11, 12 & 13 of the Information Technology Act, 2000 (hereinafter called as "IT Act") and has extensively argued on the aspect

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of receipt of the notices, orders and other communications, which were uploaded by the respondents in the common portal.

3.10 Both the parties, i.e., petitioners as well as respondents, in unison, had fairly agreed that the common portal is the computer resource. However, according to the petitioners, the said common portal cannot be considered as a "designated computer resource". Hence, in terms of Section 13(2)(a)(ii) of the IT Act, in absence of a designated computer resource, the receipt of the electronic records will occur only when the said record is retrieved by the Assessee and not when the record was uploaded by the Department. Therefore, he would contend that though the communications were uploaded in the portal, since the said portal is not a designated computer resource of an Assessee, the receipt of the electronic records will occur only when it was retrieved by the assessee. In such case, mere uploading of the notices would not amount to serving of the same to the Assessee. Hence, it is clear that without serving the notices in proper manner and without providing any opportunity of personal hearing, the impugned assessment orders came

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to be passed by the respondents, which is violation of principles of natural justice.

3.11 Therefore, all the respective learned counsel for the petitioners would submit that all these *ex parte* impugned orders are liable to be set aside. Hence, they requests this Court to remand the matters back to the concerned respondents for fresh consideration.

4. Submissions made by the respondents:

4.1 Per contra, Mr.P.S.Raman, learned Advocate General and Mr.AR.L.Sundaresan, learned Additional Solicitor General appearing for the respondents, in unison, would submit that the provisions of Section 169 of the GST Act provides different modes of services, which are alternative to one another and hence, it would be sufficient if any one of the modes of services is followed by the respondent.

4.2 In these cases, the notices had been uploaded in the common portal in terms of Section 169(1)(d) of the GST Act. Once the notices

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were uploaded in common portal, it would amount to be tendered and communicated to the Assessees and the same is deemed to be received by the Assessees.

4.3 Further, they would submit that the petitioners will have occasion to visit the common portal twice in a month for filing their monthly returns. However, in spite of the same, now they are making a plea as if they were not aware of the notices, which were uploaded in the portal and the same is incorrect. The Statute also mandates the petitioners to view the portal and verify as to whether any assessment proceedings are pending or not. When such being the case, it is not fair on the part of the petitioner to make a plea that they are not aware of the notices, since it was uploaded in the common portal.

4.4 They had also referred to a circular, which came into force with effect from 01.01.2025, and would submit that vide the said circular, the Department has made it very clear that the notices will be uploaded in the “Additional Notices and Orders” Column instead of

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"View Notices" column. Therefore, he would contend that the petitioner cannot take a stand that they were unaware of the notices since the same was uploaded in the "View Additional Notices and Orders" column.

4.5 In support of their contention, they had referred to the following judgements:

i) ***Pushpam Reality vs. State Tax Officer, Hosur,*** reported in ***2022 SCC Online Mad 9102***

ii) ***Pandidorai Sethupathi Raja vs. Superintendent of Central Tax,*** reported in ***2022 SCC Online Mad 8986***

iii) ***New Grace Automech Products Private Limited vs. State Tax Officer, Hosur*** reported in ***2023 SCC Online Mad 8153***

4.6 Further, he would submit that the legal fiction in terms of the IT Act, provides that there is only single interface between the tax payers and the Revenue Department. Hence, every Assessee is required to access the GST common portal from the date of application of Registration till the cancellation for all the practical purposes, viz., filing

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returns, claiming refund or for filing appeal, revision or rectification, etc. In this regard, he referred Section 146 of the GST Act, which recognise the GST common portal. The relevant portion is extracted hereunder.

> "*Section 146.Common Portal.-*
>
> *The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed."*

4.7 Further, they had referred Section 169 of the GST Act and Sections 12 & 13 of the IT Act and submitted that S.169(2) creates a deeming fiction in regard to date of service only in respect to modes prescribed in

S.169(1)(a) "by giving or tendering",
S.169(1)(b) "by registered post or speed post or courier",
S.169(1)(e) "by publication in a newspaper" and
S.169(1)(f) "by affixure".

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4.8 The reason for non-inclusion of S.169(1)(c) & 169(1)(d) within deeming fiction of S. 169(2) is that the service of notice/orders in cases where service is effected by email or by uploading to the Common Portal, service happens instantaneously, i.e., the moment the said email has been sent by the Assessing Authority (originator of the email) or when the said Assessing Authority uploads the notice/order on the Common Portal of the assessee. The method of service of an electronic record through an electronic platform such as the Common Portal is dealt with under S.12 and S.13 of the Information Technology Act, 2000. Therefore, there is no necessity to include a provision under the Act to give a deeming fiction with respect to service of electronic records through email or Common Portal since it is dealt with in the specialised law dealing with the subject, viz., the Information and Technology Act, 2000.

4.9 As compared to the modes of service envisaged in S. 169(1)(a), (b), (e), and (f) where there is a time lag between when the notice/order is out of the control of the originator and when it is actually

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received by the recipient, necessitating a deeming fiction with respect to the date and time of service, the modes of service envisaged in S.169(1)(c) and (d) are instantaneous, i.e.. the assessee receives the notice/order immediately once the Assessing Authority sends the email or uploads the notice/order on the Common Portal.

4.10 It is further submitted that although the Act does not mandate intimation of the service of notices or orders on the registered email or SMS of an assessee, the Respondent does the same out of abundant caution. An automated SMS and email alert is sent to the mobile number and email address provided by the assessee at the time of registration as required under Rules 8 & 9 of the Rules as soon as any notice or order is uploaded on the Common Portal. In many cases assessees have stated that they provided the phone number and email address of their GST consultant, and such GST consultant's mobile number and email address would have been provided for multiple assessees. In most cases the GST Consultant has failed to keep track of the SMS/email alert in respect to the concerned assessee. The GST consultant is an authorised agent of the

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assessee, and the GST consultant's neglect and failure to take appropriate steps should be binding consultant is that of the assessee. The mistake or wrong choice of GST on the assessee since the choice of the consultants by assessees should not be the reason to detriment the Respondent's right to recover taxes due to it by negating or altering the scheme of the Act with respect to service of SCNs or orders.

4.11 In any event, the GST Acts and Common Portal have been in force since August 2017. After nearly 7 years of accessing the Common Poral at least twice every month, assessees cannot claim they are unfamiliar with the Common Portal.

4.12 The IT Act uses the term "designated computer resource" while determining date and time of service of electronic records through an electronic. In this context it becomes imperative to understand (i) what is "computer resource" and (ii) the process by which a computer resource becomes a "designated computer resource".

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4.13 S.2(k) of the IT Act defines a "computer resource" as "computer computer system, computer network, data, computer data base or software". It is of note that the scheme of the IT Act offers an expansive definition of the term computer resource capable of encompassing within its ambit text-messages, email networks, and any computer network created for a specific purpose.

4.14 The IT Act neither defines the term "designated computer resource", nor does it prescribe the manner in which a computer resource becomes a designated computer resource. Thus, to understand what is a designated computer resource and the manner in which a computer resource becomes a designated computer resource one must turn to common parlance and to judicial pronouncements on the subject how must be understood in the manner in which it was intended by Parliament.

4.15 Further, they explained with regard to the designated computer resource and about the manner to designate a computer

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resource, which reads as follows:

> i) Designated Computer Resource is not defined under the IT Act Therefore, it is necessary to fall back on the commonly understood meaning of "designated" along with the statutory definition of computer resource.
>
> ii) The Oxford English Dictionary defines the term designate in its verb form as "to appoint to an office or function" or "to nominate for some role". The Oxford English Dictionary defines the term designate in its adjective form as "to mark out to a specific position". The underlying thrust of the definition is to clearly identify someone or something for a particular purpose.

4.16 Thus, they would contend that the only thing that has to be examined is as to whether between the petitioners appointed, nominated, marked out, or identified a particular computer resource. Upon close examination of the nature of the GST legislative framework, it will be found that not only does the legislative framework designates a computer resource, but the petitioners have also designated a computer resource. Thus, there is both designation by operation of law and designation by

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an act of petitioners.

4.17 Further, they have referred Section 13 of the Information Technology Act, 2000, and would submit that the general rule governing the time of receipt of electronic records is found in S.13(2) of the IT Act. It notes that when the addressee has designated a computer resource for the purpose of receiving electronic records, receipt of such electronic record occurs at the time when the electronic record enters the designated electronic resource. The date and time of retrieval of the electronic record by the recipient is not relevant to determine the date and time of service to a designated computer resource.

4.18 Only if the electronic record is sent to a computer resource other than a computer resource so designated, the time of receipt of such electronic record is the time of retrieval by the addressee. For instance, if document is uploaded on the official website of the Commercial Taxes Department, which is not a designated computer resource, then the date of retrieval of the notification may be argued to be the date of knowledge

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of the notification.

4.19 Since the communication (SCNs and orders) to the various Petitioners were served on the Common Portal, a designated computer resource, S.13(2)(a)(i) of the IT Act applies. The date and time of receipt occurs at the time when the electronic record enters the designated computer resource, i.e., at the time of uploading the SCNs and orders.

4.20 S.169(1)(d) of the Act permits the Assessing Authority to communicate the notices and orders by way of making it available on the Common Portal. The Respondents have gone beyond this statutory mandate and have also sent email and SMS prompts to assessees intimating them that notices/orders have been uploaded to the Common Portal to enable them to promptly check and retrieve the same. Thus, the Respondents have discharged their statutory obligations.

4.21 The notices and orders were served on the assessees through

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a designated computer Common Portal. Thus, the date and time of service ought to be S.13(2)(a)(i) of the IT Act, i.e., when the electronic record enters the designated computer resource or when the notice/order is uploaded on the Common Portal. Thus, service of SCNs and orders on the Common Portal is instantaneous. The limitation period for computing period of appeal under S.107 of the Act must start from the date the order was uploaded on the Common Portal.

4.22 The assessees in the present batch of writ petitions constitute a tiny fraction of the total number of taxpayers to whom SCNs and orders were served on the Common Portal. During the period for April 2024 November 2024, the Respondent Department served a total of 93,351 notices and orders to various assessees on the Common Portal.

4.23 The vast majority of the assessees have acknowledged the service of the SCNs and orders via the Common Portal. Approximately 1,500 assessees aggrieved similar as the assessees in the instant batch of petitions by the service of SCNs and orders via the Common Portal had

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approached this High Court. Except the handful of petitioners in the instant batch of petitions, all accepted to litigate the orders on before the Appellate Authority on payment of either (1) 10% of the disputed amount, being the statutory deposit for appeal, if the writ petition was filed within the limitation period for appeal, or (ii) 25% of the disputed amount, being a consent order to afford the assessee an opportunity to litigate if the writ petition was filed beyond the limitation period of appeal.

4.24 Only the assessees in the instant batch of petitions continue to agitate against the crystal clear law contained in S.169(1)(d). This Court should not dilute the mandate of the Act for a small fraction of assessees. It is settled jurisprudence in tax law that the difficulty of a few in following the law will not make the law arbitrary or unreasonable.

4.25 Further, in the present batch of writ petitions, there is no challenge to any provision of law particularly S.169 of the GST Act. Therefore reading down S.169 cannot be sought for by the Petitioners.

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The provision has to be interpreted as it is the clear unambiguous language of S.169 of GST Act will lead only to one possible interpretation that the Assessing Authority has the option to utilise any one of the modes of service set out in S.169(1) in order to serve SCNs and orders upon an assesee. The choice of one mode of service over the other is the choice of the Assessing Officer and is not open to be questioned by an assessee on the ground of hardship and ignorance of the mechanism of the portal.

4.26 In the light of the above submissions, they request this Court for dismissal of the present petitions.

5. I have given conscious consideration to the submissions made by the respective learned counsel for the petitioners and Mr.P.S.Raman, learned Advocate General and Mr.AR.L.Sundaresan, learned Additional Solicitor General appearing for the respondents and also perused the materials available on record.

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6. In these cases, the petitioners were aggrieved over the *ex parte* impugned assessment orders passed by the respondent in violation of principles of natural justice.

7. According to the petitioners, all the notices were uploaded by the respondents in common portal in terms of the Section 169(1)(d) of the GST Act, which is not a valid mode of service. Further, it was contended on behalf of the petitioners that when the other effective modes of services are available, the respondents are supposed to have sent notices through the said alternative modes as well.

8. Arguments were extensively made by referring the provisions of Section 169 & 107 of the GST Act, Rule 142 of GST Rules and Sections 11, 12, 13 of IT Act. By referring the IT Act, it was submitted that the petitioners have not "designated any computer resource" and if no computer resource was "designated", in terms of Section 13(2)(a)(ii) of the IT Act, the time and place of receipt of electronic records would happen only when the said electronic records were retrieved by the

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Assessee. Hence, according to the petitioners, they came to know about the notices and original assessment orders only when they retrieved it from the portal and thus, the service will deemed to be completed in terms of the provisions of IT Act, only when the order is retrieved by the petitioner.

9. In these cases, all the petitioners have agreed that the "common portal" is "computer resource". However, according to them, they have to designate the common portal as "designated computer resource" for sending communications in terms of Section 169 of GST Act, otherwise the service of notice will deemed to be completed only when they retrieved it from the common portal in terms of IT Act.

10. On the other hand, the respondents made a submission that by virtue of legal fiction, the common portal is designated as computer resource of the Assessee. Therefore, in terms of Section 13(2)(a)(i) of the IT Act, the moment, on which the electronic records enter the computer resource, would be considered as the time of receipt of the said

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electronic record by the Assessee. Therefore, he would submit that the petitioner cannot rebut the said legal fiction and hence, the aforesaid stand taken by the petitioner is not correct.

11. With the aforesaid background, let me analyse the provisions of Section 169 of the GST Act as well as the Section 13 of IT Act. For ready reference, it would be apposite to extract the provisions of Section 169 of the GST Act hereunder:

> *169. Service of notice in certain circumstances:*
>
> *(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:--*
>
> > *(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or*
> >
> > *(b) by registered post or speed post or courier with acknowledgment due, to the person*

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for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

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12. By reading above, it is clear that any decision, order, summons, notices and other communications under the GST Act or Rules made thereunder, shall be served by any one of the modes as prescribed therein. The word "or" has been used immediately after each sub-clause, which means each clause is alternative to each other. Thus, if any one of the modes is adopted by the respondent to send notices, the same would be considered as a sufficient service. Accordingly, the respondents had adopted one of the modes provided in the above provisions, i.e., "to make it available in common portal" in terms of Section 169(1)(d) of the GST Act and hence, the same has to be considered as "sufficient service".

13. Now, the common aspect, which has to be looked into in the present cases is as to whether making it available in the common portal shall be deemed to be served in terms of Section 169(2) of the GST Act, i.e., either by tendering or publishing or affixing.

14. As per the provisions of sub-section (1), in terms of Section

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169(1)(a), the notice has to be served by way of “tendering”; in terms of Section 169(1)(b), the notice has to be served by way of “RPAD”; in terms of Section 169(1)(e), the notice has to be served by way of “publication”; in terms of Section 169(1)(f), the notice has to be served by way of “affixing” it at the last known place of business or residence of the Assessee. However, the applicability of provisions of Section 169(2) for the provisions of Section 169(1)(c) & (d), i.e., uploading the notices in portal or sending to e-mail id of an Assessee, was already dealt with by this Court vide the judgement of this Court in ***Pandidorai Sethupathi Raja vs. Superintendent of Central Tax*** (referred supra), wherein it has been held as follows:

> *“36. This is countered by the petitioner by drawing attention to section 169(2), which deploys the terms "tendered" "published" or "affixed". Thus, according to the petitioner, the absence of the term "uploaded" as a mode of service, is conscious, and should not be taken to be proper service.*
>
> *37. I find no merit in this argument. In my view, making an order available on the Common Portal would tantamount to "tendering" of that order to the recipient.*

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That apart, I am also unable to ascribe any conscious intention on the part of the Legislature to exclude uploading as one of the modes of service. This argument is rejected."

15. At this juncture, it would be apposite to extract the provisions of Section 13(1) & (2) of the IT Act, hereunder:

13. Time and place of despatch and receipt of electronic record.—

(1) Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:—

(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,—

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not

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the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

16. By reading the above provisions, it is clear that this provision deals with the aspect of time and place of despatch or receipt of electronic records. However, the provisions of Section 169 of the GST Act does not provide explicitly anything with regard to the time and place of despatch or receipt of electronic records, which were sent vide the modes as prescribed in Section 169(1)(c) & (d) of the GST Act. Thus, Section 169 of the GST Act has to be read with Section 13(2) of the IT Act.

17. A reading of the provisions of Section 13(2)(a)(i) of the IT Act makes it clear that if the Assessee has "designated any computer resource" for the purpose of receiving the electronic records, the receipt

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of the said electronic records will occur when it enters into the designated computer resource. On the other hand, Section 13(2)(a)(ii) of the IT Act deals with the aspect that if the notices were uploaded in any computer resource, which was not designated by the addressee, the receipt will occur only at the time when the electronic records is retrieved by the said addressee.

18. There is no dispute on the aspect that the common portal or the e-mail id of the concerned Assessee is the computer resource. Both the parties have no dispute on the said aspect. Now, the only dispute that has to be decided by this Court is as to whether the common portal is the "designated computer resource" or not.

19. According to the respondents, by virtue of legal fiction, the common portal is designated computer resource for the petitioner. On the other hand, the petitioners have submitted that they have not specified the common portal as designated computer resource and hence, the receipt of documents will occur only when it was retrieved by the

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Assessee in terms of Section 13(2)(a)(ii) of the IT Act.

20. There is no dispute on the aspect that by virtue of legal fiction, the common portal is a computer resource for both the petitioners as well as the respondents. The word "computer resource" has been defined in the IT Act at Section 2(k), which reads as follows:

> "*2(k) -computer resource means computer, computer system, computer network, data, computer data base or software;*"

21. However, there is no precise definition for the term "designated computer resource". Therefore, we have to look into the meaning of the term "designated" in Oxford English Dictionary, whereby it has been defined as follows:

> "*The Oxford English Dictionary defines the term designate in its verb form as "to appoint to an office or function" or "to nominate for some role".*
>
> *The Oxford English Dictionary defines the term designate in its adjective form as "to mark out to a specific position".*
>
> *The underlying thrust of the definition is to clearly*

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identify someone or something for a particular purpose."

22. Therefore, by reading the above definition, the word "designated" is nothing but to "appoint" or "nominate" or "mark out" or "identify" a particular computer resource.

23. It is very pertinent to point out here that there are occasions for the petitioners/Assessees to designate the computer resource other than the common portal, for example, when the Assessee is making an application for cancellation of GST Registration, they will provide an e-mail ID and address to the respondents for the purpose of future communication and thereafter, all the communications have to be sent only to the designated computer resource, i.e., e-mail id provided by the Assessee or other addressee. The said situation would fall under the category of Section 13(2)(a)(i) of the IT Act, i.e., the receipt would occur when the electronic record enters the computer resource.

24. On the other hand, if the respondents are communicating to

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other computer resources, viz., uploading in common portal, even after the designation of specific computer resource by the petitioner, the said situation would fall under the category of Section 13(2)(a)(ii) of the IT Act, i.e., the receipt would occur only upon retrieval of the electronic records by the Assessee.

25. Therefore, as far as the application of the provisions of Section 13(2)(a)(i)&(ii) of the IT Act are concerned, when an Assessee had designated a computer resource, the respondents are supposed to have send all the communications to the said computer resource in terms of Section 13(2)(a)(i) of the IT Act. If the respondent failed to do so, the provisions of Section 13(2)(a)(ii) of the IT Act will apply. In other words, if the respondent sent the communication to the computer resource, which was designated by the Assessee, the provisions of Section 13(2)(a)(i) of the IT Act would apply, i.e., the receipt will occur immediately when the electronic records enter the computer resource. On the other hand if the respondent sent the communications to the other computer resources, even when a computer source was designated by the

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Assessee, the provisions of Section 13(2)(a)(ii) of the IT Act will apply, i.e., the receipt will occur only when the electronic records were retrieved by the Assessee.

26. However, it would be apposite to extract the provisions of Section 13(2)(b) of the IT Act, which reads as follows:

> *"13(2)(a).....*
>
> *(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee."*

27. In terms of the above provisions, if the Assessee has not designated any computer resource along with the specified timings, the receipt of the documents occurs when the electronic record enters the computer resource of the Addressee. The said situation will come into picture if the Assessee has failed to provide any designated computer resource.

28. In the present case, there is no dispute on the aspect that the

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common portal is the computer resource. By virtue of Section 169(1)(d) of the GST Act, all the communications, notices, orders, etc., will be uploaded in the common portal. In such case, if an Assessee is intend to designate a computer resource for the purpose of receiving the communications, orders, summons, etc., in terms of provisions of Section 169(1)(d) of the GST Act, they can designate the common portal as computer resource, from the date of obtaining of GST Registration until its cancellation. Therefore, if an Assessee nominate the common portal as their designated computer resource, the provisions of Section 13(2)(a)(i) of the IT Act will apply. On the other hand, if he failed to designate any computer resources, the provisions of Section 13(2)(b) will come into picture.

29. Therefore, in terms of provisions of Section 169(1)(d) of the GST Act read with Section 13(2)(a)(i) & 13(2)(b) of the IT Act, it is crystal clear that once if the notices, orders and other communications are uploaded in the common portal, the receipt would occur immediately when the electronic records enter the said common portal, despite the

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fact that it is designated as computer resource by the Assessee or not.

30. In view of the above discussion, it is clear that the common portal is the designated computer resource of the Assessee to send notices, orders, and other communications. In terms of Section 169(1)(d) of the GST Act read with Section 13(2)(a) & 13(2)(b) of the IT Act, once notices are uploaded, the receipt of the same occurs when the said notices enter the computer resources of the Assessee.

31. Therefore, by reading the provisions of Section 13(2)(a) & (b) of the IT Act, it is clear that from the date of issuance of GST Registration number to the Assessees until its cancellation, whenever the summons, notices and other communications were uploaded in the common portal, the receipt occurs once when the said electronic records enter into the said common portal, which is the computer resource of the Assessee. In such view of the matter, this Court is inclined to hold that the uploading of notices, orders and other communications, in terms of Section 169(1)(d) of the GST Act, is a sufficient service.

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32. Therefore, for all these reasons, this Court is unable to persuade with the submissions made by the petitioner that the uploaded of the document in common portal is not a sufficient service.

33. In majority of cases, the assessment orders have been passed in *ex parte*. The grievance of the petitioner was that due to the following reasons, they were unable to file their reply for the show cause notices issued by the respondent:

i) Notice was uploaded in "View Additional Notice and Orders" column;

ii) The petitioners were not well versed with the computer operations

iii) The petitioners are senior citizens;

iv) The employee, who was handling the GST matters, had availed leave or left office of the petitioner;

v) The consultant, with whom the petitioner had entrusted the GST matters, had failed to view the portal;

34. The aforesaid reasons are expressed by the Assessees for not receiving the communications, which were uploaded by the respondents

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in the common portal. In the impugned assessment orders, it has been recorded by the respondents that they have uploaded in the common portal, however, no reply was filed by the petitioner and in spite of the issuance of reminder notice for personal hearing, none of the petitioners have participated in the personal hearing before the respondent.

35. Hence, it is clear that though no responses were received for the show cause notices, which were uploaded in the common portal, the respondent had continued to upload the reminder notices also in the same portal.

36. Section 169 of the GST Act makes it clear that the service may be effected by virtue of 5 different modes, each one is alternative to one another and the service shall be effected by any one of the modes as prescribed therein. This aspect was elaborately discussed by this Court in ***New Grace Automech Products Pvt. Ltd., vs. State Tax Officer*** (referred supra).

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37. The respondents, being well aware of the fact the mode of service adopted by them is not effective but only sufficient in terms of Section 169(1)(d) of the GST Act, had proceeded to pass *ex parte* assessment order. Normally, when a mode adopted by the respondents is not effective, they should have explored the possibilities by sending notices through other modes of services as prescribed therein. There is no bar for the respondent to do so. When such being the case, this Court is unable to understand as to why these Assessing officers had repeatedly sent all the notices, reminders, etc., through ineffective mode of service.

38. This Court expects the respondents to send notice vide a mode of service, which is sufficient as well as effective. In this case, there is no dispute on the aspect that the respondent has issued the notices by adopting the mode as prescribed at Section 169(1)(d) of the GST Act, but being well aware of the fact that the mode of service adopted by them was not effective, they proceeded to pass the *ex parte* assessment orders and they had not even made any attempt to send the notices by way of alternative modes of services.

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39. Once if no response was received for the notices, viz., ASMT-10, DRC-01A, DRC-01, etc., which were uploaded in the common portal by the respondents, atleast they have to send the subsequent reminders by way of RPAD. If any one notice is received by the Assesee, he cannot make a plea that they were unaware of the notices, which were uplaoded in the common portal. Thus, this Court suggests the respondent to atleast send the subsequent reminders by virtue of RPAD prior to the passing of assessment order, so that, the precious time of the Assessees as well as the Officers would have been saved. Due to the failure on the part of the respondent to take such conscious decision while issuing notices and passing the assessment orders, they made the Assessees to knock the doors of this Court, by which, the precious time of this Court is also being wasted. Further, the Assessing Officers also not have to do duplication of their works once again.

40. As far as this Court is concerned, the act of the respondents in these cases will only be considered as an empty formality, by which no useful purpose was achieved. Therefore, this Court is inclined to hold

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that the service effected by the respondents is sufficient but not effective. If the service of notices made by the respondents was sufficient as well as effective, for example, if they adopted the RPAD mode of service or any other modes as stated in Section 169 of the GST Act, as stated above, the notices were deemed to be served to the Assessees. If the Assessee had not responded for the notices, which were sent vide RPAD or other modes, in addition to uploading in common portal, the respondent shall proceed to pass *ex parte* orders, in which case, the petitioner cannot take a stand that the *ex parte* assessment order has been passed in violation of principles of natural justice. Thereafter, only recourse available to the petitioner is to file an appeal against the assessment order. At any cost, the sending of notices by RPAD cannot be dispensed since the Statute provides it as one of the alternative modes of services to the Assesee. Whenever a service is not effective, certainly, the respondent has to follow the alternative modes of service.

41. For all these reasons, this Court is inclined to set aside the *ex parte* assessment orders. However, since the mode adopted by the

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respondent is sufficient mode, the petitioner had chances to view the portal and participate in the proceedings, but they had failed to do so. Therefore, this Court is of the view that the fault is on both the petitioner as well as the respondent and thus, this Court is inclined to set aside the impugned orders on terms.

42. As far as the writ petitions in W.P.Nos.3119, 4015 & 5038 of 2025 are concerned, though the reply was filed by the petitioner, no opportunity of personal hearing was provided by the respondent prior to the passed of impugned orders. Normally, when the respondent is intend to pass any adverse orders, they should have provided sufficient opportunity to the petitioner in terms of Section 75(4) of the GST Act. However, in this case, no such opportunity was provided and thus, it is clear that the impugned order came to be passed not only in contrary to the provisions of Section 75(4) of the GST Act but also in violation of principles of natural justice. Therefore, this Court is inclined to set aside the said impugned orders without any conditions.

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43. As far as the writ petition in W.P.No.5806 of 2025 is concerned, the impugned order was passed subsequent to the cancellation of GST Registration based on the request made by the petitioner. In this case, the petitioner would have provided their e-mail id for further communications and hence, the provisions of Section 13(2)(a)(ii) of the IT Act would apply. In spite of the same, the notices were uploaded by the respondent in the common portal. Since the petitioner had no occasion to view the portal after the said cancellation, the said notices remained unnoticed by the petitioner. Therefore, this Court is inclined to set aside the impugned order subject to the payment of 10% of the disputed tax amount by the petitioner to the respondent.

44. As far as the writ petition in W.P.No.5055 of 2025 is concerned, the GST Registration was cancelled *suo motto* by the Department and not upon the request made by the petitioner. In such case, the petitioner was supposed to have verified the portal as provided in the GST Act. In such view of the matter, this Court is inclined to set aside the impugned orders subject to the payment of 25% of the disputed

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tax amount by the petitioner to the respondents.

45. As far as the writ petitions in W.P.Nos.3084 & 4032 of 2025 are concerned, the petitioners had already preferred the appeals against the assessment orders. Since the appeals were filed beyond the period of limitation, the same were rejected by the respondents. However, now the challenge is made only with regard to the *ex parte* assessment orders. Hence, this Court is inclined to set aside the said impugned orders subject to the payment of 25% of the disputed tax amount by the petitioner to the respondent.

46. In all other writ petitions, the petitioners were unaware of the notices uploaded by the respondents in the common portal. In such case, as stated above, the fault is on both the petitioner and the respondents. In such view of the matter, this Court is inclined to set aside the said assessment orders, subject to the payment of 25% of the disputed tax amount by the petitioner to the respondent.

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47. In fine, this Court passes the following orders:

i) The impugned orders pertaining to W.P.Nos.3119, 4015 & 5038 of 2025 are set aside and the matters are remanded to the concerned Assessing Officers for fresh consideration without any condition;

ii) The impugned order pertaining to W.P.No.5806 of 2025 is set aside and the matter is remanded to the concerned Assessing Officer for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent within a period of four weeks from the date of receipt of copy of this order;

iii) The impugned orders pertaining to all the other writ petitions are set aside and the matters are remanded to the respondent for fresh consideration on condition that the petitioners shall pay 25% of disputed tax amount to the concerned Assessing Officers, in each case, within a period of four weeks from the date of receipt of copy of this order.

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iv) The setting aside of all the impugned orders will take effect from the date of payment of the said amount.

v) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of three weeks from the date of payment as stated above;

vi) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall hear the petitioner in full and decide the matter in accordance with law

iv) Insofar as the Bank Attachment Notice, if any, is concerned, it is needless to state that once the impugned order is set aside, the Bank Attachment Order can no longer survive and the same has to be jettisoned by the respondent. Thus, the respondent is directed to issue appropriate communication in that regard on the petitioner's Banker to de-freeze the bank account of the petitioner forthwith

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48. With the above directions, all these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

22.04.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

1.Commercial State Tax Officer,
T.Nagar Assessment Circle,
Station 46, Greenways Road,
R.A.Puram, Chennai 28

2.State Tax Officer (intelligence), Group-2
Office Of The Joint Commissioner
(st),Intelligence,Salem,Commercial Taxes
Building,Hasthampatti,Salem 636007

3.State Tax Officer,namakkal (rural)(c)
Namakkal Rural, Integrated Commercial Taxes Building, Opposite To Bsnl, Mohanur Road, Namakkal 637001

4.State Tax Officer (intelligence), Group-2
Office Of The Joint Commissioner
(st),Intelligence,Salem,Commercial Taxes
Building,Hasthampatti,Salem 636007

5.The Assistant Commissioner(st)

91/99

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J.J.Nagar Assessment Circle, Chennai Central -ii

6.The Deputy Commissioner (CT)
o/o the Deputy commissioner (ST) GST Appeal
Chennai 1, Room No 210, 2nd Floor, C.T. Annexe
Building, No 1 Greams Road Chennai 600 006

7.The Assistant Commissioner (ST)
AVADI Assessment Circle, Chennai North Division
Integrated Commercial Taxes Building No.32,
Elephant Gate Bridge Road, Vepery, Chennai

8.The State Tax Officer (ST)
Thirumullaivoyal Assessment circle, Station
Door No. 32, Room No. 114, 1st Floor,
Tiruvallur Division, Integrated Commercial
Taxes offices Building Elephant Gate Bridge
Road, Vepery, Chennai- 600 003.

9.Assistant Commissioner (st)
Karumathampatti Assessment Circle,
Dr.Balasundaram Road, Att Colony,
Gopalapuram, Pappanaickenpalayam,
Coimbatore

10.Deputy State Tax Offier
Moore Market Assessment Circle, No.32,
Integrated Commercial Taxes Office
Complex, Elephant Gate Bridge Road,(off
Wall Tax Road), Vepery, Chennai-600 003

11.Deputy State Tax Officer 2

92/99

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Gudiyatham East Assessment Circle No. 127,
Gandhi Road, nadupet, Gudiyatham- 632 602.

12.Deputy State Tax Officer-ii
Nandanam Assessment Circle, No.46,
Greenways Road, Mylapore Taluk Office
Building, 2nd Floor, Chennai-600 028

13.Deputy State Tax Officer(st)
Avinashi Assessment Circle, Avinashi

14.Commercial Tax Officer / Assistant
Commissioner (fac)
Porur Assessment Circle, Station No.4/109,
1st Floor, Bangalore Chennai Highway Road,
Varadharajapuram, Nazarathpet, Chennai-600
123.

15.The Assistant Commissioner (ST)
Broadway Assessment Circle, No.32,
Integrated Commercial Taxes Office complex,
Room No. 304, 3rd Floor, Elephant Gate
Bridge Road, Vepery, Chennai- 600 003.

16.The Assistant Commissioner ST
Harbour Assessment Circle, Integrated
Commercial Taxes Officer Complex, Room
No.326 Elephant Gate Bridge Road, Chennai-
003.

17.The State Tax Officer
Vepery Assessment Circle, No.1, (papjm)
Annex Building, 1st Floor, Room No.1-110,
Greams Road, Chennai-600 006.

18.Assistant Commissioner (ST)

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Krishnagiri -ii Circle, Hosur, Tamilnadu
635104.

19.The Deputy State Tax Officer
Avarampalayam Circle, Commercial Tax
Building, Dr.Balasundaram Road,
Coimbatore-641 018

20.The Deputy State Tax Officer
Avarampalayam Circle, Commercial Tax
Building, Dr.Balasundaram Road,
Coimbatore-641 018

21.Assistant Commissioner St
Ayyapanthangal Assessment Circle,
No.4/109,Bangalore Highway Road,
Varadharajapuram, Chennai-600 123

22.The State Tax Officer (ST)
Velacherry Assessment circle, Integrated
Commercial Taxes Department Building
(South Tower) 2nd Floor, Room No. 234,
Nandanam, Chennai- 035.

23.The Deputy Commercial Tax Officer
Washermenpet Assessment Circle Integrated
Commercial Taxes offices Complex Room No 207
2nd Floor, Elephant Gate Bridge Road vepery,
chennai 600 003

24.Deputy Commissioner St
Toom No. 210, 2nd Floor, Greams Road,
Chennal 600 006.

25.The Deputy State Tax Officer-ii(fac)

94/99

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Cuddalore Town Assessment Circle,
Cuddalore

26.The Deputy State Tax Officer
Gandhipuram Assessment Circle,
Gandhipuram, Coimbatore-641 018

27.The Deputy State Tax Office
Medavakkam Assessment Circle Room No
232, 2nd Floor Integrated commercial Taxes
and Registration Department Building,
Nandanam chennai 35

28.State Tax Officer
Krishnagiri -1, Assessment Circle, Hosur,
Tamil Nadu 635109.

29.The Assistant Commissioner(ST)
Peelamedu South Circle, Commercial Tax
Building, Dr. Balasundaram Road,
Coimbatore 641018.

30.The Assistant Commissioner(st)(fac)
Peelaedu South Circle, Commercial Tax
Building, Dr.Balasundaram Road,
Coimbatore-641 018

31.The Deputy Commercial Tax Officer
Peelamedu(north)coimbatore-iii, Coimbatore

32.Assistant Commissioner ST

95/99

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Peelamedu (North) Circle, Ground Floor,
CTO Complex, Dr. Balasundaram Road,
Coimbatore-641018

33.The State Tax Officer
Hosur North-i

34.The Assistant Commissioner (st)
Arisipalayam Assessment Circle. The State Tax Officer
(Also known as Commercial Tax officer) P.N. Palayam Circle coimbatore 18

35.The Deputy State Tax Officer (ST)
Avinashi Assessment Circle, Tiruppur.

36.State Tax Officer
Also Known As Deputy Commercial Tax Officer 2/1-15th Ward Periyamariyamman Kovil Backside Visvam Building Street
Omalur Assessment Circle 636455

37.Assistant Commissioner(st)
Annuppar Palayam Assessment Circle,
Ground Floor, Emperor Building,No.16,
Indira Nagar First Street, Avinashi Road,
Tiruppur-641 643

38.The Assistant Commissioner (st)
Koyambedu Assessment Circle, No.4/109,
Bangalore Highway Road, Varadharajapuram,
Nazrethpet, Chennai-600 123.

39.The Assistant Commissioner (ST) (FAC)

96/99

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Manali Assessment Circle, Integrated Commercial Taxes Building, Room No.101, No.32,Elephant Gate Bridge Road, Vepery, Chennai- 03

40.The Branch Manager,
Indian Bank Sector 2, First Main Road,
Mathur MMDA, Manali-6000681.

41.The Deputy State Tax Officer 1
Valluvarkottam, Chennai.

42.Branch Manager
Indian Bank No 36 Sterling Road
Nungambakkam

43.The State Tax Officer
Krishnagiri I Assessment Circle, Krishnagiri-635 001.

44.The Assistant Commissioner (st)(fac)
Kongu Nagar Circle, No.16, Indira Nagar 1st Street, Emperor Textile Building, Avinashi Road, Tiruppur-641 603

45.The Commercial Tax Officer(st)
Kongu Nagar Circle, Tiruppur

46.Assistant Commissioner ST FAC
Peelamedu South Circle, Ground Floor, CTO Complex, Coimbatore 641 018

47.The Deputy Commissioner (ST),
Kanchipuram Zone, 1st Floor, Commercial Tax Building, Collectorate Complex,
Kanchipuram 631501.

97/99

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48.The Deputy State Tax Officer -2
Sriperumbudur Assessment Circle,
Kanchipuram Zone, 4/109 Chennai Bangalore
Road, Varadharajapuram, Thiruvallur 600123.

49.The Deputy Commissioner (ST),
Kanchipuram Zone, 1st Floor, Commercial
Tax Building , Collectorate campus,
Kanchipuram- 631 501.

50.The Deputy State Tax Officer
Sriperumbudur Assessment circle,
Kanchipuram Zone, 4/109, Chennai Bangalore
Road, Varadharajapuram,Thiruvallur- 600
123.

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KRISHNAN RAMASAMY.J.,

nsa

W.P.Nos.1114, 2720, 2723, 2819, 2832, 3084, 3097, 3119, 3288, 3487, 3493, 3498, 3501, 3510, 3593, 3595, 3598, 3623, 3671, 3777, 3782, 3923, 3926, 3929, 3945, 4015, 4032, 4056, 4104, 4296, 4403, 4430, 4459, 4463, 4576, 4707, 4711, 4840, 4848, 4854, 5038, 5055, 5437, 5561, 5633, 5687, 5806, 6000 & 6033 of 2025

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W.M.P.Nos.4353, 1357, 3064, 3063, 3062, 3065, 3136, 3130, 3399, 3397, 3645, 3647, 3879, 3878, 3875, 3873, 3872, 3870, 3863, 3862, 3890, 3889, 3979, 3980, 3982, 3986, 4015, 4018, 4058, 4200, 4198, 4196, 4195, 4349, 4347, 4354, 4352, 4360, 4359, 4380, 4381, 4561, 4560, 4609, 4606, 4806, 4805, 4913, 4912, 4944, 4943, 4964, 4963, 4966, 4965, 5096, 5094, 5093, 5227, 5226, 5230, 5229, 5362, 5361, 5372, 5370, 5381, 5378, 5990, 5989, 6143, 6142, 6223, 6222, 6271, 6272, 6606, 6631, 3375, 3372, 4531, 4525, 3439, 3442, 4502, 4500, 5592, 5608, 6393 & 6391 of 2025

22.04.2025

99/99

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Tvl. Sri Mathuru Eswarar Traders v. Deputy State Tax Officer-I, Udumalpet South Assessment Circle

Court	High Court of Madras
Bench	N. Mala, J.
Date	08.05.2025
Case no. / citation	WP No. 16787 of 2025

Holding in brief

Ex parte order without hearing can be remanded on deposit of 25% of disputed tax. Impugned order set aside and remanded for fresh consideration.

Provisions involved

CGST Act, 2017: Section 169

Status

Remanded; relief in part to both sides. Directions: Deposit 25% in two weeks; reply in two weeks; 14 days' notice of personal hearing; bank account to be defrozen on proof of payment.

The judgment begins on compendium page 339.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-05-2025

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

WP No. 16787 of 2025 and
W.M.P.Nos.19028 and 19029 of 2025

Tvl. Sri Mathuru Eswarar Traders
Represented By Its Proprietor, Mr. R.
Mahalingam, S/o Rmk, Ramaraj,
No.3/61, Poolankinar, Thiruppur - 642
122.

Petitioner(s)

Vs

The Deputy State Tax Officer - I
Udumalpet South Assessment Circle
Thiruppur.No.3/61 Ragalpavi
Poolankinar Thiruppur

Respondent(s)

PRAYER

calling for the impugned assessment order on the file of the 1st respondent vide GSTIN 33AXTPR3473R2Z7/2023-2024 dated 30.12.2024 for the assessment year 2023-2024 and quash the same as illegal and devoid of merits and direct the respondents to redo the assessment proceedings by providing an opportunity of personal hearing for the year 2023-2024 and further direct the 3rd respondent to defreeze the bank account (A/C No. 7192870315) INDIAN BANK.

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Compendium: Service of Notice (Sec. 169) | page 339 of 836 Back to Index

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For Petitioner(s): V. Parthiban
T. Yazhlini
P. Hemanthraj
S. Kumaraganeshan

For Respondent: V.Prasanth Kumar, GA

ORDER

This writ petition has been filed in the nature of a Certiorarified Mandamus, seeking to call for the impugned assessment order on the file of the 1st respondent vide GSTIN 33AXTPR3473R2Z7/2023-2024 dated 30.12.2024 for the assessment year 2023-2024 and quash the same as illegal and devoid of merits and direct the respondents to redo the assessment proceedings by providing an opportunity of personal hearing for the year 2023-2024 and further direct the 3rd respondent to defreeze the bank account (A/C No. 7192870315) INDIAN BANK.

2.The petitioner is a Commission Agency, doing cotton ginning business and it is a registered Taxpayer under the GST Law with GSTIN No.33ASYPR3473R2Z7. The petitioner is regularly complying with the GST regulations and filing monthly returns. While so, the petitioner was served with

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Compendium: Service of Notice (Sec. 169) | page 340 of 836 Back to Index

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a show cause notice dated 16.09.2024 alleging that input tax credit has been availed from non-existent dealer who is not doing any business from the place for which registration was obtained and directed the petitioner to pay tax of Rs.9,67,531.46 including penalty and interest. According to the petitioner, since it was uploaded in the GST Portal, the same went unnoticed by the petitioner and hence, it could not file its reply. Thereafter, the 1st respondent passed the impugned order dated 30.12.2024, confirming the tax demanded in the show cause notice.

3.According to the petitioner, the impugned order was passed without even issuing a show cause notice on him by merely uploading the same in the respondents' GST portal. According to the petitioner, the levy of interest and penalty severely disrupted his business operations and therefore, the petitioner, left with no other alternative, filed the above writ petition.

4. It is submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event,

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Compendium: Service of Notice (Sec. 169) | page 341 of 836 Back to Index

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this Court deems it fit to set aside the impugned order and remand it to the Authority for fresh consideration. He would further submit that there is bank attachment and the same may be lifted, subject to the payment of 25% of the disputed tax. Hence, he prayed for appropriate directions.

5. The learned Government Advocate (T) for the first respondent fairly submitted that since the petitioner had voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

6. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to him. In such circumstances, this Court is of the view that the impugned assessment order passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the

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Compendium: Service of Notice (Sec. 169) | page 342 of 836 Back to Index

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show cause notices is illegal and unsustainable.

7. Assuming that sending notices by uploading in the portal is sufficient service, when the Officer who was sending the repeated reminders, received no response from the petitioner, he ought to have applied his/her mind and explored diligently the possibility of sending notices by other modes prescribed in Section 169 of the GST Act. Mere uploading notice repeatedly without ensuring their receipt by the petitioner cannot be considered as effective service. Such mechanical compliance does not serve any useful purpose and the same will only lead to multiplicity of litigations, wasting not only the time of the Officer concerned, but also the precious time of the Appellate Authority / Tribunal and this Court as well. Thus, when there was no response from the tax payer to the notice uploaded in the portal, the Officer should have sent the notice through RPAD, which would have serve the purpose.

8. Therefore, I find that there was a failure of effective opportunity to the petitioner to reply to the show cause notice. Hence, I am inclined to set-aside

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Compendium: Service of Notice (Sec. 169) | page 343 of 836 Back to Index

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the impugned order with the following directions:-

i) The impugned order passed by the first respondent dated 30.12.2024 is set aside.

ii) Consequently, the matter is remanded to the first respondent for fresh consideration.

iii) The petitioner is directed to deposit 25% of the disputed tax, which the petitioner has voluntarily come forward to make, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the first respondent is directed to consider the reply and issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and decide the matter in accordance with law.

vi) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the first respondent-Department is directed to issue appropriate direction on the petitioner's

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Compendium: Service of Notice (Sec. 169) | page 344 of 836 Back to Index

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banker towards de-freezing of the petitioner's bank account forthwith.

9. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

08-05-2025

Suk/dn
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
To

1.The Deputy State Tax Officer - I
Udumalpet South Assessment Circle
Thiruppur.No.3/61 Ragalpavi
Poolankinar Thiruppur

2.The Deputy State Tax Officer- Ii
Udumalpet South Assessment Circle
Thiruppur.

3.The Bank Manager
Indian Bank, Udumalpet Branch.

https://www.mhc.tn.gov.in/judis (Uploaded on: 15/05/2025 04:12:07 pm)
Compendium: Service of Notice (Sec. 169) | page 345 of 836 Back to Index

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N.MALA J.

Suk/dn

WP No. 16787 of 2025

08-05-2025

https://www.mhc.tn.gov.in/judis (Uploaded on: 15/05/2025 04:12:07 pm)

Compendium: Service of Notice (Sec. 169) | page 346 of 836 Back to Index

CASE 16 OF 34 · GROUP B

Chirag Garg v. Commissioner State Tax, Delhi GST

Court	High Court of Delhi
Bench	Prathiba M. Singh and Rajneesh Kumar Gupta, JJ.
Date	22.05.2025
Case no. / citation	W.P.(C) 6978/2025

Holding in brief

Additional-tab plea does not help for notices after the portal change, but a remand is allowed on deposit of tax. Order-in-Original set aside; matter remanded.

Status

Remanded; relief in part to both sides. Directions: Deposit Rs.10,22,963 by 10.07.2025 (ITC may be used); reply by 10.07.2025; personal hearing notice by e-mail/phone.

The judgment begins on compendium page 348.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 22nd May, 2025

\+ **W.P.(C) 6978/2025 & CM APPL. 31505/2025**

CHIRAG GARG .....Petitioner

Through: Mr. Bharat Bhushan, Ms. Nidhi Gupta & Mr.Anunay Mishra, Advs. (Mob: 9810854786)

versus

COMMISSIONER STATE TAX, DELHI GST .....Respondent

Through: Ms. Vaishali Gupta, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 31506/2025

2. Allowed, subject to all just exceptions. The application is disposed of.

W.P.(C) 6978/2025 & CM APPL. 31505/2025

3. The present petition has been filed by the Petitioner- Chirag Garg under Article 226 of the Constitution of India, *inter alia*, assailing the order bearing reference no. ZD70824096178U dated 28th August, 2024 (hereinafter, '*impugned order*') passed by Sales Tax Officer Class II/AVATO, Ward 49, Zone 3, Delhi. *Vide* the impugned order, a demand of Rs.19,79,840/- has been raised against the Petitioner.

4. The case of the Petitioner is that the Show Cause Notice (hereinafter, '*SCN*') was issued on 31st May, 2024 but since it was in the '*Additional Notices Tab'*, it could not be replied to by the Petitioner.

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:24.05.2025
18:18:17

5. Ld. Counsel for the Respondent submits that '*Additional Notices Tab'* is visible on the portal from 16th January, 2024 onwards and therefore, this ground is not available.

6. Ld. Counsel for the Petitioner has made two submissions in response:-

i. That the electronic credit ledger of the Petitioner has a surplus of almost Rs. 4.8 Crores. The Petitioner is quite vigilant but for some reason it appears that the SCN was missed by the Petitioner due to it being uploaded in the '*Additional Notices Tab'*.

ii. That the Petitioner is willing to deposit the entire tax amount subject to the matter being remanded to Adjudicating Authority with an opportunity to file a reply.

7. The Court has considered the matter. The argument that the notice was in '*Additional Notices Tab'* would not be tenable in this case as the SCN is subsequent to 16th January, 2024 *i.e.* dated 31st May, 2024. The reply ought to have been filed by the Petitioner which has been missed out by the Petitioner leading to the impugned order.

8. However, taking into consideration the fact that the Petitioner is willing to deposit the tax amount of Rs.10,22,963/- and since the impugned order is an *ex-parte* order and the Petitioner has not had a chance to contest on merits, the matter is remanded to the Adjudicating Authority subject to the following conditions:-

i. The sum of Rs. 10,22,963/- shall be deposited by the Petitioner with the Department by 10th July, 2025. If the Petitioner has Input Tax Credit (hereinafter, '*ITC*'), it is permitted to avail of the same for the said purpose.

ii. A reply shall also be filed by the Petitioner by 10th July, 2025.

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:24.05.2025
18:18:17

Compendium: Service of Notice (Sec. 169) | page 349 of 836 Back to Index

iii. Personal hearing notice shall be given to the Petitioner on the following email address and mobile no.:

Email: bbhushanadv@gmail.com

Mob: 9810854786

9. Subject to deposit of Rs.10,22,963/- in any permissible manner, the SCN dated 31st May, 2024 shall be adjudicated once again on merits. The impugned Order-in-Original is set aside.

10. Needless to state, nothing observed in this order shall have a bearing on merits.

11. Petition is disposed of in these terms. Pending application(s), if any, is also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 22, 2025
kk/ck

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:24.05.2025
18:18:17

CASE 17 OF 34 · GROUP B

M/s Vels Constructions v. State Tax Officer, Tiruverkadu Assessment Circle

Court	High Court of Madras
Bench	Krishnan Ramasamy, J.
Date	09.06.2025
Case no. / citation	W.P.No.20374 of 2025

Holding in brief

One-time remand on deposit of 25% of disputed tax. Writ petition disposed of with directions; impugned order set aside on payment.

Provisions involved

CGST Act, 2017: Sections 73 and 169 (169(1))

Status

Remanded; relief in part to both sides. Directions: Pay 25% in four weeks (setting aside takes effect on payment); reply in three weeks; 14 days clear hearing notice.

The judgment begins on compendium page 352.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20374 of 2025
& W.M.P.Nos.22963 & 22964 of 2025

M/s Vels Constructions
Rep by its Proprietor Sakthivel,
S/o.Senkondan, No.35/A, Lakshmi
Gandammal Street, Pallikuppan, Vanagaram,
Tiruvallur,Tamil Nadu- 600 071.

... Petitioner

Vs.

The State Tax officer
Tiruverkadu Assessment circle, Integrated
Commercial Taxes and Regn department
Building 571, Anna Salai, Nandanam,
chennai- 35.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, Calling for the records relating to the impugned order dated 08.08.2024 issued under Sect 73 of the Act and DRC- 07 in reference No.ZD3308240668244 in GSTIN. 33BSWPS1538Q1ZQ and quash the same

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Compendium: Service of Notice (Sec. 169) | page 352 of 836 Back to Index

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For Petitioner : Ms.Kothai Muthu Meenal

For Respondent : Mr.C.Harsha Raj, SGP

ORDER

This writ petition has been filed challenging the impugned order dated 08.08.2024 passed by the respondent.

2. Mr.C.Harsha Raj, learned Special Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, all notices/communications were uploaded by the respondent under the "View Additional Notices and Orders" column in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Therefore, this petition has been filed.

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Compendium: Service of Notice (Sec. 169) | page 353 of 836 Back to Index

WEB COPY

4. Further, dhe would submit that the petitioner is willing to pay 25% of the disputed tax amount, to the respondent. Hence, she requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Special Government Pleader appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and and the learned Special Government Pleader for the respondent and also perused the materials available on record.

https://www.mhc.tn.gov.in/judis (Uploaded on: 12/06/2025 03:59:13 pm)

Compendium: Service of Notice (Sec. 169) | page 354 of 836 Back to Index

WEB COPY

7. In the case on hand, it is evident that the show cause notice was uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

8. No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, inspite of the fact that no response from the petitioner to the show cause notices etc., the Officer should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an *ex parte* order by fulfilling the empty formalities will not serve any useful purpose and the same will only pave way for multiplicity of litigations, not only

https://www.mhc.tn.gov.in/judis (Uploaded on: 12/06/2025 03:59:13 pm)

Compendium: Service of Notice (Sec. 169) | page 355 of 836 Back to Index

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wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well.

9. Thus, when there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner.

10. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 08.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 08.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall

https://www.mhc.tn.gov.in/judis (Uploaded on: 12/06/2025 03:59:13 pm)

Compendium: Service of Notice (Sec. 169) | page 356 of 836 Back to Index

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pay 25% of the disputed tax amount to the respondent within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

09.06.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

https://www.mhc.tn.gov.in/judis (Uploaded on: 12/06/2025 03:59:13 pm)
Compendium: Service of Notice (Sec. 169) | page 357 of 836 Back to Index

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nsa

To

The State Tax officer
Tiruverkadu Assessment circle, Integrated
Commercial Taxes and Regn department
Building 571, Anna Salai, Nandanam,
chennai- 35.

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Compendium: Service of Notice (Sec. 169) | page 358 of 836 Back to Index

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KRISHNAN RAMASAMY.J.,

nsa

W.P.No.20374 of 2025
and W.M.P.Nos.22963 & 22964 of 2025

09.06.2025

https://www.mhc.tn.gov.in/judis (Uploaded on: 12/06/2025 03:59:13 pm)

Compendium: Service of Notice (Sec. 169) | page 359 of 836 Back to Index

CASE 18 OF 34 · GROUP B

M/s Riya Construction v. State of U.P. and 3 Others

Court	High Court of Judicature at Allahabad
Bench	Saumitra Dayal Singh and Indrajeet Shukla, JJ.
Date	09.10.2025
Case no. / citation	WRIT TAX No. 3964 of 2025

Holding in brief

Conditional setting aside with small deposit where online-only service causes lack of notice. Writ petition allowed; impugned order set aside on deposit of Rs.16,000.

Provisions involved

CGST Act, 2017: Section 73

Status

Remanded; relief in part to both sides. Directions: Deposit Rs.16,000 in one month; SCN with RUDs in two weeks; reply in four weeks; hearing with two weeks' notice; conclude in six months.

The judgment begins on compendium page 361.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 3964 of 2025

M/S Riya Construction

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Amit Kumar Singh, Santosh Kumar Srivastava
Counsel for Respondent(s)	:	C.S.C.

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.

1. Ms. Farheen, learned Advocate holding brief of Shri Santosh Kumar Srivastava, learned counsel for the petitioner, Shri Ankur Agarwal, learned counsel for the Revenue and perused the record.

2. The present writ petition has been filed challenging the Adjudication Order dated 04.02.2025 passed under Section 73 of the UPGST Act passed by respondent no.3 creating a demand of tax of Rs.1,61,225.64/- for the FY 2020-21.

3. Submission is, no show cause notice was ever issued to the petitioner prior to the impugned order being passed and in any case, no date of filing of reply or personal hearing was communicated to the petitioner before the impugned order came to be passed. Also, the date of service of the adjudication order has been doubted. Pleadings to that effect exist.

4. In many similar matters arising from same/similar mistakes committed by the Adjudicating Authorities, we have been setting aside such orders, conditionally. Hundreds, if not thousands of petitions have arisen, on same or similar grounds, clearly indicating to the Court, widespread difficulties being faced by numerous registered persons.

5. Primarily, it is being noted, show cause notices and adjudication orders are being served only through online mode. In that, many times alerts are not being sent to the noticees and in any case the notices and orders are often not readily visible on the GSTN Portal. Further, it has been noted, besides rigid/fixed period of limitation with limited power to condone the delay, the Appeal Authorities do not have the power to set aside/remand the proceedings, to the Adjudicating Authority. Thus, many times the right of appeal is lost to the aggrieved assessees, for reason of late service of Adjudication Order. Even, if the Appeal Authorities were to pass an order on merits, it would still take away one opportunity of hearing that is

otherwise available to the noticee, to represent its case, under the scheme of the Act.

6. While there may be some merit in the objection being raised by the petitioner, that facts are otherwise, in the first place a coordinate bench in **Mahaveer Trading Company Vs. Deputy Commissioner State Tax And Another, Neutral Citation No.-2024:AHC:38820-DB**, a coordinate bench took note of similar and other violations of rules of natural justice, by Adjudicating Authorities and thus set aside the Adjudication Order.

7. Again in another order passed by a coordinate bench in **M/S Shubham Steel Traders Vs. State of U.P. and Another, Neutral Citation No2024: AHC:31108-DB**, it has been observed as below:

"10. Rules of natural justice ensure fairness in proceedings. Once the authority had fixed the matter for hearing on 06.11.2023 it was incumbent on that authority either to pass the order or to fix another date and communicate the same to the petitioner. Communication of the other date was necessary as according to the assessing authority the petitioner failed to appear before it on the date fixed on 06.11.2023.

11. By not passing the order on 06.11.2023 and not communicating the next date fixed in the proceedings, the assessing authority forced the ex-parte nature of the order on the petitioner, by its own conduct."

8. In view of our consistent view in similar matters, no useful purpose would be served in keeping this writ petition pending or calling for counter affidavit, at this stage.

9. Accordingly, the writ petition is **allowed** and the impugned order is **set aside,** subject to the petitioner depositing Rs.16,000/- within a period of one month from today. Present writ petition is **disposed of** with the following directions:

(i) Subject to the above deposit being made by the petitioner, the Adjudicating Authority shall make available to the petitioner copy of the show cause notice together with any additional/supplementary notice etc issued in these proceedings together with copies of Relied Upon Documents ('RUDs' in short) within a period of two weeks from the date of compliance shown by the petitioner.

(ii) Petitioner shall file reply, if any, within a further period of four weeks therefrom.

(iii) Thereupon the respondent No. 3 shall fix appropriate date for hearing

and communicate the same to the petitioner in the manner prescribed by law with at least two weeks' advance notice.

(iv) Petitioner undertakes to cooperate and participate in the proceedings and not seek any undue or long adjournment.

10. It is expected that the proceedings thus remitted would be concluded within six months from the date the petitioner makes first compliance under this order and deposits the amount specified above.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

October 9, 2025
Anurag/-

Digitally signed by :-
ANURAG JAISWAL
High Court of Judicature at Allahabad

M/s. New Grace Automech Products Pvt. Ltd. v. State Tax Officer, Hosur (North)-2 Circle

Court	High Court of Madras
Bench	M. Sundar, J.
Date	03.01.2023
Case no. / citation	W.P.No.35115 of 2022

Holding in brief

Where service of the order is in accordance with Section 169, the remedy is the statutory appeal under Section 107; writ court will not interfere. Writ petition and WMP dismissed; no costs.

Provisions involved

CGST Act, 2017: Sections 107 and 169 (169(1)(b))

Status

Dismissed; held in favour of the revenue. Directions: Petitioner is free to approach the Appellate Authority, which may consider limitation and pre-deposit and then the merits.

The judgment begins on compendium page 365.

2023/MHC/48

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **03.01.2023**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.35115 of 2022
&
W.M.P.No.34583 of 2022
in
W.P.No.35115 of 2022

M/s.New Grace Automech Products Pvt. Ltd.,
Rep. By its Managing Director Mr.N.Kumar
SF No.826/6, Bharathiyar Nagar
Avalapalli Raod, Hosur
Krishnagiri District – 635 109 .. Petitioner

Vs.

State Tax Officer
The office of the Assistant Commissioner (ST)
Hosur (North)-2 Circle
Hosur, Krishnagiri District – 635 109 ... Respondent

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the respondent in DRC-07 dated 07.02.2022 in GSTIN33AADCN9343B1ZR/2017-18, 2018-2019 and 2019-2020 respectively and to quash the same.

For Petitioner : Mr.B.Thirumalai

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

https://www.mhc.tn.gov.in/judis

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O R D E R

Mr.B.Thirumalai, learned counsel on record for writ petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (Taxes) who accepted notice on behalf of lone respondent are before this Writ Court.

2. Owing to the narrow scope of the captioned writ petition, with the consent of learned counsel on both sides, main writ petition was taken up and heard out.

3. Writ petitioner has challenged an 'order dated 07.02.2022 bearing reference ZD330222000916X' [hereinafter 'impugned order' for the sake of convenience and clarity] making certain tax demands qua 'Tamil Nadu Goods and Services Tax Act, 2017' [hereinafter 'TN-G & ST Act' for the sake of brevity and convenience].

4. Notwithstanding very many averments in the writ affidavit, the lone point that is canvassed by the learned counsel for writ petitioner is, the impugned order has not been served on the writ petitioner by resorting to the method of service set out in Section 169 (1)(b) of TN-G&ST Act.

5. Learned counsel for writ petitioner adverting to Section 169 (1)(b) of TN-G&ST Act submitted that it is imperative that the impugned

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order is served on the writ petitioner through registered post or speed post or courier with acknowledgement due at the writ petitioner's last known address of business or residence.

6. Responding to the aforementioned lone point on which captioned writ petition is predicated, learned Revenue counsel drew the attention of this Court to Section 169 (1)(d) of TN-G&ST Act which provides for service by making available the order in the common portal. This writ Court deems it appropriate to extract and reproduce Section Section 169(1)(b) and (d) of TN-G&ST Act which reads as follows:

> *'169. **Service of notice in certain circumstances-***
>
> *(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by nay one of the following methods, namely:-*
>
> *(a) .....*
>
> *(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or*
>
> *(c) .....*
>
> *(d)by making it available on the common portal; or*
>
> *(e) ....*
>
> *(f).....*
>
> *(2).....*
>
> *(3).....'*

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7. A careful perusal of language in which Section 169 is couched makes it clear that methods of service adumbrated therein are not conjunctive but are alternate methods of service. The reason is, the language in which sub-section (1) is couched makes it clear that service shall be by one of the methods adumbrated therein. To be noted as many as six methods (a) to (f) have been adumbrated therein.

8. Learned Revenue counsel further submits on instructions that the impugned order was uploaded or in other words made available in the common portal on the same day i.e., 07.02.2022. There is no disputation or contestation on this submission made on instructions. This by itself drops the curtains on the captioned writ petition.

9. Be that as it may, though not averred in the writ affidavit, learned counsel for writ petitioner submits that writ petitioner attempted to prefer an appeal against the impugned order to the Appellate Authority by way of a statutory appeal under Section 107 of TN-G&ST Act and the appeal is not being entertained. Absent averments and absent material in the case file before this Court, this Court does not want to make forays into these territories. Suffice to say that an appeal under Section 107 is subject to a 'prescribed period of limitation' and a 'condonable period of

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limitation' i.e., three months and one month respectively. It is also circumscribed by a pre-deposit condition. If the writ petitioner is able to satisfy the Appellate Authority qua limitation and pre-deposit, it is open to the Appellate Authority to consider the appeal on its own merits and in accordance with law.

11. Be that as it may, there is no ground to interfere qua impugned order in the captioned writ petition. Sequitur is captioned writ petition fails and the same is dismissed. Consequently, captioned WMP is also dismissed. There shall be no order as to costs.

03.01.2023
(½)

Neutral Citation: Yes/No
Index: yes/no
gpa

To

The State Tax Officer
The office of the Assistant Commissioner (ST)
Hosur (North)-2 Circle
Hosur, Krishnagiri District – 635 109

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M.SUNDAR, J.,

gpa

W.P.No.35115 of 2022 &
W.M.P.No. 34583 of 2022
in W.P.No.35115 of 2022

03.01.2023
(1/2)

M/s. Brunda Infra Pvt. Ltd. and Others v. Additional Commissioner of Central Tax, Hyderabad GST Commissionerate and Others

Court	High Court for the State of Telangana
Bench	Sujoy Paul and G. Radha Rani, JJ.
Date	02.01.2025
Case no. / citation	Writ Petition No. 1154 of 2024 & batch

Holding in brief

The extension of limitation granted by the Supreme Court applies to GST; question of validity of the notifications pales into insignificance. Writ petitions disposed of, reserving liberty to file statutory appeal.

Provisions involved

CGST Act, 2017: Sections 73, 75 and 168A (73(10), 75(10))

Status

Disposed off; held in favour of the revenue. Directions: Appeals may be filed within 45 days and shall not be thrown out on limitation; no opinion on merits.

The judgment begins on compendium page 372.

***THE HON'BLE SRI JUSTICE SUJOY PAUL**
AND
***THE HON'BLE Dr. JUSTICE G. RADHA RANI**

+WRIT PETITION Nos.1154 OF 2024 & BATCH

% 02-01-2025

M/s.Brunda Infra Pvt. Limited and Others.

...Petitioners

vs.

$ The Additional Commissioner of Central Tax,
O/o. The Principal Commissioner of Central Tax,
Hyderabad GST Commissionerate, GST Bhavan,
Basheerbagh, Hyderabad and Others

... Respondents

!Counsel for the Petitioners: Sri S.Ravi, learned Senior Counsel, assisted by Sri P.Venkata Prasad

Sri V.Bhaskar Reddy, learned Senior Counsel, assisted by Sri V.Siddarth Reddy

Sri V.Sridharan, learned Senior Counsel, assisted by Sri Narendra Dave

Sri Singam Srinivasa Rao

Sri A.V.A. Siva Karthikeya

Sri Nishant Mishra, learned counsel assisted by Sri Omer Farooq

Sri SRR Viswanath, learned counsel assisted by Ms. S.N. Sreedevi

Sri P. Govind Reddy

Sri M. Ramachandra Murthy

Sri Karthik Ramana Puttamreddy

Dr. Avinash Poddar

^Counsel for Respondents: Sri B.Narasimha Sharma, learned Additional Solicitor General of India, assisted by Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India

Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, assisted by Ms.Pravalika Goud

Sri R.Sushanth Reddy, learned Standing Counsel for CBIC

<Gist :

>Head Note :

? Cases referred

1. MANU/SC/0408/2017
2. (2024) 19 Centax 82 (Allahabad)
3. 2024(9) TMI 1398 Gauhati High Court
4. (2024) 25 Centax 55 (Pat.)
5. (2016) 12 SCC 613
6. (2022) 104 G S.T.R. 51 (Telangana)
7. 2023 SCC OnLine SC 1592
8. (1989) 3 SCC 132
9. (2021) 1 SCC 539
10. (2001) 4 SCC 215
11. AIR 1964 SC 1742
12. 1971 (2) SCC 564
13. (2016) 4 SCC 769
14. (2017) 8 SCC 307
15. (2004) 9 SCC 686
16. 2023 SCC OnLine Jhar 1188
17. (2008) 9 SCC 306
18. (1990) 2 SCC 378
19. (2001) 7 SCC 71
20. AIR 2012 SC 3791
21. 2017 (6) ADR 707
22. (1984) 4 SCC 27
23. (2024) 2 S.C.R. 194
24. 2024 (10) TMI 286
25. (2022) 10 SCC 700
26. O.M.P. (I) (COMM.) No.88/2020, dated 29.05.2020.
27. 1957 SCC OnLine SC 27
28. 2022 SCC OnLine SC 587
29. 2024 (10) TMI 1166
30. (1988) 2 SCC 351
31. W.P.A.No.11578 of 2021, dated 01.10.2021
32. 2015 (11) SCC 669
33. 2023 SCC Online SC 550
34. (2019) 9 SCC 1
35. (2023) 6 SCC 451
36. 2006(4) SCC 517
37. 2020 SCC OnLine Mad 1026
38. (2011) 1 SCC 236
39. (2022) 2 SCC 221
40. AIR 1977 SC 1302
41. AIR 1963 SC 274
42. (1869) LR 4 HL 100
43. (1921) 1 kb 64

44. JT 1999 (2) SC 272
45. (1951) 2 All ER 473
46. 1936 SCC OnLine PC 41
47. (1999) 8 SCC 266
48. (1999) 3 SCC 422
49. (2015) 7 SCC 690
50. (2016) 9 SCC 20
51. (2019) 3 SCC 224
52. (2020) 13 SCC 234
53. (2021) 6 SCC 707
54. (2022) 8 SCC 713
55. (2023) 10 SCC 461
56. (1986) 1 SCC 264
57. (1977) 2 SCC 256
58. (1987) 1 SCC 424
59. (2013) 3 SCC 489
60. (2007) 8 SCC 338
61. (2010) 13 SCC 98
62. (2020) 9 SCC 121
63. AIR 1980 SC 286
64. (2008) 13 SCC 1
65. (2023) 2 SCC 597
66. (1985) 3 SCC 545

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD
* * * *

WRIT PETITION Nos.1154 OF 2024 & BATCH

Between:

M/s.Brunda Infra Pvt. Limited and Others.

...Petitioners

vs.

The Additional Commissioner of Central Tax,
O/o. The Principal Commissioner of Central Tax,
Hyderabad GST Commissionerate, GST Bhavan,
Basheerbagh, Hyderabad and Others

... Respondents

JUDGMENT PRONOUNCED ON: 02.01.2025

THE HON'BLE SRI JUSTICE SUJOY PAUL
AND
THE HON'BLE Dr. JUSTICE G. RADHA RANI

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? :

2. Whether the copies of judgment may be Marked to Law Reporters/Journals? :

3. Whether His Lordship wishes to see the fair copy of the Judgment? :

SUJOY PAUL, J

Dr. G.RADHA RANI, J

THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HON'BLE Dr. JUSTICE G. RADHA RANI

WRIT PETITION NOS. 1154, 2123 2851, 3624, 4680, 5238, 5485, 5567, 5617, 5911, 5917, 6692, 6856, 7140, 7208, 7596, 8015, 8022, 8133, 8196, 8273, 8530, 8569, 8768, 9177, 9435, 9490, 9790, 9947, 9979, 10322, 10331, 10565, 10591, 10725, 10733, 10766, 10790, 13212, 13291, 13737, 13746, 13756, 13767, 13777, 13779, 13786, 13795, 13799, 13804, 13818, 13819, 13821, 13822, 13823, 13841, 13842, 13853, 13859, 13917, 13934, 13940, 14100, 14179, 14182,
14268, 14281, 14289, 14437, 14476, 14496, 14729, 14843, 14896, 14947, 15013, 15150, 15201, 15332, 15381, 15439, 15452, 15479, 15483, 15492, 15510, 15569, 15648, 15855, 15863, 16038, 16118, 16281, 16350, 16374, 16656, 16875, 16920, 17012, 17015, 17224, 17294, 17682, 17684, 17766, 17916, 17967, 17990, 18097, 18115, 18117, 18126, 18172, 18176, 18198, 18310, 18425, 18438, 18486, 18613, 18618, 18684, 18894, 19008, 19205, 19594, 19757, 19992, 20150, 20164, 20232, 20233, 20234, 20235, 20355, 20371, 20429, 20671, 20676, 20680, 22410, 22472, 22524, 22535, 22552, 22588, 23087, 23282, 23538, 23962, 25177, 25272, 25742, 26603, 26606, 26621, 26646, 27082, 27228, 27725, 28511, 28653, 28657, 28757, 28808, 29363, 29507, 29516, 29531, 29539, 29544, 29554, 29560, 29806, 29881, 29915, 30025, 30047, 30113, 30133, 30142, 30194, 30471, 30474, 30621, 30638, 30657, 30784, 30815, 30858, 30896, 30945, 31071, 31125, 31178, 31199, 31210, 31229, 31286, 31348, 31363, 31463, 31479, 31498, 31650, 31666, 31704, 31716, 31792, 31807, 31864, 31885, 31967, 31984, 32008, 32080, 32113, 32116, 32118, 32131, 32133, 32180, 32183, 32185, 32243, 32270, 32333, 32393, 32431, 32433, 32453, 32466, 32472, 32484, 32487, 32502, 32509, 32573, 32585, 32606, 32665, 32685, 32690, 32693, 32716, 32722, 32755, 32790, 32821, 32826, 32883, 32888, 32988, 33023, 33026, 33032, 33046, 33048, 33050, 33071, 33075, 33138, 33212, 33219, 33220, 33286, 33355, 33361, 33375, 33385, 33390, 33402, 33448, 33506, 33513, 33552, 33584, 33631, 33651, 33710, 33717, 33732, 33747, 33889, 33896, 33935, 33954, 34002, 34006, 34010, 34031, 34035, 34065, 34069, 34077, 34094, 34117, 34135, 34174, 34177, 34208, 34273, 34468, 34482, 34486, 34533, 34550, 34584, 34625, 34628, 34677, 34706, 34712, 34737, 34887, 34927, 34988, 35008, 35034, 35040, 35073, 35126, 35167, 35191, 35201, 35211 35228, 35246, 35247, 35249, 35296, 35340, 35345, 35396, 35409, 35434, 35590,

35628, 35828, 35835, 35968, 35974, 35976, 35994, 36027, 36065, 36102, 36103, 36112, 36129, 36251, 36288, 36324, 36383, 36602, 36626, 36808, 36811, 36812 and 36912 of 2024

COMMON ORDER *(per Hon'ble SP,J)*:

In this batch of writ petitions, the petitioners have called in question the legality, validity and propriety of notification Nos.13/2022, dated 05.07.2022, 9 and 56/2023, dated 31.03.2023 and 28.12.2023, respectively. The *pari materia*/ corresponding notification Nos.118/2023, dated 25.08.2023 and 170/2023, dated 17.12.2023 issued by State of Telangana are also subject matter of challenge. These notifications are admittedly issued in purported exercise of power under Section 168A of **The Central Goods and Services Tax Act, 2017** (for short, 'the GST Act').

Factual background and Contention of the petitioners:

2. The facts are taken from W.P. No. 33390 of 2024. Sri S. Ravi, learned Senior Counsel representing Sri P. Venkata Prasad, learned counsel for the petitioner, submits that this matter relates to F.Y. 2019-2020. The show-cause notice was issued on 31.05.2024. The Order-in-Original ('OIO') was passed on 29.08.2024 after the maximum period of limitation prescribed under Section 73(10) of the GST Act. Under the garb of extension of limitation as per impugned notifications, said OIO came to be

passed. Criticizing the impugned notification Nos. 9 and 56 of 2023, it is contended that on the date of issuance of these notifications, no *force majeure* conditions were in existence. Section 168A of the GST Act, in no uncertain terms makes it clear that limitation can be extended on availability of 'special circumstances'. In absence of *force majeure* circumstance on the date of issuance of notifications, these notifications cannot be said to be passed based on enabling provision.

3. To buttress aforesaid contention, the letter written by Secretary, Home Department to Chief Secretaries of all the States, dated 22.03.2023 was highlighted to establish that there was no need to invoke provisions of the Disaster Management Act, 2005. Thus, COVID-19 period, admittedly, came to an end before impugned notifications were issued. Paragraph Nos. 6(1), (6), (7) and (8) of said letter were relied upon.

4. The next limb of argument is that COVID-19 relaxations/extensions are not available to the Government. Notification Nos. 35/2020, dated 03.04.2020 and 14 of 2021, dated 01.05.2021, were referred to show that time for completion or compliance of any action was extended upto 30.06.2021. Hence, only for compliance of Section 73 of the GST Act, the time

limit was extended till 31.12.2023 or 30.04.2024/31.08.2024. For any other compliance, time limit was extended only upto 30.06.2021. Thus, any extension of time beyond 30.06.2021 is impermissible even by invoking Section 168A of the GST Act.

5. Furthermore, the extension was made *vide* Notification No.13/2022-Central Tax, dated 05.07.2022, wherein time limit under Section 73(10) of the CGST Act for F.Y. 2017-18 was extended upto 30.09.2023 by excluding the intervening period between 01.03.2020 to 20.08.2022 for recovery of erroneous refund cases under Section 73(10) and refund claims under Section 54. The above extension was issued on 05.07.2022 allowing the Department to issue notices on or before 30.09.2023. Assuming that above extension was valid and is in consonance with Section 168A, there was no requirement for any further extension. Thus, it appears that the Department is using the COVID-19 pandemic as an excuse and reason to undo their failure of not completing assessments and raising demands under Section 73 within stipulated time.

6. Heavy reliance is placed on CBIC Circular No.157/13/2021-GST, dated 20.07.2021, to canvass the point that the understanding of respondent-Department is that the orders

passed by Supreme Court in *suo motu* jurisdiction extending limitation period are not applicable to the Department. Similarly, CBIC instructions No. 2/2021, dated 22.09.2021, expects strict adherence to the time line provided under Section 73 of the GST Act and does not take excuse of difficulties arising out of COVID-19 pandemic.

7. The time limit can be extended only on availability of *force majeure* conditions and not based on the administrative difficulties faced by the Department.

8. In this era of technological advancement, exercise of issuance of notice, filing or reply, hearing and passing orders is being done through virtual/electronic mode. CBIC has mandated to conduct the hearing through virtual mode. Thus, even otherwise, there existed no practical difficulty for Revenue to complete their exercise within the stipulated time. The judgment of Supreme Court in **Energy Watchdog v. Central Electricity Regulatory Commission**[1] was referred to show that necessary ingredients to attract *force majeure* clause were absent in the instant case.

[1] MANU/SC/0408/2017

9. It was common ground taken by learned counsel for the parties that Section 168A of the GST Act provides that extension notification can be issued on the recommendation of the GST Council. So far as notification No. 56/2023 is concerned, there was no prior notification of GST Council. The counter of the Department filed in these cases shows that the notification No. 56/2023 was issued on the basis of decision taken by GST Implementation Committee/Law Committee. Thus decision of Implementation/Law Committee was ratified by GST Council after six months from the date of issuance of notification No. 56/2023. The meaning of words 'recommendation' and 'ratification' were highlighted to show the difference between the two. The 'recommendation' is always prior in time which forms basis for taking a decision, whereas, 'ratification' is a subsequent exercise for a decision which has already been taken. In view of statutory mandate ingrained in Section 168A of the GST Act, subsequent 'ratification' cannot satisfy the requirement of statute i.e., 'on the recommendation of the GST Council'.

10. The next submission is that repeated extensions given in purported exercise of Section 168A of the GST Act are arbitrary and violative of Article 14 of the Constitution. The impugned

notifications are discriminatory to the extent they partly modify the earlier notifications dated 01.05.2021 and 28.06.2021. The Revenue has taken undue benefit of extension of limitation for initiating and completing adjudicating proceedings.

11. The judgment of Allahabad High Court in **Graziano Transmissions v. Goods and Services Tax**[2] was referred to suggest that Division Bench, despite noting that the impugned notification No. 56/2023 was issued pursuant to the decision of GST Implementation Committee and not by GST Council, did not deal with the difference between the 'recommendation of committee' and 'ratification by Council'. Thus, said judgment is distinguishable. The Allahabad High Court has also opined that orders of Supreme Court in *suo motu* jurisdiction relaxing limitation are inapplicable for proceedings under the GST Act.

12. The judgment of Gauhati High Court in **M/s. Barkataki Print and Media Services, Dhrubajyoti Barkotoku v. Union of India**[3] was relied upon wherein the Court opined that recommendation of GST Council is *sine qua non* for exercising power under Section 168A of the Act. An attempt is made to

[2] (2024) 19 Centax 82 (Allahabad)
[3] 2024(9) TMI 1398 Gauhati High Court

distinguish the Division Bench judgment of Patna High Court in **Barhonia Engicon Private Limited v. State of Bihar**[4] by contending that COVID-19 relaxations given by Supreme Court in *suo motu* jurisdiction was treated to be a reasons for extending limitation by the Revenue, but CBIC Circular dated 20.07.2021 speaks otherwise and this Circular has escaped notice of Patna High Court. Thus, this judgment is also distinguishable.

13. Sri S. Ravi, learned Senior Counsel, submits that the respondents may rely on certain judgments, including **Bajaj Hindustan Limited v. State of Uttar Pradesh**[5] and other judgments to support their stand that 'ratification' is permissible and 'ratification' relates back to the original date of the decision. However, it must be noticed that the said judgments are relating to 'ratification' in exercise of executive/administrative power. It does not deal with exercise of subordinate legislative power. Counter of State Government (para No. 33) filed in W.P. No. 21851 of 2024 was pointed out where State itself treated the power of issuing impugned notifications as 'legislative power'. The judgment of Allahabad High Court in **Graziano Transmissions** (supra) was also referred to support the same point. Since

[4] (2024) 25 Centax 55 (Pat.)
[5] (2016) 12 SCC 613

impugned notifications are issued in exercise of legislative power therefore, 'ratification' aspect dealt with in certain judgments of Supreme Court while exercising executive/administrative power cannot be pressed into service. Putting it differently, it is urged that subordinate legislative and administrative actions cannot be judged on the same parameters. Since statute envisages the requirement of recommendation of council before taking decision of extension of limitation, no other method can be adopted.

14. The meaning of words 'approval' and 'recommendation' as used in Black's Law dictionary and considered by Gauhati High Court in **M/s. Barkataki Print and Media Services, Dhrubajyoti Barkotoku** (supra) was also referred.

15. The alternative submission of learned Senior Counsel is that by the time notification No. 56/2023 was issued, the original period of limitation for F.Y. 2018-2019 which was upto 31.03.2024 was over. The notification No.56/2023 was issued after 31.03.2024 and therefore, it cannot revive or extend the limitation which already stood exhausted.

16. Paragraph 138 of judgment of this Court in **Sri Sri Engineering Works and Ors. v. The Deputy Commissioner**

(CT), Begumpet Division, Hyderabad and Others[6] which got stamp of approval by Supreme Court is relied upon to show that limitation cannot be extended after previous period of limitation is over. The judgment of **Dr.Premchandran Keezhoth v. Chancellor, Kannur University**[7] was relied upon to submit that in the matter of these notifications, no 'ratification' will serve the purpose and improve the case of Revenue.

17. Article 279A of the Constitution on which reliance may be placed by the Revenue is of no assistance because provision saves the irregularity committed by GST Council. In the instant case, the impugned notification No. 56/2023 is issued by Government and irregularity of Government cannot be ignored by taking shelter of aforesaid Article.

18. The first *suo motu* order of Supreme Court relating to COVID-19 was passed on 23.03.2020. The ordinance whereby Section 168A of the GST Act was brought into existence was issued on 31.03.2020. Thus, respondents were conscious that order of Supreme Court in *suo motu* matter will not extend the limitation in the matter of this nature. Otherwise, there was no

[6] (2022) 104 G S.T.R. 51 (Telangana)
[7] 2023 SCC OnLine SC 1592

occasion to issue the said notification. There exists no pleading in the counter to show that *suo motu* extensions given by Supreme Court are applicable to the present Department.

19. Sri V. Sridharan, learned Senior Counsel representing M/s. Lakshmi Sukumaran Sridharan, learned counsel for the petitioners in W.P.Nos.15855, 15863 and 18117 of 2024, placed reliance on the judgment of Supreme Court in the case of **Marathwada University v. Seshrao Balwant Rao Chavan**[8] and urged that when the Act provides a function for a particular body to exercise power, it must be exercised only by that body. The exercise of power by different body *de hors* the statutory provision is impermissible and unsustainable in law. In this case, ratification by the GST Council had taken place after six months from the date of issuance of notification No.56/2023, dated 28.12.2023. **Rakesh Kumar Agarwalla v. National Law School of India University**[9] and **V.M. Kurian v. State of Kerala**[10] were relied upon to show difference between the words 'consultation' and 'recommendation'.

[8] (1989) 3 SCC 132
[9] (2021) 1 SCC 539
[10] (2001) 4 SCC 215

20. **Banarsi Debi v. Income-Tax Officer**[11] was referred to submit that in view of the principle laid down therein, a conjoint reading of Sections 73(10) and 168A of the GST Act shows that the provisions are substantive in nature. Such provisions deserve strict interpretation. Section 168A talks about extension of time limit 'specified', 'prescribed' or 'notified' in the GST Act. This power can be once exercised and the law does not permit extension by issuing subsequent notification whereby the time limit originally specified under Section 73(10) can be extended.

21. Section 73(2) of the GST Act envisages issuances of notice and for this, time limit is specified. This time limit is regarding initiation of proceedings, whereas Section 75(10) prescribes expiry date by putting a deeming clause.

22. The bone of contention of the learned Senior Counsel is that Section 168A of the GST Act permits extension of limitation prescribed as per Section 73(10). This original limitation prescribed in Section 73(10) can be extended, but Section 168A does not give power to extend the limitation which was extended by issuing different notification. In other words, the power of extension can be exercised in relation to the limitation provided

[11] AIR 1964 SC 1742

under Section 73(10) and not relating to limitation provided under the notification issued under Section 168A of the GST Act.

23. The judgment of Supreme Court in **Atlas Cycle Industries Ltd. v. State of Haryana**[12] was cited wherein it was held that if language of statute is clear, nothing can be added through interpretative process.

24. In total, on five occasions, the limitation was extended. The 2nd notification was issued on 31.03.2023. It was argued that notification No.3/2022 could not have been further extended. As per Section 73(10) of the GST Act, the limitation for F.Y.2017-18 was up to 31.12.2021. By notification dated 31.03.2023, the time limit was extended for F.Y. 2017-18, which runs contrary to Section 73(10) and Section 75(10). To support this contention, judgment of Supreme Court in the cases of **State of Punjab v. Shreyans Industries Ltd.,**[13] and **Union of India v. Kumho Petrochemicals Co. Ltd.,**[14] were referred. Once period of limitation expires, the right to assessment gets extinguished.

25. Furthermore, the words 'due date' mentioned in Section 73(10) of the GST Act must be read in the context of Section 44.

[12] 1971 (2) SCC 564
[13] (2016) 4 SCC 769
[14] (2017) 8 SCC 307

Prakash Nath Khanna v. Commissioner of Income Tax[15] is relied upon to submit the meaning of 'due time' used in taxation statutes.

26. The extension of limitation by impugned notification is also criticised on the ground that Section 168A of the GST Act only permits extension of period and does not permit the extension of time financial year wise or extension by prescribing future dates and months showing as to when limitation will expire. Since statute prescribes about extension of time, it should be understood in the same sense and method adopted by the respondents is impermissible.

27. The different last dates prescribed in the impugned notifications for different financial years was also criticised by the learned Senior Counsel. Learned Senior Counsel borrowed the argument of Sri S. Ravi, learned Senior Counsel, for distinguishing the judgment in **Barhonia Engicon Private Limited** (supra) and relied on the judgment of Division Bench of Jharkhand High Court in **Rungta Mines Limited v. State of Jharkhand**[16] to show that aforesaid circular of CBIC dated 20.07.2021 was considered by

[15] (2004) 9 SCC 686
[16] 2023 SCC OnLine Jhar 1188

the High Court in relation to Value Added Tax and it was made clear that COVID-19 relaxation is not applicable for extending limitation in such matters.

28. Sri V. Sridharan, learned Senior Counsel relied upon the judgment of Privy Council, which was followed in **T. Kaliamurthi v. Five Gori Thaikkal Wakf**[17] to submit that such limitation cannot be extended with retrospective effect. The exercise of extension of limitation is an exercise of substitutive nature. The judgment of **P.K. Unni v. Nirmala Industries**[18] was relied upon to submit that such extension of limitation is impermissible. Although, the judgment of **P.K.Unni** (supra) was overruled by the Constitution Bench in **Dadi Jagannadham v. Jammulu Ramulu**[19], it is not overruled on the point in question (paragraph No.15 of the judgment of **P.K.Unni**).

29. Lastly, learned Senior Counsel submits that GST Implementation Committee was established as in-house mechanism to take care of 'urgent procedural' matters. It was decided that the said committee awaiting meeting of GST Council can take decision in such matters and get ratified the decisions

[17] (2008) 9 SCC 306
[18] (1990) 2 SCC 378
[19] (2001) 7 SCC 71

subsequently. Clause 10.8 of minutes of 14th GST Council meeting and Clause 8.10 of 17th GST Council meeting were relied upon for this purpose. This goes to show that GST General Implementation Committee/Law Committee is different than GST Council. The ratification of a decision taken by Law Committee does not satisfy the requirement of Section 168A of the Act. The COVID-19 related difficulties were not falling within ambit of 'urgent and procedural matters', which were looked upon under administrative arrangement by the Implementation Committee.

30. Sri V.Bhaskar Reddy, learned Senior Counsel, submits that Section 166 of the GST Act makes it obligatory for the Revenue to place notification before both the houses of the Parliament. This mechanism provides a check and eschews the possibility of arbitrariness and unreasonableness. Although, this procedure is not prescribed in Section 168A, similar procedure could have been followed to ensure purity and transparency. For this purpose, he also placed reliance on Section 172 of the GST Act.

31. Sri SRR Viswanath, learned counsel representing Ms. SN Sreedevi, learned counsel for the petitioners in W.P.Nos.17967, 30621 and 33513 of 2024, placed reliance on an Article i.e., 'GST Saga'. It is submitted that GST Council is a constitutional body,

the purpose of bringing GST Act is to provide nationwide uniform taxation mechanism.

32. He relied upon para No.23 of the judgment of the Supreme Court in **Union of India v. S.Srinivasan**[20] to submit that the recommendation of GST Council is *sine quo non* and in absence thereof the notification becomes vulnerable. He has also relied upon para No.26 of the judgment of the Delhi High Court in **Vishal Puri v. Union of India**[21] to submit that the delegated legislation must ensure that purpose of enactment is satisfied. The judgment in **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumar Sheth**[22] is cited to show that essential conditions for fulfilling a provision must be satisfied.

33. By taking this Court to Minutes of 53rd GST Council Meeting, it is urged that COVID-19 pandemic was not only considered for recommending extension of limitation. The other administrative bottlenecks were also cited as reasons which cannot form part of *force majeure* clause. The ratification of

[20] AIR 2012 SC 3791
[21] 2017 (6) ADR 707
[22] (1984) 4 SCC 27

notification No.56/23 took place only on 22.06.2024. Such ratification is unknown to GST Act.

34. Sri P. Govind Reddy, learned counsel appearing in W.P.No.2851 of 2024, relied upon Section 168A of the GST Act and urged that the purpose of insertion of this provision is for empowering and enabling the primary legislation. Such provisions must be strictly construed. The power under Section 168A can be used for the purpose of cases 'not complied' or 'completed'. It cannot be used for the purpose of initiation of proceedings. A judgment of United States of America distinguishing between 'cause of action' and 'action' is also relied upon. Why the benefit of extension of limitation was extended only in favour of department and not for tax payers is another limb of argument. The *force majeure* period at best covers five months that is equal to the duration of COVID-19 pandemic period.

35. Sri M. Ramachandra Murthy, learned counsel for petitioners in W.P.No.14729 of 2024 and other matters, submits that the Apex Court in **Naresh Chandra Agrawal v. The Institute of Chartered Accountants of India**[23] culled out the principle on which a provision can be declared as *ultra vires*. The present

[23] (2024) 2 S.C.R. 194

matter falls within Clause B of the example. The impugned notification Nos.9, 13 and 56 are *ultra vires* to the parent Act. Lastly, by placing reliance para 25 of the judgment in **Chief Commissioner of Central Goods and Service Tax v. M/s.Safari Retreats Private Ltd.**[24], it is submitted that since language of Section 168A of the GST Act is unambiguous, it has to be given effect to.

36. Article 279A (4) of the Constitution envisages that GST Council 'shall' make recommendation. The language used is in mandatory form. Thus, reading this Article with Section 168A leaves no room for any doubt that existence of recommendation of GST Council is a condition precedent for exercising power under Section 168A.

37. It is further urged that the 1st notification No.35/2020, dated 03.04.2020, was issued when first wave of COVID-19 Pandemic came into being, Notification No.14/2021, dated 01.05.2021, relates to the 2nd wave of COVID-19 Pandemic and Notification No.13/2022, dated 05.07.2022, extends the limitation from 01.03.2022 to 06.02.2023, whereas, COVID-19 relaxation period as per *suo motu* order of Supreme Court was related to a period

[24] 2024 (10) TMI 286

between March, 2021 to February, 2022. The Notification No.9/2023 and 56/2023 were issued, when COVID-19 Pandemic was over. No ingredient of '*force majeure*' clause was available. Thus, it is a simple exercise showing abuse of power and is *ultra vires* to the enabling provision.

38. In W.P.No.5238 of 2024, Sri Karthik Ramana Puttamreddy, learned counsel, also urged that the impugned Notification Nos.9/2023 and 56/2023 were examples of misuse of power. So far, Notification No.9/2023 is concerned, it has backing of recommendation of 49th Meeting of GST Council. But, Notification No.56/2023 is admittedly issued without there being any recommendation of GST council. A subsequent ratification on the decision of the Law Committee became a reason to justify Notification No.56/2023. For this reason, the Gauhati High Court has already disapproved Notification No.56/2023. Furthermore, it is submitted that an attempt is being made to make un-equals as equals, which hits Article 14 of the Constitution. In the Notification No.13/2022, the benefit was granted to the Tax payers as well, whereas, no such benefit was extended in the impugned Notification Nos.9/2023 and 56/2023. If COVID-19 was a global Pandemic, the Revenue was not the only sufferer.

Tax payers were also sufferers. Thus, extending limitation only for Department by Notification Nos.9/2023 and 56/2023 hits Article 14 of the Constitution. However, on a specific query from the Bench, learned counsel for the petitioner, fairly, admitted that there is no pleading regarding discrimination in the body of the writ affidavit. It is strenuously contended by Sri Karthik Ramana Puttam Reddy, learned counsel, that the period for which limitation could have been extended is only between 05.07.2022 to 31.07.2023. While issuing Notification No.13/2022, dated 05.07.2022, it is presumed that the Revenue was aware of the hardship, which took place in interregnum period and therefore, there was no occasion to extend it any further in subsequent meeting. The hardship period can be between May 2021 and 05.07.2022 only. The minutes of the 49th Meeting of GST Council and Clause 5.7 shows that there was no *force majeure* ingredient available with them.

39. Dr.Avinash Poddar, learned counsel for the petitioner(s) in W.P.No.10591 of 2024 and other matters, urged that the Notification No.9 of 2023 is impugned in this petition. In order to exercise power under Section 168A of the GST Act, there must be a nexus between the *force majeure* condition and difficulty being

faced by the department. The instruction dated 21.08.2020 was referred to show that in the proceedings flowing from Section 73, Video Conferencing was made mandatory. Thus, issuance of notice, receiving reply, personal hearing, passing and uploading orders were smoothly going on during COVID-19 period as well. Thus, there was no difficulty for smoothly running the system. Thus, *force majeure* conditions are not satisfied. For same purpose, the instructions dated 20.07.2021 and 22.09.2021, were referred.

40. The Judgment of Supreme Court in **Energy Watchdog** (supra) is referred to show that COVID-19 order of the Supreme Court does not cover the situation like present one. Emphasis is laid on interpretation of *force majeure* as well. The Judgment of Supreme Court in **Union of India v. Mohit Minerals Pvt. Ltd.**[25] was relied upon to submit that the recommendation of GST Council is not binding on the Government. Lastly, the Judgment of Delhi High Court in **M/s.Halliburton Offshore Services Inc. v. Vedanta Limited**[26] is referred to strengthen the aforesaid arguments.

[25] (2022) 10 SCC 700
[26] O.M.P. (I) (COMM.) No.88/2020, dated 29.05.2020.

41. Sri Nishant Mishra, learned counsel, through video conference represented Sri Mohammed Omer Farooq, learned counsel for the petitioner(s) in W.P.No.2123 and 8196 of 2024 and submitted that in his matters, Notification No.9 of 2023 issued by Central Government and corresponding *pari materia* Notification No.118 of 2023 is subject matter of challenge. It is contended that Section 168A does not provide any power to 'modify' the previous notification, whereby, the limitation has already been extended. Thus, only source of power can be traced from Section 21 of the General Clauses Act. In order to exercise power under Section 21 of the said Act, twin conditions are required to be satisfied. First is that it has to be passed in like manner and on like condition. When impugned notifications were issued, the COVID-19 situation was not there. Interestingly, for Notification No.56, there existed no condition of existence of recommendation of the Council. In support of this submission, the judgment in **Kamla Prasad Khetan v. Union of India**[27] was relied upon. It is further supported by para No.24 of the judgment in **Gomantak Mazdoor Sangh v. State of Goa**[28].

[27] 1957 SCC OnLine SC 27
[28] 2022 SCC OnLine SC 587

42. The judgment of Allahabad High Court in **Graziano Transmissions** (supra) is highlighted to show that High Court clearly held that the recommendation of Council is *sine qua non* for issuing the notification. The Gauhati High Court in **M/s. Barkataki Print and Media Services** (supra) rightly held that Notification No.56 is assailable, because it is not issued pursuant to any recommendation of GST Council. The judgment of the Patna High Court in **Barhonia Engicon Private Limited** (supra) is sought to be distinguished on the ground that difference of 'recommendation' and 'ratification' was not considered. The Circular dated 20.07.2021 was not considered and erroneously the *force majeure* order of the Supreme Court was treated to be a reason justifying extension of limitation whereas even Revenue cannot raise that point in view of their own Circular.

43. The Karnataka High Court's judgment in **M/s. Sahaj Construction v. Union of India**[29] is cited wherein the Court held that *suo motu* extension order of the Supreme Court is not applicable in the proceeding like present one.

[29] 2024 (10) TMI 1166

44. It is further urged that impugned ratification runs contrary to the findings of GST Council's 49th meeting. The recommendation of Law Committee was to extend the limitation only for one time, but, it was further extended. The Circulars of Department i.e., G.O.Ms.No.45, dated 22.03.2020, G.O.Ms.No.102, dated 11.05.2021, G.O.Ms.No.116, dated 30.05.2021 and G.O.Ms.No.119, dated 08.05.2021 were relied upon to submit that the Departments were fully functional during COVID-19 period. There was no impact of COVID-19 during this period and therefore, condition of *force majeure* was not available. Lastly, it is submitted that for issuing Notification Nos.118 and 170 by Telangana State, there exists no independent recommendation by the GST Council. In absence thereof, these notifications are liable to be set aside.

45. Sri V.Bhaskar Reddy, learned Senior Counsel, further urged that in W.P.Nos.8569, 14268, 14281, 14289, 15483, 15492, 17015, 17684, 17766, 29881, 31864, 33026, 33048, 34035, 34069 & 34077 of 2024, Sri Bhaskar Reddy Vemireddy, learned Senior Counsel representing Sri V. Siddharth Reddy, learned counsel for the petitioners, submits that initially two notifications extending period of limitation were issued on 03.04.2020 and

01.05.2021 respectively. Both the notifications, except the dates mentioned therein are almost identical. In these notifications, the reason for extending time i.e. COVID-19 pandemic was specifically mentioned. However, in the third notification No.13 of 2022, dated 05.07.2022, there was no mention of COVID-19 pandemic. Similar are the notifications dated 31.03.2023 and 28.12.2023. Section 73 of the GST Act was read out to submit that this is a *simpliciter* provision and does not deal with element of suppression, fraud or misrepresentation. Section 74 is pregnant with such aspects of misrepresentation, misstatement, suppression or fraud. Section 74 provides limitation of five years, wherein assessee has committed misrepresentation, fraud or misstatement etc. By extending limitation by impugned notification confined to the cases relating to Section 73, a common assessee covered under Section 73 is brought at par with the assessee covered under Section 74 who is differently situated. Thus, un-equals are treated to be equals which hits Article 14 of the Constitution. No data is considered as to how many cases were pending during COVID-19 period which could not be decided and without undertaking aforesaid necessary exercise, as a matter of course, the limitation was extended which is bad in law.

46. Section 172 of the GST Act envisages the power of removal of difficulties. When such power is exercised, the order is required to be placed before the Parliament. Whereas, under Section 168A, there exists no such requirement to place the notification before the Parliament. Thus, there is always a possibility of abuse of power in issuing notification in purported exercise of power under Section 168A. Learned Senior Counsel also placed reliance on the minutes of the GST Council and pointed out that ratification had taken place without application of mind. The judgment in **S.Srinivasan** (supra) is cited to show that any such order which shows colorable exercise of power is bad in law. The judgment in **General Officer Commanding-in-Chief v. Subhash Chandra Yadav**[30] is referred to show that *force majeure* requirement is also not satisfied. For this purpose, the judgment in **Energy Watchdog** (supra) is also referred. The judgment of Calcutta High Court in **Gobindo Das v. Union of India**[31] was cited to show that COVID-19 relaxation by order of the Supreme Court cannot be pressed into service in the present matter.

[30] (1988) 2 SCC 351
[31] W.P.A.No.11578 of 2021, dated 01.10.2021

47. The aforesaid Notification No.13 of 2022 was issued after expiry of limitation as extended in the previous notification. For this reason also, the said notification is bad in law.

48. Sri SRR Vishwanath, learned counsel representing Ms. S.N. Sreedevi, learned counsel for the petitioners in W.P.Nos.17967, 30621 and 33513 of 2024, urged that GST Council was constituted under Article 279A of the Constitution of India. The nature of function of the Council is prescribed in this Article. The source of power of GST Council can be traced from these clauses. The extension of limitation is not one of the function/power given to the GST Council. Thus, in exercise of power under Section 168A of the CGST Act, the limitation cannot be extended because it is not in consonance with Article 279A of the Constitution. Reference is made to **Mohit Minerals Pvt. Ltd**. (supra).

Contentions of Respondents:

49. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, submits by petitioners much emphasis is laid on Section 168A of the GST Act. However, Section 168A must be read in the context of Section 44. Section 44 talks about filing of 'annual returns'. Thus, the due date is the date as flowing from Section 44 of the Act and Rule 80 of the GST Rules. By highlighting a

'table', which reflects last dates for different financial years, it is submitted that the time was extended for tax payers as well. The petitioners were not correct in contending that a step-motherly treatment was given to the tax payers and limitation was extended in various installments only in favour of Revenue.

50. Section 73 of the GST Act was relied upon to contend that one of the reason to invoke power relating to the amount 'erroneously refunded'. This 'amount' has a nexus with Section 54 and for this reason, the impugned notifications do not relate to 'erroneously refunded' amount.

51. While reading Section 168A of the GST Act, it is urged that it begins with a non-obstante/overriding clause notification can be given retrospective effect. It gives power to extend limitation relating to any provision under the GST Act.

52. Sri Dominic Fernandes placed reliance on different notifications issued from time to time. He relied on the first notification i.e., notification No.35 of 2020, dated 03.04.2020, to highlight that there is a specific mention about *force majeure* reason i.e., 'COVID-19 pandemic'. The second notification i.e. notification No.14/2021, dated 01.05.2021, also talks about

pandemic. The third notification i.e., Notification No.13/2022, dated 05.07.2022 was issued by referring both the previous notifications and it partially modified the previous notifications. Thus, only modification done is relating to limitation portion which stood substituted. Hence, contents of both the said notification Nos.35/2020 and 14/2021 must be read into notification No.13/2022. If it is read conjointly in the said manner, there will be no doubt that the reason of 'pandemic' must be read into the subsequent notifications.

53. The above notifications show that benefits were given to tax payers also. Section 54 of the GST Act contains limitation of two years. After exemption for the purpose of this Section, the limitation became four years.

54. The fourth notification i.e., notification No.9/2023, dated 13.03.2023, was affirmed by the Allahabad High Court in the case of **M/s.Graziano Trasmissioni** (supra). It is submitted that this notification is outcome of recommendation of 49th meeting of GST Council. This notification is also issued in partial modification of previous notifications and therefore, *force majeure* reason namely COVID-19 pandemic must be read into this notification.

55. The minutes of 49th meeting and deliberations shows that a conscious decision was taken by the GST Council. By elaborately reading the minutes and recommendations, Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC has taken pains to contend that the tax administration pointed out during the discussion in 49th meeting of GST Council about difficulties being faced by them in proceeding and completing the relevant exercise because of administrative problems arising out of impact of COVID-19 pandemic.

56. The notification No.56/2023, dated 28.12.2023, was referred and it was fairly contended that this notification is not outcome of any previous meeting of GST Council. He fairly admitted that notification No.56/2023 was issued on 28.12.2023 and there exists no prior recommendation of GST Council for issuance of this notification. However, on 22.06.2024 the 53rd meeting of GST Council 'ratified' the decision of 'law committee'.

57. A draft note was prepared by the 'law committee' for extending limitation for financial year 2018-19 and 2019-20. The same was proposed to be extended till 30.04.2024 and 31.08.2024 respectively. However, there was no further extension of limitation for financial year 2017-18.

58. Referring to the item Nos.6, 7, 11, 12 and 13 of discussion recorded in minutes dated 20.12.2023 (53rd GST Council meeting), it is submitted that the difficulties being faced by tax administration were highlighted before the GST Council. Item No.4 and other items of the minutes show that benefit was extended to the tax payers in Tamil Nadu and other states.

59. Noticing the words 'deemed ratification' used in GST Council Meeting, Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, fairly submits that there appears to be no statutory backing for recording any such 'deemed ratification'. The ratification is broadly referred as 'deemed ratification'. The learned Standing Counsel further urged that five High Courts have considered the impugned notifications. The Kerala High Court in **Faizal Traders Private Limited v. Deputy Commissioner**, considered the Notification Nos.9/2023 and 13/2022 and dismissed the petition. Likewise, the Division Bench of Allahabad High Court in **M/s.Graziano Trasmissioni** (supra) considered the challenge to Notification Nos.9/2023 and 13/2022 and did not interfere in the said notifications.

60. He further urged that the Karnataka High Court in **M/s. Sahaj Construction** (supra) considered the challenge to Notification No.9/2023 and declined interference. The Patna High Court in **M/s. Barhonia Engicon Private Limited** (supra) considered the Division Bench judgment of Allahabad High Court and refused to interfere in the Notifications Nos.9/2023, 56/2023 and 13/2022. The singular judgment in which Notification No.56/2023 was interfered with, is a Single Bench Judgment of Guwahati High Court in **M/s. Barkataki Print and Media Services** (supra). In **M/s. Barhonia Engicon Private Limited** (supra), the Patna High Court did not agree with this Single Bench judgment of Gauhati High Court. By taking this Court to different orders passed by Supreme Court in *suo motu* proceeding relating to COVID-19 Pandemic, learned Standing Counsel submits that the first order was passed on 23.03.2020, granting exemption for limitation w.e.f., 15.03.2020, till further orders. Subsequently, on 06.05.2020, the limitation periods were extended in relation to Section 29(A) of the Arbitration and Conciliation Act, 1996 and under relevant provisions of the Negotiable Instruments Act, 1881. It is urged that Section 29(A) aforesaid provides a time limit for taking a decision, which in that respect is similar to Section 73(10) of the GST Act. However, in the order dated 06.05.2020,

the Supreme Court only considered aforesaid Acts namely:- the Arbitration and Conciliation Act, 1996 and the Negotiable Instruments Act, 1881.

61. Furthermore, it is pointed out that on 10.07.2020, the Supreme Court included the Commercial Courts Act, 2015 for the purpose of extending limitation and opined that the limitation shall remain extended upto forty five (45) days from the date, ban/lockdown is lifted by the Government. The order of Supreme Court dated 27.04.2021 in aforesaid COVID-19 period was referred to establish that the Supreme Court made it clear that the time limit was extended not only in relation to the aforesaid enactment, but, for other laws as well. Similar orders were passed on 23.09.2021 and 10.01.2022. The order dated 10.01.2022 refers to the previous order dated 23.03.2020. It was made clear by order dated 10.01.2020 by the Supreme Court that time between 15.03.2020 to 28.02.2022 shall stand excluded in relation to any general or special law. Adverting to the circular of department dated 20.07.2021, it is urged that although, circular of department is binding, it must be noticed that the Supreme Court passed aforesaid *suo motu* orders in exercise of power under Articles 141 and 142 of the Constitution.

62. It is strenuously contended that this aspect has been dealt with by Patna High Court in **M/s. Barhonia Engicon Private Limtied** (supra) and it was held that the Supreme Court's orders extending limitation in *suo motu* jurisdiction are applicable to quasi judicial proceedings under the GST Act. The impugned notifications were issued by the department as an abundant caution.

63. It is the subjective satisfaction of the Law makers to decide the period of limitation and this Court is under no obligation to examine the period of extension of limitation on any mathematical scale. Heavy reliance is placed on the expression "in respect of" used in Section 168A and its consideration by Allahabad High Court. The Allahabad High Court made it clear that the extension of limitation cannot be treated to be a one-time exercise. Repelling the challenge to the notification, liberty was reserved to the petitioners to avail the remedy of appeal by giving them forty five (45) days' time to prefer the appeal.

64. The judgment of Karnataka High Court in **M/s.Garej Constructions** (supra) was highlighted to show that challenge to Notification No.9/2023 has failed. Heavy reliance is placed on the

judgment of Patna High Court in **M/s.Barhonia Engicon Private Limited** (supra) to buttress the submission that the general orders of Supreme Court issued in *suo motu* jurisdiction relating to COVID-19 Pandemic are indeed applicable to the proceedings under the GST Act. The Patna High Court is in agreement with the Allahabad High Court. The Circular of the Department dated 20.07.2021, on which heavy reliance is placed by the petitioners, was considered by Allahabad High Court and the judgment of Allahabad High Court was considered in *extenso* by Patna High Court. Therefore, Circular of the Department, dated 20.07.2024 is deemed to have been considered by Patna High Court.

65. Learned Standing Counsel relied on the judgment of Supreme Court in **National Institute of Technology v. Pannalal Choudhury**[32] to submit that the ratification is permissible. The ratification could very well be retrospective in nature. For the same purpose, he relied on the judgment of **Municipal Commissioner, Jamnagar** v. **R.M.Doshi**[33]. Clause 10(c) of Article 279A of the Constitution was referred to highlight that any procedural flaw or irregularity is immaterial and will not cause any dent on the decision of GST Council. To elaborate, it is

[32] 2015 (11) SCC 669
[33] 2023 SCC Online SC 550

submitted that, although, before issuing Notification No.56/2023, there existed no prior recommendation of GST council, the fact remains that while undertaking the exercise of "ratification", the GST Council could have retrospectively recommended for the extension of limitation covering the same period, for which, ratification exercise was undertaken. In that event, no fault could have been found against such decision making and issuance of notification. Thus, it is a simple procedural infirmity/irregularity, which does not cause dent on the decision. Thus, in the teeth of Clause (10)(c) of Article 279A of the Constitution, said irregularity deserves to be ignored.

66. Sri R. Sushanth Reddy, learned counsel appeared for Revenue and relied on Article 279A (7) of the Constitution to show the nature of quorum and sub Article (9) regarding decision making. He submits that the word 'may' is used in Section 168A before the expression 'on the recommendation' of the Council. This expression 'on the recommendation' of the Council is used in various sections of the GST Act. However, in many sections, this expression was used with the word 'shall'. In those provisions only where 'shall' is used, it can be said to be mandatory in nature, otherwise, it will not be inconsonance with Cooperative

Federalism Doctrine. He placed reliance on the judgment of Supreme Court in **Mohit Minerals Pvt. Ltd.** (supra) to submit that the recommendations of GST Council are not binding on the Government/legislature.

67. Learned Special Government Pleader for State Tax and Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC relied upon the judgment of Supreme Court in **Safari Retreat Private Limited** (supra) and urged that if language of taxation statute is plain and unambiguous, it should be given effect to and there is no question to search for the intention of the law makers. Equitable considerations are out of question while interpreting taxing statute. Reliance is placed on **Satish Ukey v. Devendra Gangadharrao Fadnavis**[34] and **Checkmate Services (P) Ltd. v. CIT,**[35].

Stand of Union Government:-

68. Sri B. Narsimha Sharma, learned Additional Solicitor General, while borrowing the argument of Sri Dominic Fernandes, learned Standing Counsel for CBIC, urged that the jurisprudence relating to limitation shows that no one has any vested right in

[34] (2019) 9 SCC 1
[35] (2023) 6 SCC 451

relation to the limitation. Before insertion of Section 168A in the GST Act, Section 172 was the only enabling provision to remove the difficulty. This provision also could be invoked only on the recommendation of the Council. Section 168A was introduced during COVID-19 Pandemic to take care of 'special circumstances'. Thus, language of this provision and each word used must be given full meaning. It is urged that first principle of interpretation of statute is that each word must be considered in its context and if language is plain and unambiguous, it has to be implemented irrespective of consequences. The words 'in respect of' used in Section 168A were highlighted to submit that it is not necessary to confine the extension of limitation during the currency of COVID-19 Pandemic.

69. The next contention is that the word 'recommendation' is on a lower pedestal than the word 'approval'. A plain reading of language of Section 168A shows that there was no condition put for 'prior' recommendation of the GST Council. COVID-19 created a rarest condition and in that peculiar situation, the limitations were required to be extended. No pre-existing vested right of petitioners have been infringed. The constitutionality of enabling provision i.e., Section 168A is not under challenge. Only

consequential notifications are called in question. Since impugned notifications are in conformity with Section 168A of the Act, no interference is warranted. So far, the expression 'deemed ratification' used in GST meeting is concerned, learned counsel fairly submitted that it may not be grammatically correct, but, it was used to show that once ratification takes place, the decision dates back to the original date of the notification. In this sense, the expression 'deemed ratification' is used. It is further submitted that notification No.9/2023 and other impugned notifications are conditional legislations. The scope of judicial review of sub-ordinate legislation is limited to examine: **i)** lack of competence **ii)** breach of fundamental rights **iii)** breach of constitutional rights **iv)** whether notification has travelled beyond the scope of enabling provision and **v)** whether, it is manifestly arbitrary/unreasonable. Reference is made to judgment in the case of **State of Tamil Nadu v. P. Krishnamurthy**[36].

70. Since "special circumstances" were existing to invoke Section 168A of the Act, no fault can be found in the impugned notifications. The notifications satisfied all the conditions laid down by Supreme Court in the case of **P. Krishnamurthy** (supra).

[36] 2006(4) SCC 517

In the light of argument of learned Senior Standing Counsel for CBIC, the learned Additional Solicitor General submits that the impugned notifications were issued in 'modification' of previous notifications. Thus, *force majeure* reasons given in the previous notifications must be read into the impugned notifications. The impugned notifications cannot be interfered with, merely, because in these notifications, the reason for *force majeure* is not spelled out separately.

71. It is submitted that the Law Committee requested for providing larger period of limitation, but GST Council provided lesser period. It shows that Council has applied its independent mind. Clause 2.8.1 of GST Implementation Committee minute was read out to show the march of events. It was done to highlight the circumstances in which the ratification exercise had been undertaken. **Bajaj Hindustan Limited** (supra) was relied upon to show that the word 'approval' can be at a later stage and once 'approval' or 'ratification' takes place it will date back to the date of original decision.

72. Learned Additional Solicitor General further submitted that in view of various circumstances prevailing, in the fitness of things, it was thought proper to extend the limitation and

accordingly, impugned notifications have been issued. The inconvenience in holding the meeting of GST Council is evident by reading clause 2.8.1 mentioned above. All the States are the members of Council and it was not easy to bring them on one platform during Pandemic. Thus, compelling circumstance became reason to 'ratify' the decision of 'Law Committee' at a later point of time. But, ratification relates back to the original date.

REJOINDER SUBMISSIONS:-

73. Learned Senior Counsel Sri S.Ravi, Sri Sridharan, Sri V.Bhaskar Reddy and learned counsel Sri Karthik Ramana Puttamreddy, reiterated their stand and urged that the time limit can be extended, provided, notifications extending limitation are issued during the period of extended limitation.

74. Sri Karthik Ramana Puttamreddy, learned counsel, urged that the first notification extending time limit shows that the reasons assigned for extension is 'spread of COVID'. There was no spread of COVID-19 when impugned notification Nos.13/2022, 9/2023 and 56/2023 were issued. Thus, the argument of Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, that in the impugned notifications the reason mentioned in the previous notifications must be read cannot be of any help. The

judgment of Madras High Court in **Settu v. State, represented by Inspector of Police**[37] is cited to submit that a question cropped up, whether limitation arising out of a provision of Cr.P.C., can be extended, the Court made it clear that *suo motu* COVID-19 related orders of the Supreme Court have no application in such cases.

75. Sri Nishanth Mishra, learned counsel for petitioners, submitted that notification No.13/2022 was under challenge before the Allahabad High Court. The impugned notifications are in fact conditional legislation. Thus, conditions for issuance of such legislations must be satisfied and subsequent ratification has no role to play. He placed reliance on the judgment in **Commissioner of Central Excise, New Delhi v. Hari Chand Shri Gopal**[38].

76. The word 'may' used in Section 168A of the GST Act is for the Government and not for the GST Council. The interpretation advanced by Revenue must fail.

77. Lastly, it is submitted that in *suo motu* exercise of power the Supreme Court extended the limitation on 10.01.2022.

[37] 2020 SCC OnLine Mad 1026
[38] (2011) 1 SCC 236

Thereafter, the respondents issued notification Nos.13/2022, 9/2023 and 56/2023. Hence, they have waived their right to take benefit of extension of limitation as per the said order of Supreme Court dated 10.01.2022. For this purpose, **Arce Polymers (P) Ltd. v. Alphine Pharmaceuticals (P) Ltd.,**[39] is pressed into service.

78. The parties confined their arguments to the extent indicated above.

79. We have bestowed our anxious consideration on rival contentions and perused the record.

FINDINGS:-

80. Taxation fundamentally operates as a legal principle, structured by a comprehensive set of laws, regulations, and statutory provisions that establish the processes for calculating, levying, and allocating taxes. These legal instruments, enacted by legislative bodies, aim to ensure fairness, equity and the effective financing of public services. They are crafted to prevent tax evasion, stimulate economic progress, and equitably distribute the tax obligation. However, the application of tax law is not a mere

[39] (2022) 2 SCC 221

application of set rules. The determination of taxes involves a deep dive into the factual background.

81. In order to gather the extension of time limit under various notifications at a glance, it is apposite to mention the same in a table, which reads thus:-

Year	**Last date of filing Annual Returns**	**Notf.No. 35/2020 dated 03-04-2020**	**Notf. No.14/2021 dated 01-05-2021**	**Notf. No.13/2022 dated 05-07-2022**	**Notf. No.9/2023 dated 31-03-2023**	**Notf. No.56/2023 dated 28-12-2023**
2017-18	07-02-2020	N/A	N/A	30-09-2023	31-12-2023	-
2018-19	31-12-2020	N/A	N/A	-	31-03-2024	30-04-2024
2019-20	31-03-2021	N/A	N/A	-	30-06-2024	31-08-2024

82. In the instant case, notification Nos.9/2023, 13/2022 and 56/2023 are subject matter of challenge. Section 168A of the Act reads thus:-

> "**168A. Power of Government to extend time limit in special circumstances.—**
> (1) Notwithstanding anything contained in this Act, the Government may, **on the recommendations of the Council**, by notification, extend the time limit specified in, or prescribed or **notified** under, this Act **in respect of actions** which cannot be completed of complied with **due to *force majeure***.
>
> (2) The power to issue notification under sub-section (1) shall include the power to give **retrospective effect** to such notification from a date not earlier than the date of commencement of this Act.

> *Explanation.*--For the purposes of this section, the expression "*force majeure*" means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act."
>
> (Emphasis Supplied)

83. A plain reading of this provision makes it clear that it gives power to the Government to the extend time limit in 'special circumstances'. The provision begins with a *non-obstante* clause and provides that on the recommendation of the Council, the time limit 'specified in' or 'prescribed' or 'notified' under this Act can be extended. It is noteworthy that the time limit can be extended '*in respect of actions*' which cannot be completed or complied with due to '*force majeure*'. Sub-section (2) of Section 168A enables the Government to issue notification with retrospective effect. The 'explanation' defines the expression 'force *majeure*'. In the instant case, it is not in dispute that COVID-19 Pandemic falls within the ambit of '*force majeure*'.

84. The contention of the petitioners is that the letter of the Home Department to Chief Secretaries issued on 22.03.2022 shows that COVID-19 Pandemic came to an end on 23.02.2022 and therefore restrictions imposed under the Disaster Management Act, 2005 were decided to be lifted. Thus, when impugned notifications were issued, the Pandemic was no more

there and therefore 'force *majeure'* conditions are not satisfied. The argument on the first blush appears to be attractive, but, lost much of its shine when minutely examined in the light of language employed in Section 168A of the GST Act. Section 168A in no uncertain terms makes it clear that the time limit can be extended *'in respect of actions'* which could not be completed or complied with, due to force *majeure*. The words 'in respect of' were considered by the Supreme Court in the context of Section 23(1)(B) and it means that '*being connected with*' (see **Union of India and another** v. **Vijay Chand Jain**[40]).

85. The Allahabad High Court considered the words '*in respect of*' in the case of **Graziano Transmissioni** (supra) and opined as under:

> "126. As submitted by Sri Mahajan, the words "due to force majeure" are preceded with a general expression "in respect of". Thus, besides intrinsic evidence existing in the Explanation to Section 168-A of the Act (as discussed above), there is equally convincing evidence available in the use of the words "in respect of". The legislature clearly did not intend to provide for additional limitation only to complete actions that had been already undertaken. The words "in respect of" are clearly used to enlarge the scope of exercise of the conditional legislation function. Thus, anything directly linked to the performance of action for which time-limitation may have been specified, prescribed or notified under the Central Act and the State Act and which action is perceived "cannot be completed or complied",the delegated/conditional legislation in the shape of Section 168-A, may arise.

[40] AIR 1977 SC 1302

127. As discussed above, scrutiny and audit of returns was directly linked to framing of adjudication orders. To the extent that scrutiny and audit work was obstructed directly for reason of spread of the pandemic COVID-19, as was judicially noted in the order passed by the Supreme Court *Cognizance for Extension of Limitation, In re* [*Cognizance for Extension of Limitation, In re*, 2022 SCC OnLine SC 2391] for the duration 15-3-2020 to 28-2-2022, it is not for this Court to reach another conclusion in that regard. Thus, the decision of the Supreme Court in *Energy Watchdog case* [*Energy Watchdog* v. *CERC*, (2017) 14 SCC 80 : (2018) 1 SCC (Civ) 133] and *Dhanrajamal Gobindram case* [*Dhanrajamal Gobindram* v. *Shamji Kalidas & Co.*, 1961 SCC OnLine SC 28 : AIR 1961 SC 1285] are therefore not decisive of the issue involved in the present case. In view of judicial notice taken as to existence of "force majeure" circumstance up to 28-2-2022, there is no reason to conduct any further/deeper enquiry — as to its exact duration, in the context of challenge laid to a legislative action.

128.xxx

129. The submission that the issuance of the impugned notifications are prejudicial to the rights and interest of the taxpayers does not find our acceptance in the context of the discussion made above. A legislative action cannot be complained of as being prejudicial on account of extension of limitation. Limitation, though statutory, is not a pre-existing vested right of any party. It gets created and extinguished in accordance with the statutory law. Insofar as the statutory law prescribes a limitation, no argument may arise against such prescription made. Further, in the case of conditional legislation, the submission that it is not peripheral but substantive also looses its relevance in face of conditions seen fulfilled. Once the conditions for exercise of delegated legislative function stood fulfilled, no further test or scrutiny may arise, in that regard. Therefore, the decision of the Supreme Court in *Sudhir Kumar Singh case* [*State of U.P.* v. *Sudhir Kumar Singh*, (2021) 19 SCC 706 : AIR 2020 SC 5215] and *Independent Schools' Association, Chandigarh (Registered) case* [*Independent Schools' Assn.* v. *Union of India*, (2022) 14 SCC 387] are also of no avail. Here, conditional legislation arose in accordance with law. Therefore, no fault is found therein. Accordingly, the decision in *Lachmi Narain case* [*Lachmi Narain* v. *Union of India*, (1976)

2 SCC 953 : 1976 SCC (Tax) 213 : (1976) 37 STC 267] is also not applicable to the present facts."

(Emphasis Supplied)

86. We are in agreement with the view taken by the Allahabad High Court that the words '*in respect of actions'* are very wide and brings within its ambit the previous actions of COVID-19 period, which could not be completed or complied with, due to *force majeure*. Thus, we are unable to persuade ourselves with the line of argument of learned counsel for the petitioners that the time limit could have been extended only in relation to the period during which COVID-19 was subsisting. In the manner statute i.e., Section 168A is worded, there is no cavil of doubt that the Law makers intended to give it a broader umbrella to bring within its shadow, such actions which could not be completed or complied with, due to *force majeure*. The deliberations in the GST Council Meeting on which heavy reliance is placed by learned Senior Standing Counsel for CBIC and learned Additional Solicitor General, shows that there were continuous deliberations in this regard and GST Council was aware that *due to COVID*, the Revenue administration was facing difficulties and is not in a position to complete the relevant exercise within the stipulated time.

87. So far, argument of Sri V.Bhaskar Reddy, learned Senior Counsel, regarding non-availability of data to show the number of cases and nature of handicap faced by Revenue administration is concerned, we are only inclined to observe that, as rightly held by Allahabad High Court, the same is beyond the scope of judicial review. The existence of *force majeure* conditions is one of the condition precedents. The magnitude of the difficulty based on quantifiable data cannot be subject matter of adjudication. This Court is under no obligation to examine the said data as an appellate Court to give a finding whether such a decision was warranted or not. No such exercise with mathematical accuracy and precession can be undertaken in exercise of jurisdiction under Article 226 of the Constitution of India.

88. Another argument forcefully canvassed was based on conjoint reading of Sections 44, 73(1) and Section 168A of the GST Act. Section 44 and relevant portion of Section 73(10) are reproduced for ready reference:

> "**Section 44. Annual return:**
>
> (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return **furnished for the financial year**, with the audited annual financial statement for every financial year

> electronically, within such time and in such form and in such manner as may be prescribed:
>
> **Section 73(10):** The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund."
>
> (Emphasis Supplied)

89. The contention of Sri Sridharan, learned Senior Counsel, is that the limitation is to be gathered from a conjoint reading of Sections 44 and 73(10) of the GST Act. By invoking Section 168A, the notification can be issued to extend the limitation provided in the aforesaid sections. In other words, the power to extend the limitation is relating to the limitation prescribed in Section 73(10). Thus, such limitation could have been extended by issuing notification under Section 168A, whereas, respondents have issued multiple notifications including the impugned notifications, whereby they extended the time limit extended by notifications and not the time limit mentioned in Section 73(10). This argument deserves serious consideration. No doubt, Section 73 (10) provides that the Proper Officer must issue order under Sub-Section 9 of Section 73 within three years from the due date of issuing annual return. The interesting *conundrum* is, whether, extension notification issued under Section 168A can be confined

to this limitation only and cannot be issued to extend the limitation extended by notifications.

90. A microscopic reading of Sub-Section 1 of Section 168A of the GST Act shows that it enables the Government to issue notification on the recommendations of the Council and extend the time limit 'specified in' or 'prescribed' or 'notified' *under the Act.* It is noteworthy that the Law makers have not chosen the words 'in/by the Act'. Instead, they employed the expression 'under the Act'. The expression 'under the Act' is wider than the words 'in the Act'. The Apex Court had an occasion to consider this expression in **Indramani Pyarelal Gupta** v. **W.R.Natu**[41] and held as under:

> "15. A more serious argument was advanced by learned counsel based upon the submission that a power conferred by a bye-law framed under Section 11 or 12 was not one that was conferred "by or under the Act or as may be prescribed". Learned counsel is undoubtedly right in his submission that a power conferred by a bye-law is not one conferred "by the Act", for in the context the expression "conferred by the Act" would mean "conferred expressly or by necessary implication by the Act itself". It is also common ground that a bye-law framed under Section 11 or 12 could not fall within the phraseology "as may be prescribed", for the expression "prescribed" has been defined to mean "by rules under the Act" i.e. those framed under Section 28 and a bye-law is certainly not within that description. The question therefore is whether a power conferred by a bye-law could be held to be a power "conferred *under* the Act". The meaning of the word "*under the Act*" is well known. "*By*" an Act would mean by a provision directly enacted in the statute in question and which is

[41] AIR 1963 SC 274

> gatherable from its express language or by necessary implication therefrom. The words "**under the Act**" would, in that context, signify what is not directly to be found in the statute itself but is conferred or imposed by virtue of powers enabling this to be done; in other words, bye-laws made by a subordinate law-making authority which is empowered to do so by the parent Act. The distinction is thus between what is directly done by the enactment and what is done indirectly by rule-making authorities which are vested with powers in that behalf by the Act. (Vide *Hubli Electricity Company Ltd.* v. *Province of Bombay* [76 IA 57 at p. 66] and *Narayanaswamy Naidu* v. *Krishnamurthi* [ILR 1958 Mad 513 at p. 547]..."
>
> (Emphasis Supplied)

91. Thus, the expression "under the Act" is wide enough to include the notifications issued as per Section 168A of the GST Act and time limit extended under these notifications can very well be further extended, while exercising power "under the Act". Putting it differently, the time limit can be extended in three situations namely:- i) 'specified' in ii) 'prescribed' in or iii) 'notified' under the Act. The impugned notifications extending time limit fall within the ambit of 'notified' *under the Act* and such time limit can be extended by invoking power under Section 168A. It is equally important to note that the opening words of Sub-Section 1 of Section 168A. It opens with an overriding clause, which makes it clear that notwithstanding anything contained in the GST Act, such notifications extending time limit can be issued. In view of this analysis, this argument must fail.

92. The next limb of argument is based on the words "on the recommendation" of the Council. As noticed, the parties have taken diametrically opposite stand on the interpretation of this provision.

93. Before dealing further, it is apposite to remind ourselves about general principles of construction in taxing statutes. In a classic passage LORD CAIRNS stated the principle thus: 'If the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of law the case might otherwise appear to be. In other words, if there be admissible in any statute, what is called an equitable, construction, certainly, such a construction is not admissible in a taxing statute where you can simply adhere to the words of the statute (see **Partington v.A.G**.[42]). VISCOUNT SIMSON quoted with approval a passage from ROWLATT, J., expressing the principle in the following words: 'In a taxing Act one has to look merely at what is clearly said. There is no room for any

[42] (1869) LR 4 HL 100

intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used (see **Cape Brandy Syndicate v. IRC**[43]). The above principle of strict construction of taxing statutes was quoted with approval in **Commissioner of Income-tax, Madras v. Kasturi & Sons**[44] where the word 'moneys' in the expression 'moneys payable' in Section 41(2) of the Income-tax Act, 1961 was not construed to include 'money's worth'. In interpreting a section in a taxing statute, according to LORD SIMONDS, 'the question is not at what transaction the section is according to some alleged general purpose aimed, but what transaction its language according to its natural meaning fairly and squarely hits (see **St. Aubyn (LM) v. A.G.**[45]. LORD SIMONDS call this 'the one and only proper test'."

94. The expression *on the recommendation of Council* leaves no room for any doubt that this is a condition precedent or *sine qua non* for the Government for taking a decision regarding issuance of notification. During the course of hearing, learned counsel for the parties relied on the judgment of **Mohit Minerals Pvt. Ltd.** (supra) to canvass that the recommendation of the GST Council is

[43] (1921) 1 kb 64
[44] JT 1999 (2) SC 272
[45] (1951) 2 All ER 473

not binding on the Government. In our view, this is not the point involved in the present case. This is nobody's case that the GST Council passed any recommendation, which became foundation of Notification No.56/2023. The Government, in its wisdom may take a decision to modify or not to accept the recommendation of GST Council. Thus, the judgment of **Mohit Minerals Pvt. Ltd.** (supra) is of no assistance to Revenue. We are in respectful agreement with the findings given in this regard by Allahabad High Court in **Graziano Transmissioni** (supra) and Patna High Court in **M/s. Barhonia Engicon Private Limited** (supra).

95. The plain and unambiguous language of the statute in Section 168A leaves no room for any doubt that *on the recommendation of the Council* alone, Government can issue the notification. Thus, the argument and judgments relating to 'ratification' and giving stamp of approval to the decision of implementation committee/law committee with retrospective effect of GST Council fades into insignificance. We find substance in the argument of learned Senior Counsel Sri S. Ravi and V. Sridharan based on the judgment of **Martwada University** (supra) that when the statute gives power to a particular statutory body to act in a particular way, the said decision cannot be taken by any other

body. This is trite that when the statute prescribes thing to be done in a particular manner, it has to be done in the same manner and other methods are forbidden. This was held to be cardinal principle of interpretation way back in 1875, 1 Ch.D.426 p.431) in **Taylor** v. **Taylor**. The Privy Council and Supreme Court consistently followed said ratio in **Nazir Ahmad** v. **King-Emperor**[46], **Chandra Kishore Jha** v. **Mahavir Prasad**[47], **Babu Verghese** v. **Bar Council of Kerala**[48], **Zuari Cement Ltd.** v. **ESI Corpn**[49], **Brajendra Singh Yambem** v. **Union of India**[50], **Public Interest Foundation** v. **Union of India**[51], **Muncipal Corpn.of Greater Mumbai** v. **Abhilash Lal**[52], **OPTO Circuits (India) Ltd.** v. **Axix Bank**[53], **Krishna Rai** v. **Banaras Hindu University**[54] **and Dharmin Bai Kashyap** v. **Babli Sahu**[55].

96. As analyzed above, we are unable to follow the line of argument of learned Senior Standing Counsel for CBIC and learned Additional Solicitor General that 'ratification' can be a substitute of 'recommendation'. The judgments cited by the

[46] 1936 SCC OnLine PC 41
[47] (1999) 8 SCC 266
[48] (1999) 3 SCC 422
[49] (2015) 7 SCC 690
[50] (2016) 9 SCC 20
[51] (2019) 3 SCC 224
[52] (2020) 13 SCC 234
[53] (2021) 6 SCC 707
[54] (2022) 8 SCC 713
[55] (2023) 10 SCC 461

Revenue about 'ratification' and 'approval' are based on different statutes and cannot be pressed into service in the instant case considering the plain language of Section 168A of the GST Act. In the case of **Bajaj Hindustan Ltd.** (supra), the Apex Court considered its previous judgment in **LIC v. Escorts**[56] laid emphasis on 'contextual situation' and 'design of legislation demand'. The textual and contextual interpretation of unambiguous language of Section 168A does not permit any 'ratification' exercise.

97. Article 279A of the Constitution of India deals with the constitution and role of GST Council. Learned Senior Standing Counsel for CBIC placed reliance on Clause 10 (c) of Article 279A of the Constitution to establish that procedural irregularity of Council, which does not affect the merits of the case, will not make the decision or proceeding of Council as invalid. We do not see any merit in this contention, because, the petitioners have not challenged any act or proceeding of the GST Council, which could have been saved under Clause 10 (c) of Article 279A. Instead, the notification of the Government No. 56/23 which is admittedly issued without there being any recommendation of Council is

[56] (1986) 1 SCC 264

subject matter of challenge. Thus aforesaid provision of Constitution does not insulate the notification issued by the Government on the basis of any irregularity of the Council. Even otherwise, the irregularity cannot be said to be a 'procedural irregularity'. The Implementation Committee/Law Committee is neither a constitutional nor a statutory body. It is an in-house creation of GST Council for convenience to run the administration. The decision taken by Implementation Committee/Law Committee, on which Notification No.56/2023 is based, cannot be said to be the decision of GST Council. The ratification of such legislative action is unknown to law. The judgments cited by Revenue were related to the executive action and were not dealing with legislative action, whereas, the judgment of **Maratwada University** (supra) deals with such subordinate legislative action. Thus, 'ratification' done after issuance of Notification No.56/2023 will not provide life to Notification No.56/2023.

98. Sri R. Sushanth Reddy, learned counsel appeared for Revenue, submits that the word "may" is used in Section 168A of the GST Act, whereas, in certain other sections before the words 'on the recommendation of the Council', the Law makers used the

word "shall". Thus, existence of recommendation is not a *sine qua non* or a precondition for issuing notification under Section 168A.

99. This is trite that as a rule of thumb, it cannot be said that the use of word 'may' makes the provision directory and conversely, use of word 'shall' makes it imperative or mandatory. The interpretation depends on 'text' and context both. '*Deha*' and '*Dehi*' both are important (see **Board of Mining Examination and Chief Inspector of Mines v. Ramjee**[57], **RBI v. Peerless General Finance & Investment Co. Ltd.,**[58] and **Ajay Maken v. Adesh Kumar Gupta**[59])

100. Thus, the scheme of provision, purpose for bringing it in the statute book and serious or general inconvenience or injustice to persons likely to be effected are relevant factors for the purpose of interpretation of a provision. The Apex Court in **Dhampur Sugar Mills Ltd. v. State of U.P.,**[60] opined thus:

> "35. Reading the substantive provisions in the Act as also subordinate legislation by way of the Rules, there is no doubt in our minds that the submission of the learned counsel for the writ petitioner that such a Committee ought to have been constituted by the State is well founded and must be upheld. The High Court dealt with the submission of the writ petitioner but did not accept it observing that the

[57] (1977) 2 SCC 256
[58] (1987) 1 SCC 424
[59] (2013) 3 SCC 489
[60] (2007) 8 SCC 338

> legislature had used the expression "*may*" and not "*shall*" in Section 3 of the Act. The Court ruled that the provision was merely directory and not mandatory.
>
> 36. We are unable to subscribe to the above view. In our judgment, mere use of word "*may*" or "*shall*" is not conclusive. The question whether a particular provision of a statute is directory or mandatory cannot be resolved by laying down any general rule of universal application. Such controversy has to be decided by ascertaining the intention of the legislature and not by looking at the language in which the provision is clothed. And for finding out the legislative intent, the court must examine the scheme of the Act, purpose and object underlying the provision, consequences likely to ensue or inconvenience likely to result if the provision is read one way or the other and many more considerations relevant to the issue."
>
> (Emphasis Supplied)

101. The Apex Court in **May George v. Tahsildar**[61], at paragraph Nos.15 and 25 held as under:

> "15. While determining whether a provision is mandatory or directory, **in addition to the language used therein, the Court has to examine the context in which the provision is used and the purpose it seeks to achieve. It may also be necessary to find out the intent of the legislature for enacting it and the serious and general inconveniences or injustice to persons relating thereto from its application.** The provision is mandatory if it is passed for the purpose of enabling the doing of something and prescribes the formalities for doing certain things.
>
> 25. The law on this issue can be summarised to the effect that in order to declare a provision mandatory, **the test to be applied is as to whether non-compliance with the provision could render the entire proceedings invalid or not. Whether the provision is mandatory or directory, depends upon the intent of the legislature and not upon the language for which the intent is clothed. The issue is to be examined having regard to the context, subject-matter and object of the statutory provisions in question.**

[61] (2010) 13 SCC 98

> **The Court may find out as to what would be the consequence which would flow from construing it in one way or the other and as to whether the statute provides for a contingency of the non-compliance with the provisions and as to whether the non-compliance is visited by small penalty or serious consequence would flow therefrom and as to whether a particular interpretation would defeat or frustrate the legislation and if the provision is mandatory, the act done in breach thereof will be invalid.**"
>
> (Emphasis Supplied)

102. The purpose behind using the phrase 'on the recommendation of Council' is to equip the Government with the expert opinion of an expert constitutional body i.e., GST Council. This enables the Government to take an informed decision based on such opinion of Council. Since all the States have participation in the Council, the recommendation of Council will certainly be in consonance with doctrine of cooperative federalism. The decision of Government on such recommendation in the shape of notification will certainly has serious impact on taxpayers. Section 73(10) prescribes period of three years from due date for issuing order and Section 75(10) is pregnant with a deeming clause that if order is not passed within three years as per Section 73(10) the proceeding shall be deemed to be concluded. Hence, notification extending time limit issued under Section 168A can impact the tax payer for the purpose of conclusion of proceedings as per conjoint reading of Section

73(10) and 75(10) of the GST Act. Therefore, in our judgment, the word 'may' does not make the provision i.e., Section 168A as directory.

<u>*Suo motu* orders of Supreme Court relating to extension of COVID-19 pandemic:</u>

103. The parties are at logger heads on the aspect whether the orders of Supreme Court in *suo motu* jurisdiction can be pressed into service.

104. Sri S. Ravi, learned Senior Counsel and Sri Sreedharan, learned Senior Counsel, have taken pains to submit that as per the CBIC Circular No.157/13/2021-GST, dated 20.07.2021, the Department itself understood that said COVID-19 related extensions granted by Supreme Court cannot be made applicable in the proceedings under Section 73/quasi judicial proceedings under the GST Act. Interestingly, Sri Nishant Mishra, learned counsel for the petitioners submitted that despite directions of Supreme Court in *suo motu* jurisdiction extending limitation, the Department issued impugned notifications. Thus, they have waived their right to take benefit of extension of limitation as per the order of Supreme Court. He placed reliance on the judgment of Supreme Court in **Arce Polymers (P) Ltd.** (supra).

105. Before dealing with this argument, it is apposite to consider the orders of Supreme Court, passed time to time, in *suo motu* Writ Petition (C) No.3 of 2020. On 23.03.2020, as rightly pointed out by Sri Dominic Fernandes this first order was related to Section 29A of the Arbitration and Conciliation Act, 1996 and the Negotiable Instruments Act. However, on 8th March, 2021, in the said *suo motu* jurisdiction, the following directions were passed:

> "2. We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions: -
>
> 1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.
>
> 2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.
>
> 3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 **and any other laws, which prescribe period(s) of limitation for instituting proceedings,** outer limits (within which the court or tribunal can condone delay) and termination of proceedings."
>
> (Emphasis Supplied)

106. Likewise, on 27.04.2021, the Supreme Court directed as under:

> "We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant- public in all the states. **We, therefore restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.**
>
> It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.
>
> We have passed **this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India.** Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities."
>
> (Emphasis Supplied)

107. On 23.09.2021, the Supreme Court again ordered as under:

> "8. Therefore, we dispose of the M.A. No.665 of 2021 with the following directions: -
>
> I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021.

> II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.
>
> III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 **and any other laws, which prescribe period(s) of limitation for instituting proceedings**, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."
>
> (Emphasis Supplied)

108. Lastly, on 10.01.2022, the Supreme Court directed as under:

> "III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.
>
> **IV.** It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 **and any other laws, which prescribe period(s) of limitation for instituting proceedings,** outer limits (within which the court or tribunal can condone delay) and termination of proceedings."
>
> (Emphasis Supplied)

109. A conjoint reading of these orders, make it clear that the direction of Supreme Court for excluding the period of limitation is not confined to only Arbitration and Conciliation Act, Commercial Courts Act and Negotiable Instruments Act. The directions were extended in relation to "any other laws which prescribe period(s) of limitation for instituting proceedings". It cannot be doubted that Section 73 is one of such provision whereby proceeding can be instituted.

110. We will be failing in our duty if argument of Sri V. Bhaskar Reddy, learned Senior Counsel, is not considered based on the portion which is within bracket in para IV of order of Supreme Court dated 10.01.2022. The contention of learned Senior Counsel was that it relates to such limitation for instituting proceedings where outer limit is prescribed in relation to any proceeding of Court or Tribunal. The superficial reading of this direction No.IV can certainly lead to such confusion. However, a microscopic reading of para IV shows that there exists a "comma" between the expression ..... 'and any other laws, which prescribe period(s) of limitation for instituting proceeding' and 'outer limits (within which the Court or Tribunal can condone the delay)'. The punctuation has great significance in this paragraph. The

"comma" is also used in similar manner by Supreme Court when direction was issued on 23.09.2021.

111. Justice G.P. Singh in *Principle of Statutory Interpretation* (12th Edition) recorded thus:

> **6. Punctuation**
>
> ".....When a statute is carefully punctuated and there is doubt about its meaning, a weight should undoubtedly be given to punctuation...."
>
> ".....But it would appear, at any rate, with respect to modern statutes. State that if the statute in question is found to be careful punctuated, punctuation, though a minor element, may be resorted to for purposes of construction. An illustration of the aid derived from punctuation may be furnished from the case of **Mohd. Shabbir v. State of Maharashtra (AIR 1979 SC 564)** where section 27 of the Drugs and Cosmetics Act, 1940 came up for construction. By this section whoever 'manufactures for sale, sells, stocks or exhibits for sale or distributes a drug without a licence is liable for punishment. In holding that mere stocking is not an offence within the section, the Supreme Court pointed out the presence of comma after 'manufactures for sale' and 'sells' and absence of any comma after 'stocks'. It was, therefore, held that only stocking for sale could amount to offence and not mere stocking. For another example of the use of punctuation, reference may be made to *M.K. Salpekar (Dr.) Sunil Kumar Shamsunder Chaudhari (AIR 1988 SC 1841)* where the court construed clause 13(3)(v) of the C.P. and Berar Letting of Houses and Rent Control Order. This provision permits ejectment of a tenant on the ground that "the tenant has secured alternative accommodation, or has left the area for a continuous period of four months and does not reasonably need the house". In holding that the requirement that the tenant 'does not reasonably need the house' has no application when he 'has secured alternative accommodation' the court referred and relied upon the punctuation comma after the words alternative accommodation...."
>
> (Pages 173-174)

112. The Apex Court in **Kantaru Rajeevaru v. Indian Young Lawyers Assn.**[62] held as under:

> "18. When a statute is carefully punctuated and there is doubt about its meaning, weight should undoubtedly be given to the punctuation. [See: *Crawford: Interpretation of Law (Statutory Construction).*]..."
>
> (Emphasis Supplied)

113. The order of Supreme Court is carefully punctuated by providing a 'comma' as highlighted above and therefore weight must be given to such punctuation. In this view of the matter, we are unable to hold that the order of Supreme Court was confined to such proceedings alone which were pending in the Court or Tribunal.

114. The aforesaid orders of the Supreme Court leave no room for any doubt that the power was exercised under Article 141/142 of the Constitution. In peculiar situation like COVID-19, the Supreme Court exercised its extraordinary power and declared the law for the nation. This is trite that while a judgment of a Court binds only the parties to the litigation before it, a judgment of Supreme Court is something more, by virtue of Article 141/142, it declares the law for the nation (see **Ganga Sugar Corporation Limited v. State of Uttar Pradesh**[63]). The directions issued by

[62] (2020) 9 SCC 121
[63] AIR 1980 SC 286

Supreme Court in *suo motu* jurisdiction binds the entire nation and it cannot be said that the same are inapplicable in the present proceedings. A Constitution Bench of Apex Court in **CCE v. Ratan Melting & Wire Industries**[64] has drawn the curtains and held as under:

> "7. Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the court to direct that the circular should be given effect to and not the view expressed in a decision of this Court or the High Court. So far as the clarifications/circulars issued by the Central Government and of the State Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the court. It is for the court to declare what the particular provision of statute says and it is not for the executive. Looked at from another angle, a circular which is contrary to the statutory provisions has really no existence in law."
>
> (Emphasis Supplied)

This view is recently followed by the Supreme Court in **Commissioner of Central Excise and Service Tax, Rohtak v. Merino Panel Product Limited**[65].

115. We concur with the view taken by the Patna High Court. The High Court, in our respectful view, rightly opined that issuance of impugned notifications may be an exercise in abundant caution. Relevant portion reads as under:

---

[64] (2008) 13 SCC 1
[65] (2023) 2 SCC 597

> "40. We emphasize that insofar as the three-year period; relatable to the statutory limitation, there is substantial exclusion, as provided for by the Hon'ble Supreme Court in Para-1 of the directions in its decision. Hence, it is paragraph-5(I) which is applicable to the instant case, and not paragraph-5(III) and there can be no ground raised that the issuance of orders should have been within three months from 28.02.2022, especially since, as per the extension of time for filing final returns, the limitation for the years of 2017-2018, 2018-2019 and 2019-2020 would have fallen only on 07.02.2023, 31.12.2023 and 31.03.2024; all of which fall after 28.02.2022. The entire period or portions of the period excluded by the Hon'ble Supreme Court, fall within the three year limitation period in each of the subject years, as we have already detailed. The limitation hence stand extended to the extent of the periods exempted by the Hon'ble Supreme Court. However, since notifications are issued by the respective Governments extending the period of limitation, necessarily the limitation for the three subject years would stand extended only to that notified.
>
> 41. We find absolutely no reason to interfere with the orders passed, on the ground of limitation."
>
> (Emphasis Supplied)

116. In **Olga Tellis v. Bombay Municipal Corporation**[66], the Supreme Court held that there can be no *estoppel* against the constitution. It was further held that plea of *estoppel* is closely connected with the plea of waiver. The object of both being is to ensure bona fides in day to day transactions. In view of foregoing analysis, we are constrained to hold that order of Supreme Court dated 10.01.2022 passed in *suo motu* Writ Petition (Civil) No.3 of 2020, is indeed, applicable to the proceeding under the GST Act. Thus, the question of validity of notifications pales into

[66] (1985) 3 SCC 545

insignificance. Since the period between 15.03.2020 to 28.02.2022 stood excluded for the purpose of counting limitation by an order which became law of the land, the remaining argument relating to validity of notifications became academic in nature. After excluding limitation from 15.03.2020 to 28.02.2022, it cannot be said that action of respondents in proceeding against the petitioners is barred by limitation.

117. The COVID-19 Pandemic created extraordinary difficulties which could not have been anticipated, measured and solved with mathematical precision. COVID-19 was not a creation of Government. Thus, hair-splitting in many aspects must be eschewed. For example, the argument of Sri Karthik Ramana Puttamreddy that in the initial notification extending limitation, 'spread of COVID' was shown as a reason which cannot be a justification for issuance of impugned notifications issued after COVID-19 was over. While dealing with such an extraordinary crisis, Government's action must be viewed in a broad perspective.

118. In view of our finding that period between 15.03.2020 to 28.02.2022 stood excluded for limitation as per Supreme Court's order, remaining points raised by the petitioners relating to legality of impugned notifications need not be dealt with.

119. In this batch of matters, admittedly, the petitioners have a statutory efficacious alternative remedy of appeal. These matters were entertained despite availability of above remedy because the petitioners assailed the impugned notifications Nos.13 of 2022, 9 and 56 of 2023. In view of order of Supreme Court dated 10.01.2022, since we find no reason and justification to interfere with those notifications. The petitioners may avail the statutory remedy of appeal.

120. The Allahabad High Court in **Graziano Transmissions** (supra), in this regard held as under:

> "138. Seen in that light the decisions cited by learned counsel for the petitioners are found to be distinguished. The writ petitions challenging the issuance of the impugned notifications must fail. Hearing of all cases where adjudication proceedings are pending may recommence and be concluded, after excluding the duration of stay of the extended limitation to frame the adjudication order. Wherever adjudication orders have been passed and recovery stayed by this Court, the petitioners shall have 45 days from today to file appropriate appeals.
>
> 139. The writ petitions are thus dismissed. No order as to costs."
>
> (Emphasis Supplied)

121. These Writ Petitions are accordingly **disposed of** by reserving liberty to the petitioners to avail the remedy of statutory appeal. If the appeal is preferred by the petitioners within 45 days before the appellate authority, the said authority shall consider

and decide the appeal on merits and it shall not be thrown overboard on the ground of limitation. It is made clear that this Court has not expressed any opinion on merits of the cases. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

SUJOY PAUL, J

Dr. G. RADHARANI, J

02nd January, 2025.
Note: L.R. copy be marked.
B/o. TJMR

CASE 21 OF 34 · GROUP C

M/s D.R. Hotels Pvt. Ltd. v. Deputy Commissioner, Sector 20, State GST, Lucknow

Court	High Court of Judicature at Allahabad
Bench	Alok Mathur and Arun Kumar Singh Deshwal, JJ.
Date	25.06.2025
Case no. / citation	2025:AHC-LKO:36334-DB; WRIT TAX No. 575 of 2025

Holding in brief

Where notices went to the registered e-mail/mobile and no natural-justice violation is shown, the statutory appeal is the remedy. Writ petition dismissed; petitioner relegated to appeal.

Provisions involved

CGST Act, 2017: Sections 73, 107 and 169

Status

Dismissed; held in favour of the revenue. Directions: Petitioner relegated to the First Appellate Authority.

The judgment begins on compendium page 451.

Neutral Citation No. - 2025:AHC-LKO:36334-DB

Court No. - 2

Case :- WRIT TAX No. - 575 of 2025

Petitioner :- M/S D.R. Hotels Pvt. Ltd. Gomti Nagar Lucknow Thru. Finance Director Mr. Amitabh Porwar

Respondent :- Deputy Commissioner,Sector 20 State Gst Lucknow

Counsel for Petitioner :- Jameel Ahmad

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur, J.
Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Vineet Kumar Singh, learned counsel appearing for the petitioner and Sri Sanjay Sarin, learned counsel appearing on behalf of the respondent.

2. At the outset, learned counsel for the petitioner submits that there are typographical errors in the petition in as much as the authority who has passed the impugned order has wrongly been mentioned as Additional Commissioner, State Tax Grade II while the impugned order has been passed by Deputy Commissioner, Sector 20, Lucknow and prayed that he may be permitted to make necessary amendment in the petition.

3. The oral prayer is allowed. Learned counsel for the petitioner is directed to make necessary amendment during course of the day.

4. By means of the present writ petition filed under Article 226 of the Constitution of India, the petitioner has assailed the assessment order dated 19.2.2025 passed by Deputy Commissioner, State Tax, Sector-20, Lucknow under Section 73 of Goods and Services Tax (GST) and also consequential order dated 11.6.2025 passed by Deputy Commissioner, Khand-20, Lucknow wherein the bank account of the

petitioner has been freezed.

5. It has been submitted that the petitioner is running a 5 star Hotel at Lucknow which is registered with GST Department. The present dispute pertains to period April, 2020 to March, 2021 where the assessment proceedings were conducted by the assessing officer. It has been submitted that notices were issued to the petitioner on e-mail and mobile number provided by him at the time of registration under the GST Act. Without receiving any reply/response from the petitioner the assessing authority proceeded to make ex-parte assessment by means of the impugned order dated 19.2.2025.

6. Petitioner submits that he did not receive any communication or any of the notices sent by the assessing authority. At the time of registration with the authority is under the GST Act , the mobile number as well as e-mail address was given which pertained to the Manager of the petitioner who was dealing with the aspect pertaining to accounts and assessment at the relevant time . It is stated that subsequently the said Manager has left his job and consequently the e-mail address was not accessible to the petitioner and the mobile number given at the time of registration were personal numbers of the said Manager concerned and it is in aforesaid circumstances that the petitioner was unaware of the proceedings of assessment and consequently could not appear before them and put his defence, and respond to the notice as he was not aware of the proceedings of assessment. He further submits that even final orders passed in the assessment proceedings which has been impugned in the present writ petition was never communicated to the petitioner and it is for the aforesaid reasons that he could not file an appeal within the time. He submits that it is only when the proceedings for freezing of the bank account have been undertaken by the respondents then he became aware of the assessment proceedings and by that time the limitation period of filing an appeal under Section 107 of the CGST Act had expired and consequently the present petition has been filed

challenging the assessment proceedings and also the order freezing his bank account.

7. Learned counsel for the petitioner has relied upon the judgment of Madras High Court in the case of ***Sakthi Steel Trading Vs. Assistant Commissioner (ST), Vandavasi Assessment Circle, Vandavasi passed in writ petition No.4122 of 2022*** decided on 29.1.2024 and also the judgment in the case of ***Tvl. Sri Mathuru Eswarar Traders Vs. The Deputy State Tax Officer -I, passed in writ petition No.16787 of 2025*** decided on 8.5.2025**,** in support of his submissions**.**

8. Learned counsel appearing for the respondents has raised a preliminary objection pertaining to the maintainability of the writ petition and submitted that the petitioner has an equally efficacious remedy of filing an appeal under section 107 of the GST act before the appellate authority.

9. He submits that with regard to the assessment proceedings and service of notice specific provision has been provided for under the GST Act. He submits that detailed procedure has been laid down under Section 169 of GST Act by which various modes of service have been provided for, including tendering it directly or by a messenger including a courier to the addressee or sending it by registered post or speed post or by sending to the e mail address made available at the time of registration, or by making it available on the common portal or by publication in a news paper circulating in the locality. It is further stated that if the service cannot be effected by any of the aforesaid modes, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who passed such decision or order or issued such summons or notice. He further submits that as per clause (2) of Section 169 it is provided that every decision, order, summons, notice or any communication shall be

deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub - section (1). It has further been made clear that communication has to be made by one of the modes provided for under Section 169 and once the respondents have sent communication through e-mail provided by the petitioner in the registration form then service of notice would be deemed to have been completed and it would be deemed to have been served on the date on which is has been tendered to the assessee. Accordingly, it is submitted that it was the duty of the petitioner to have to have duly communicated to the department the changed e-mail address or mobile number, and by failing to provide current e- mail address and mobile numbers, the assessing authority cannot be faulted with regard to service of notice upon the petitioner and the proceedings cannot be set aside on the ground that service was not effected upon the petitioner prior to initiation of the assessing proceedings.

10. Learned counsel the petitioner has responded by submitting that he was not given any opportunity before the assessing authority during the assessment proceedings, and accordingly the same has been held in violation of the principle of natural justice and deserve to be set aside. He submits that as per the judgement of the Madras High Court, apart from serving the petitioner through email and the mobile number provided at the time of registration the respondent should have also served the petitioner through registered post as provided for under section 169 of the GST Act.

11. We have given anxious consideration to the rival contentions of the parties. Pertaining to service of notice to the petitioner during the assessment proceedings it would be necessary to reproduce the provisions of Section 169 of the GST Act which reads as under:-

Section 169. Service of notice in certain circumstances.-

> *"(1) Any decision, order, summons, notice or other communication under this Act or the rules made*

thereunder shall be served by any one of the following methods, namely:-

(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved."

12. A perusal of the provisions of Section 169 indicates that five modes of service have been provided and further that every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub section (1). Therefore, service can be effected at the discretion of the assessing authority by giving or tendering the notice directly or by a messenger including a courier or by registered post or by speed post or courier or by sending e- mail and or by making it available on the common portal or by publication in a news paper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain. We have further notice that in case noticed cannot be served by any of the aforesaid modes prescribed therein it can be affixed in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who is prescribed to issue such orders, notices of summons. In the present case the petitioner has been served through e-mail address provided at the time of registration.

13. A perusal of the impugned order dated 19.2.2025 itself indicates that registered mobile number of the petitioner has been given as well as registered e-mail address is mentioned as vivek.bhanawat@marriott.com.

14. The assessing authority in the impugned order has recorded that considering the discrepancy in the return filed by the petitioner are notice under section 61 of the GST act was sent on 04/10/2024 requiring the petitioner to remove the discrepancy pointed out in the said notice by 19/10/2024. The petitioner did not respond to the aforesaid notice, and accordingly a notice under section 73 of the GST act was issued on 22/11/2024 asking the petitioner to respond by 23/12/2024. Again, no response was received by the authority, and

nor was the reply uploaded on the portal and accordingly another notice was sent to him on 11/01/2025 asking him to respond by 15/01/2025 and file his reply. The petitioner did not either deposit the amount as directed by the assessing authority, nor did he reply to the notice and accordingly in the aforesaid circumstances the matter was heard ex - parte and decided by the impugned order dated 19/02/2025 which has been assailed in the present writ petition.

15. We find that the petitioner was duly communicated by the tax department as per the modes prescribed under Section 169, and therefore, it cannot be said that there was any violation of principles of natural justice. While interpreting the provision of section 169 we will also have to consider Section 13 of the Information Technology Act, 2000. According to Section 13 (2) electronic record deemed to be received when it enters the designated computer recourse. Similarly, as per section 13(3) unless it is otherwise agreed between the parties and electronic record is deemed to be dispatched at the place of the originator has his place of business is deemed to be received at the place of the addressee has his place of business. Section 13 of Information Technology Act, 2000 is being reproduced as under :-

> *"13. Time and place of despatch and receipt of electronic record.—(1) Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator. (2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:— (a) if the addressee has designated a computer resource for the purpose of receiving electronic records,— (i) receipt occurs at the time when the electronic record enters the designated computer resource; or (ii) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee; (b) if the addressee has not*

designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee. (3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be despatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business. (4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3). (5) For the purposes of this section,– (a) if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business; (b) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business; (c) ―usual place of residence‖, in relation to a body corporate, means the place where it is registered."

16. In the present case, we cannot lose sight of the fact that at the time of registration the petitioner has disclosed his e-mail address and the mobile over for the purpose of communication, and there is, therefore, an agreement for exchange of communication through electronic mode. In case, the assessee has given a wrong email address, or an email address which is not accessible by him, may or may not be a valid defence which may be determined on the facts of each individual case, but one thing is clear that the respondent cannot be held be responsible for not giving adequate opportunity of hearing to the petitioner.

17. Considering the submissions made with regard to existence of an alternate remedy it would be beneficial to rely upon the observations of the Hon'ble Supreme Court in the case of ***Assistant Commissioner of State Tax and others Vs. Commercial Steel Limited, (2022) 16 Supreme Court Cases 447*** where in similar circumstances following observations are made:-

"10. The respondent had a statutory remedy under Section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternative remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:
(i) a breach of fundamental rights;
(ii) a violation of the principles of natural justice;
(iii) an excess of jurisdiction; or
(iv) a challenge to the vires of the statute or delegated legislation.
11. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent."

18. Accordingly, in the aforesaid circumstances, we are of the considered opinion that the service of notice was made as per the provisions of Section 169 (c) of the GST Act and therefore, there was no breach of the fundamental rights of the petitioner with regard to service prior, during and after the assessment proceedings. In the aforesaid circumstances this court of the considered that the petitioner has an efficacious remedy by way of an appeal and therefore, the aspect of service can also be duly looked into after considering the facts and material produced by the petitioner and therefore for the said reason we do not proceed to determine the question as to whether as per sub clause 2 of section 169 once the service has been effected as per sub clause (c) & (d) of section 169, it shall be deemed to have

been served on the date it is tendered.

19. Accordingly, we do not find any merit in the claim of the petitioner that there is breach of fundamental rights that has occurred by not giving opportunity to the petitioner during the assessment proceedings and the impugned order has been passed without giving opportunity of hearing.

20. We further notice the Supreme Court judgment in the case of ***Commissioner of Income Tax and others Vs. Chhabil Dass Agarwal (2014) 1 Supreme Court Cases 603,*** **t**he relevant portion of which is quoted as under:-

> *"15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case [AIR 1964 SC 1419] , Titaghur Paper Mills case [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 : 1983 SCC (Tax) 131] and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."*

21. Accordingly, we agree with the preliminary objection raised by learned counsel for the respondents that the petitioner has equally efficacious statutory remedy under Section 107 of GST Act before the First Appellate Authority and accordingly he is relegate to the same.

22. For the reasons aforesaid, we find that the writ petition is not maintainable and the petitioner has equally efficacious remedy and accordingly he is relegated to the same. The petition is **dismissed.**

(Arun Kumar Singh Deshwal, J.) (Alok Mathur, J.)

Order Date :- 25.6.2025
RKM.

Digitally signed by :-
RAKESH KUMAR MAURYA
High Court of Judicature at Allahabad,
Lucknow Bench

CASE 22 OF 34 · GROUP C

Ambika Traders v. Additional Commissioner, Adjudication DGGSTI, CGST Delhi North

Court	High Court of Delhi
Bench	Prathiba M. Singh and Rajneesh Kumar Gupta, JJ.
Date	29.07.2025
Case no. / citation	2025:DHC:6181-DB; W.P.(C) 4853/2025

Holding in brief

Consolidated SCN for multiple years is permissible; disputed facts are for the Appellate Authority. Writ disposed of with costs of Rs.25,000 to the Delhi High Court Bar Association.

Provisions involved

CGST Act, 2017: Sections 20, 73, 74, 107 and 122

Status

Disposed off; held in favour of the revenue. Directions: Appeal under Section 107 to be filed by 31.08.2025 with pre-deposit; not to be dismissed on limitation.

The judgment begins on compendium page 463.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 17th April, 2025

Date of Decision: 29th July 2025

\+ **W.P.(C) 4853/2025, CM APPL. 22194/2025 & CM APPL. 22195/2025**

AMBIKA TRADERS THROUGH PROPRIETOR GAURAV GUPTA ..... Petitioner

Through: Mr. Rajesh Jain, Mr. Rishabh Jain, Mr. Virag Tiwari, Mr. Ramashish and Ms. Tanya Saraswat, Advocates.

versus

ADDITIONAL COMMISSIONER, ADJUDICATION DGGSTI, CGST DELHI NORTH .....Respondent

Through: Mr. R. Ramachandran, Sr. Standing Counsel with Mr. Prateek Dhir, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode

2. The present petition has been filed by the Petitioner- Ambika Traders through its proprietor, Mr. Gaurav Gupta under Articles 226 and 227 of the Constitution of India, *inter alia*, assailing the Order-in-Original bearing no. 74/ADJ-DGGI/DN/2024-25 dated 23rd January, 2025 (hereinafter, '*impugned order*') passed by Respondent - Additional Commissioner, Adjudication (DGGSTI), CGST Delhi North. The present petition further

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By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

assails the form DRC-07 dated 4th February, 2025 issued along with the impugned order.

I. Facts

3. The Petitioner is stated to be a firm dealing in metal scrap. It is stated to be a sole proprietorship of Mr. Gaurav Gupta and was registered under the erstwhile VAT regime. Thereafter, it migrated to the GST regime with GST No. 07AIAPG0187ElZQ.

4. On 3rd August, 2021, a search operation was carried out at the residential premises of the proprietor of the Petitioner as also at its sales office. Various records/files were resumed by the GST Department (hereinafter, '*the Department*') from the said premises. The proprietor of the Petitioner, *i.e.* Mr. Gaurav Gupta was, thereafter, arrested on 4th August, 2021 by the Directorate General of GST Intelligence (hereinafter, '*DGGI*'), Meerut Zonal Unit. Mr. Gaurav Gupta was released on regular bail on 22nd October 2021.

5. A Show Cause Notice (hereinafter, '*SCN*') was issued to the Petitioner on 29th May, 2023 along with form DRC-01 by the DGGI, Ghaziabad Regional Unit for the financial years 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022. *Vide* the said SCN, a demand of Rs. 83,76,32,528/- was raised against the Petitioner on the ground of alleged fraudulent availment and wrongful passing on of Input Tax Credit (hereinafter, '*ITC*').

6. A detailed reply was filed by the Petitioner to the SCN on 19th December 2024. Thereafter, an additional reply to the SCN was filed by the Petitioner on 30th December 2024. The impugned order is stated to have been passed on 23rd January, 2025 along with form DRC-07 dated 4th

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By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

February 2025, whereby a demand to the tune of Rs. 83,76,32,528/- was affirmed by the Respondent, along with a penalty of an equivalent amount. Further, a penalty to the tune of Rs. 75,000/- was imposed upon the proprietor of the Petitioner *i.e.* Mr. Gaurav Gupta.

7. A corrigendum to the aforesaid impugned order was also issued on 18th March, 2025, whereby the penalty imposed upon Mr. Gaurav Gupta was rectified, as the same had been erroneously recorded as Rs. 1,00,000/- instead of the correct amount of Rs. 75,000/-. The Petitioner *vide* the present petition challenges the issuance of the SCN and passing of the impugned order.

8. The Court heard this matter on 17th April, 2025. Mr. Rajesh Jain, ld. Counsel for the Petitioner and Mr. R. Ramachandran, ld. Sr. Standing Counsel for the Respondent made their submissions at length on the said date.

II. Submissions by the Parties

9. Mr. Rajesh Jain, ld. Counsel appearing for Petitioner submits that the reply to the SCN dated 19th December, 2024 as also the additional reply dated 30th December, 2024 filed by the Petitioner have not been considered by the Adjudicating Authority. It is the submission on behalf of the Petitioner that non-consideration of the said replies by the Adjudicating Authority amounts to gross violation of principles of natural justice.

10. Mr. Jain further submits that non-consideration of the reply is violative of the mandatory obligation upon the Adjudicating Authority in terms of Section 74(9) of the Central Goods and Service Tax Act, 2017 (hereinafter, '*CGST Act*'). The relevant provision reads as under:

"74. Determination of tax not paid or short paid

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By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

> ***or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.—***
>
> *XXXX*
>
> *(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order."*

11. Ld. Counsel for the Petitioner has placed reliance upon a Circular bearing no. ***171/03/2022-GST*** dated 6th July, 2022 issued by the Central Board of Indirect Taxes and Customs, to show that if no goods were procured or supplied by any entity, such an entity would not be liable to pay any tax in terms of Sections 73 or 74 of the CGST Act. It is further submitted by the ld. Counsel that, in such circumstances, only imposition of penalty under Sections 122(1)(i), 122(1)(ii), and 122(1)(vii) of the CGST Act could have been invoked, which has admittedly not been done in the present case. It is also the case of the Petitioner that the said circular shall have a binding effect on the Adjudicating Authority in terms of Section 168(1) of the CGST Act.

12. Further, it is submitted by the ld. Counsel for the Petitioner that the grounds which can be taken in the impugned order raising demands of tax or penalty would have to be only those grounds which were mentioned in the SCN in terms of Section 75(7) of the CGST Act. The relevant provision reads as under:

> *"**75. General provisions relating to determination of tax.-***
>
> *XXXX*
>
> *(7) The amount of tax, interest and penalty*

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By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

> *demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice."*

13. Ld. Counsel for the Petitioner also draws the attention of the Court to the fact that the SCN issued to the Petitioner pertains to multiple financial years, *i.e.*, from 2017–18 to 2021–22, which is impermissible under the scheme and framework of Section 74 of the CGST Act.

14. Moreover, *vide* application dated 5th December 2024, the Petitioner had sought cross examination of the witnesses, officers, etc. on behalf of Mr. Gaurav Gupta. However, the same was rejected *vide* letter dated 13th December, 2024 issued by the Adjudicating Authority. The relevant portion of the said letter dated 13th December, 2024 reads as under:

> *"2. In this regard, as per your* ***Letter dated 05.12.2024 and e-mail dated 12.12.2024****, it is observed that you have submitted a list of the Witnesses/Panchas/Officers and requested for their Cross-Examination before adjudication of the subject SCN. In view of the facts of the case and proceedings held in the matter, till date, I deny the request for Cross-Examination, on the grounds mentioned below:*
>
> > *"(i) Mr. Gaurav Gupta Proprietor of Ms Ambika Traders vide his Statement dated 03.08.2021 submitted that he used to make payments in Bank Accounts, as directed by Mr. Rohit Rustogi and the latter after deducting the commission at the rate of 10 paisa per Kg, returned back the rest of the amount to him. The Supplier firms of M/s Ambika Traders did not exist, the money was getting laundered/routed through facade of issuance of invoices and banking channels without actual transportation/movement of the goods. Only money was being routes, documents*

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

> *were forged and no actual business activity/supply took place as there was no supply of goods.*
> *(ii)* ***Para 14.1*** *of the impugned SCN specifically directed to submit the reply within 30 days of receipt of this notice, but you failed to submit any detailed reply to the SCN, till date despite the fact that you admittedly in receipt of subject in the month of September, 2023 and Vakalatnama was signed by you on 07.11.2024. Further, regarding your submission dated 12.11.2024, it appears that you did not collect the non-RUDs from SCN issuing authority within 30 of receipt of the SCN (Para 14.5 of SCN refers).*
> *(iii) You did not appear on any of PH scheduled for 12.11.2024, 28.11.2024 and 12.12.2024, thus failed to submit even any Oral submission before the undersigned."*

15. It is the submission of the ld. Counsel for the Petitioner that no prejudice would have been caused to the Respondent, if the opportunity of cross examination would have been provided to the Petitioner. The Petitioner relies upon the decisions of ***HIM Logistics Pvt. Ltd. v. The Principal Commissioner of Customs, 2016 SCC OnLine Del 1236*** and ***Flevel International v. Central Excise, 2015 SCC OnLine Del 12173*** to contend that the denial of the opportunity for cross-examination is violative of the settled legal position and is, therefore, unsustainable in law. The relevant extracts of the said decisions, relied upon by the Petitioner, reads as under:

- ***HIM Logistics Pvt. Ltd. v. The Principal Commissioner of Customs, 2016 SCC OnLine Del 1236***

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

"16. In the present case, it is an admitted fact that the Respondent Department is placing considerable reliance on the statements of Mr. Shyam Lal and Ms. Preeti, the partners of the importer, in support of the case made out in the SCN. The impugned order of the AA does not indicate that any prejudice would be caused to the Department by providing the Petitioner the right of cross-examination. On the other hand the denial of such right would prejudice the Petitioner since the said statements are adverse to the Petitioner. In the circumstances, the denial of the Petitioner's right of cross-examination is held contrary to the law explained in Basudev Garg (supra)."

- ***Flevel International v. Central Excise, 2015 SCC OnLine Del 12173***

"42. It is settled law that the denial of an opportunity of cross-examination of a witness whose statements have been relied upon in the adjudication order would vitiate the order of adjudication. In Basudev Garg v. Commissioner of Customs 2013 (294) E.L.T. 353 (Del), this Court referred to Section 9D of the CE Act and noted that even while upholding its constitutional validity in J & K Cigarettes Ltd. v. Collector of Central Excise (2011) 22 S.T.R. 225 (Del), a Division Bench of this Court had observed that the circumstances tax officers sought for vide the written request dated 05.12.2024. Request for cross examination of witnesses and central tax officers on the basis of whose statements/reports the case was booked against the petitioner was required to be acceded to. Basic requirement of the rule of law is that

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

> *before condemning a person that too on the basis of a statement of third party, the party against whom such statements have been relied upon is to be granted an opportunity to cross examine the person who gave that statement. This requirement flows from the opportunity of hearing required to be given as per section 75(4) of the CGST Act. Applying the statements unilaterally that too behind the back of the petitioner cannot under any circumstances be justified, even if the proceedings are quasi-judicial in nature. The respondent was therefore not at all justified in denying the fundamental right of cross examination to the petitioner. Even no prejudice would have been caused to the respondent had the cross examination of witnesses/officers been provided to the petitioner."*

16. Furthermore, ld. Counsel for the Petitioner submits that a unique situation has arisen in the present case in as much as without alleging the outward supply of the goods being sourced from a third party, ITC on supplies received from the suppliers has been denied by the Respondent. According to the Petitioner, if the suppliers were found to be non-existent by the Respondent, then as per paragraph 3 of the Circular bearing no. ***171/03/2022-GST*** dated 6th July, 2022, neither the Petitioner could avail or utilise the ITC nor any demand of tax on outward supplies could be fastened on the Petitioner whether under Section 73 or 74 of the CGST Act.

17. Ld. Counsel for the Petitioner has also pointed out that no purpose would be served to the Petitioner in availing the appellate remedy under Section 107 of the CGST Act as the Appellate Authority cannot perform functions of Adjudicating Authority. Moreover, it is submitted on behalf of

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

the Petitioner that under Section 107 (11) of the CGST Act, the Appellate Authority cannot remand back the matter to Adjudicating Authority, hence, this Court shall be the appropriate forum to remand back the matter to the Adjudicating Authority for proper adjudication. Section 107(11) of the CGST Act reads as under:

> *"(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but* ***shall not refer the case back to the adjudicating authority that passed the said decision or order****:*
> *Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:*
>
> *Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74."*

18. Mr. Ramachandra, ld. Sr. Standing Counsel for the Respondent on the other hand submits that the impugned order is very detailed and there is a clear appellate remedy available under Section 107 of the CGST Act. It is submitted by the ld. Sr. Standing Counsel that considering the complex factual nature of the matter, the Petitioner should be relegated to the

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

appellate remedy.

III. *Analysis and Findings*

19. Before going into the submissions raised on behalf of both the parties, in order to have the perspective of the matter, a background of the same would be necessary.

a) Background of the SCN

20. The DGGI, Meerut Zonal Unit is stated to have received certain intelligence that the Petitioner is involved in availment and further passing on of fraudulent ITC. Such ITC is based on invoices issued from non-existent or fake firms. The allegation in the SCN is that the following five suppliers had raised invoices in favour of the Petitioner, on the strength of which the Petitioner availed ITC to the extent of:

Sl No.	***Name of Supplier Firms***	***ITC Availed by M/ s No. Ambika Trader (in Rs)***
1	*M/s Metals Scrap & Alloys (07EGFPK5023J1ZE)*	*8,24,47,685/-*
2	*M/s Prime Impex (07BCWPK1493A1ZH)*	*7,38,32,822/-*
3	*M/s A. K. Impex (07BBKPJ6013N1ZF)*	*3,87,12,240/-*
4	*M/s Vinesh Traders (07AKYPC1581A1ZA)*	*2,11,18,625/-*
5	*M/ s Deepak Trading Co (07GALPS9710J lZ0)*	*87,96,669/-*
Total		***22,49,08,041/-***

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

21. All the above five firms were investigated by the DGGI and were found to be non-traceable. Since the registration under the GST regime, no business activity had been conducted at the registered addresses of these firms.

22. Mr. Gaurav Gupta was summoned and his statements were recorded on 3rd August 2021 and 4th August 2021 respectively, in the office of DGGI.

23. Thus, from the initial investigation, it was observed that a substantial amount of ITC to the tune of over Rs.22.49 Crores were availed from the abovementioned five firms. In addition, from the statements of Mr. Gaurav Gupta it was also revealed that there were other firms from whom ITC was availed by the Petitioner.

24. Upon summons being issued to the abovementioned five firms, except one person *i.e.* Mr. Anuj Kumar, proprietor of M/s Metals Scrap & Alloys, none appeared before the Department. Further, there were 20 firms from whom ITC was availed by the Petitioner, however, upon investigation it was revealed that most of these firms never existed or their registered addresses were either vague or incomplete. During the investigation it was also noticed that the GST registrations of few of the suppliers of the Petitioner were cancelled.

25. Several transporters of the Petitioner were also investigated by the DGGI and were found to be non-existent. The investigation further revealed that Mr. Gaurav Gupta was involved with one Mr. Rohit Rostagi *i.e.* Proprietor of M/s Pooja Impex and M/s Pooja Enterprises, to whom he would pay all the fraudulently availed ITC after deducting a commission @ 10 paise per kg of the metal scrap.

26. As per the investigation carried out by the DGGI, there was no

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

purchase of metal scrap by the Petitioner. The bank accounts of the Petitioner and its suppliers were also analysed during the investigation. There was a network of enterprises and firms who had availed of ITC amounting to several crores by merely raising invoices to each other. The total ITC availed of by the Petitioner for the financial years 2017-18, 2018-19, 2019-20 and 2020-2021 is to the tune of Rs. 83,76,32,528/-. Paragraph 11 of the SCN is relevant in this regard and is set out below:

> *"**11. Gist of Investigation***
> ***From the above investigation, it was found that M/ s Ambika Traders had availed fraudulent Input Tax Credit on the strength of fake GST invoices amounting to the tune of Rs. 83,76,32,528/-** (Eighty Three Crores Seventy Six Lakhs Thirty Two Thousand Five Hundred and Twenty Eight only) issued by 20 (Twenty) non-existent/fake supplier firms/companies i.e. Pooja Impex (GSTIN : 07AIGPR1260D2ZI) , M/s Pooja Enterprises(GSTIN: 07 AATFP8454E1ZQ), M/s Metals Scrap & Alloys(GSTIN: 07EGFPK5023J1ZE), M/s Prime Impex(GSTIN: 07BCWPK1493A1ZH), M/s Pooja Udyog(GSTIN: 07ADUPR9585N1Z3), M/s A.K.Impex(GSTIN: 07BBKPJ6013N1ZF), M/s Anupma & Sons (GSTIN: 07KYYPS6808C1ZK), M/s Vinesh Traders(GSTIN: 07AKYPC1581A1ZA), M/s S.P Traders(GSTIN:07BNDPP3613D1ZC), M/s Rudra Enterprises (GSTIN: 07CBMPB4975N1Zl), M/s Vik International (GSTIN: 07CMWPS0210A1ZA), M/s Alpha traders (GSTIN: 07APHPK6884L1Z6), M/s Rahul Trading Company (GSTIN: 07BJMPR7820K1ZL), M/s S.G. Traders (GSTIN: 07UOPH5322E1ZS), M/s Sparsh Impex (GSTIN: 07AJVPC4600L2Z1), M/s Deepak Trading Co. (GSTIN: 07GALPS9710J1Z0), M/s Soni Steel (GSTIN: 07APNPG4569A2ZW), M/s Radhey Enterprises (GSTIN: 07AYMPC1386K3Z4), M/s Shri Shyam Metal (GSTIN: 07AHFPG7305L1ZB) & M/s Shiv Trading Co*

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By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

(GSTIN: 07CQZPP4731L1ZX).
From the statement of the transporters, who deposed during the course of investigation, it may be inferred that M/s Ambika Traders never received any supplies (goods or services or both) from these twenty non-existent/fake suppliers and they fraudulently got possession of the transport documents and forged them. *Many-a-inward supplies, as claimed by M/s Ambika Traders, turned out to be the outward supplies; this is duly collaborated by the depositions of the transporters. Bereft of supplies, M/s Ambika Traders availed and utilized ITC fraudulently."*

27. The SCN further notes the provisions of the CGST Act which are alleged to have been contravened by the Petitioner. The relevant portion of the SCN reads as under:

"9. ***Statutory Provisions:***
9.1 In view of the foregoing, M/s Ambika Traders and its aforesaid non-operational/ fake twenty supplier firms have contravened the following provisions of the CGST Act, 2017 and the Rules made thereunder:-
i. Section 16, of the CGST Act, 2017, in as much as, they failed to fulfill the following conditions of Section 16(2),

(a) failed to receive underlying goods shown in the invoices,
(b) the tax charged in respect of supply has not been actually paid by the supplier;
(c) the supplier failed to furnish a valid return;
Further, they failed to pay to the supplier of goods, the amount towards the value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier.

ii. Section 31 of the CGST Act, 2017, in as much as they issued invoices without the supply of underlying

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

goods;

iii. Section 35 of the CGST Act, 2017, in as much as they failed to maintain a true and correct account of - (a) production or manufacture of goods; (b) inward and outward supply of goods; (c) stock of goods;

iv. Section 39, and Section 49 of the CGST Act, 2017, in as much as they failed to declare a true and correct value of Inward Supplies and Input Tax Credit, and they have availed fraudulent ITC based on the invoices issued by the bogus supplier, and utilized the said fake ITC to discharge outward GST liability in their monthly GSTR-3B returns;

v. Section 41 of the CGST Act, 2017, in as much as M/s Ambika Traders availed fraudulent ITC based on bogus invoices;

vi. Section 44 of the CGST Act, 2017, in as much as M/s Ambika Traders neither report nor reversed the ITC availed based on bogus invoices in the annual return.

vii. Section 74 of the CGST Act, 2017, in as much as they have not paid or short paid GST or wrongly availed or utilised input tax credit by reason of fraud or any wilful-misstatement or suppression of facts and therefore, they are liable to tax and penalty alongwith interest payable thereon under section 50 of the CGST Act, 2017.

viii. Section 122 of the CGST Act, 2017,

(1) Where a taxable person who –

(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;

(iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;

(vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;

(vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;

(viii) fraudulently obtains refund of tax under this Act;

(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder:

(x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

(xi) is liable to be registered under this Act but fails to obtain registration;

(xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;

(xiii) obstructs or prevents any officer in discharge of his duties under this Act;

(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;

(xv) suppresses his turnover leading to evasion of tax

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

under this Act;
(xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;
(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;
(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;
(xix) issues any invoice or document by using the registration number of another registered person;
(xx) tampers with, or destroys any material evidence or document;
(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,
he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.
(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—
(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent of the tax due from such person, whichever is higher;
(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.
(3) Any person who –
(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);
(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;
(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty-five thousand rupees
ix. Section 137 of the CGST Act, 2017:- Offences by companies.—

(1) Where an offence committed by a person under this Act Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed guilty of the offence and shall be liable to be proceeded against and punished accordingly.
(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or karta or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall, mutatis mutandis, apply to such persons.

(4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

x. Section 155 of the CGST Act, 2017:- Burden of proof.— Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

xi. Further, for the contravention, of the above provisions of the CGST Act, 2017 read with the Delhi GST Act, 2017 read with the IGST Act, 2017, the offences were committed by M/s Ambika Traders and its aforesaid supplier firms and hence liable for penalty under Section 122 of the CGST Act, 2017 read with the Delhi GST Act, 2017 read with the IGST Act, 2017.-"

28. The SCN clearly is issued both in respect of fraudulent availment ITC and penalty for the same under Section 122(1) of the CGST Act. The demands proposed to be raised against the Petitioner in terms of the SCN are as under:

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

i. Fraudulently availed ITC in contravention of Section 16 of CGST Act amounting to Rs.83,76,32,528/-.

ii. Demand of fraudulently utilized ITC of Rs.83,76,32,528/- under Section 74 of the CGST Act/Delhi Goods and Service Tax Act, 2017 (hereinafter, '*DGST Act*') read with Section 20 of the Integrated Goods and Services Tax Act, 2017 (hereinafter, '*IGST Act*').

iii. Interest under Section 50 of the CGST Act/ DGST Act read with Section 20 of the IGST Act.

iv. Penalty under Section 74 of the CGST Act/ DGST Act read with Section 20 of the IGST Act.

v. Penalty Section 122(1)(x)(xvi)(xvii) of the CGST Act/DGST Act.

vi. Penalty under Section 122(3) of the CGST Act/DGST Act read with Section 20 of the IGST Act.

vii. Penalty under Section 122(3)(a)(d)(e) and Section 137 of the CGST Act read with provisions of DGST and IGST against Mr. Gaurav Gupta.

29. Notices were issued to all the 20 alleged fake non-existent firms.

30. The Petitioner submitted a detailed reply to the SCN on 19th December, 2024, wherein responses to various factual assertions were provided and certain objections were raised. Subsequently, an additional reply was filed on 30th December, 2024, setting forth further factual submissions and additional objections.

b) Background of the Impugned Order

31. The impugned order under challenge in the present petition was passed by the Adjudicating Authority upon affording the Petitioner four

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

opportunities of personal hearing. As recorded in the impugned order, the proprietor of the Petitioner, Mr. Gaurav Gupta, had personally appeared on one such occasion and the Petitioner was duly represented through ld. Counsel during the course of the proceedings. The relevant portion of the impugned order reads as under:

> *"16. Personal Hearings in this case were fixed for 12.11.24, 28.11.24, 12.12:24 and addition PH 20.12. 2024..* ***Advocate Rishabh Jain along with the proprietor of M/s AMBIKA TRADERS Shri Gaurav Gupta appeared on 20.12.2024 and submitted detailed reply of SCN****."*

32. The objections raised by the Petitioner before the Adjudicating Authority are as under:

i. A consolidated demand cannot be raised for multiple financial years.

ii. All Relied Upon Documents (hereinafter, '*RUDs*') were not supplied to the Petitioner.

iii. Certain objections were raised as to the manner in which the *panchnama* was prepared by the DGGI.

33. After considering all the submissions, the Adjudicating Authority comes to the conclusion that the behaviour of the noticee *i.e.*, the Petitioner has been evasive. There was no attempt on behalf of the Petitioner to explain and justify the availment of ITC. The Adjudicating Authority holds that there was no receipt of any goods nor supply of any goods. The finding of the Adjudicating Authority is relevant and is set out below:

> *" In view of above, I find that the* ***Supplier*** *firms were* ***non-existent/fake*** *firms and created only on paper for* ***passing-on*** *of fake ITC with intent to defraud the*

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

*government exchequer. Therefore, in view of the facts of the case and observations as above, I find no reason to deny the allegations raised in the impugned Show Cause Notice that **fake/ non-existent Supplier** firms have been engaged in supplying of fake invoices to **Noticee No. 1** without any actual supply of goods and or services.*

*Therefore, in view of the above, I hold unambiguously, from the facts and discussions above, that the Noticee's behavior has been evasive to the communications and opportunities provided to them against the allegations leveled on them vide the said communications and they are escaping the department from appearing before the same, furnishing any defense in their support and deposit any liability due to them. Had there been any genuineness in their act of **availment** of the impugned ITC amount, they would have at least once tried to provide explanation of their dubious act as informed to them vide the above said communications. Hence, I hold that it has been proved beyond the doubt they were involved in the conspiracy to defraud the Government exchequer and hence, they have wrongly **availed** the ITC in contravention to the provisions of the CGST/ DGST Act, and thus the same is ineligible to them and therefore the same is recoverable from them along with the applicable interest and penalty.*

*In this regard, I find that it has been established that **Supplier** firms were **non-existent/fake** firms and they have neither received any goods physically nor supplied any goods physically. The firms were not engaged in any actual business activity and have been created only for the purpose of issuance of fake invoices without actual supply of goods."*

34. The Adjudicating Authority also notes that in the era of self-assessment there is an additional responsibility on the assessee. The relevant

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

extract of the impugned order reads as under:

> *"Moreover, under the era of self-assessment in tax matters, the assessee has a greater responsibility towards assessment and payment of taxes due to the Govt. properly in time. The burden of proving the rightful claim of Input Tax Credit (ITC) lies on the assessee. The department comes to know about the details of taxes payable and Input Tax Credit (ITC) available to the Noticees, only from the statutory returns filed by them at certain intervals of time. Thus, the Noticees were statutorily bound and capable to have taken reasonable steps to ensure genuineness & eligibility of Input Tax Credit (ITC) before taking it into their account which in turn affects the discharge of their outward tax liability."*

35. The conclusion of the Adjudicating Authority, thereafter, is as under:

> *"In view of the above, I find that impugned Input Tax Credit (ITC) have been* ***availed*** *and* ***utilized*** *fraudulently in contraventions, as discussed hereinabove, with intent to take undue credit, to make payment of taxes out of such undue Input Tax Credit (ITC) and take undue benefit of Input Tax Credit (ITC) through refund route by reason of fraud and suppression of facts which caused loss to the Govt. exchequer. There is wilful suppression of the material facts from the department with such intent. The department on its own efforts detected the case and raised the demand otherwise it would have been gone unnoticed. Hence, invocation of extended period of limitation, under Section 74(1) of the CGST, 2017 read with DGST Act, 2017 and IGST Act, 2017 in the instant case is warranted and justified. Thus,* ***Noticee No. 1*** *is liable to pay the amount of wrongly* ***availed/utilized*** *ITC under the provisions of* ***Section 74(1) of the Act, ibid."***

36. In view of the above findings, the Adjudicating Authority had raised

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

demands and imposed penalties on the Petitioner as also its proprietor, Mr. Gaurav Gupta. The demand *qua* the Petitioner and Mr. Gaurav Gupta are as under:

(i) Disallowance of ITC to the tune of Rs.83,76,32,528/- availed by the Petitioner during the period, July, 2017 to August 2021;

(ii) The demand of fraudulently utilized ITC to the same amount *i.e.* Rs.83,76,32,528/-;

(iii) Interest under Section 50 of the CGST Act/DGST Act read with Section 20 of the IGST Act;

(iv) Penalty to the tune of Rs.83,76,32,528/- under Section 74 of the CGST Act/DGST Act read with Section 20 of the IGST Act;

(v) Penalty imposed on Mr. Gaurav Gupta to the tune of Rs.25,000/- for violation of each of the clauses under Section 122 (3)(a)(d)(e) of the CGST Act.

Thus, a total sum of Rs.1,67,52,65,056/- *i.e.,* the demand of tax and penalty has been raised against the Petitioner.

37. Insofar as the twenty fictitious and non-existent firms are concerned, the penalty imposed upon them corresponds to the actual amount of ITC allegedly availed or utilized by them.

c) Proceedings before this Court

38. The broad contentions raised for the Petitioner before this Court are as under:

(a) That the two replies dated 19th December 2024 and 30th December 2024 filed by the Petitioner to the SCN have not been properly considered by the Adjudicating Authority.

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

(b) That the impugned order passed by the Adjudicating Authority proceeds beyond the SCN.

(c) That consolidated SCN for multiple financial years has been issued under Section 74 of CGST Act, which is impermissible.

39. Each of the submissions made by the ld. Counsel for the Petitioner are considered below:

Consideration of the reply

40. A perusal of the impugned order shows that it is a detailed order setting out various facts, the investigation which took place, hearings which were afforded and an analysis of the reply. After perusing the impugned order which runs into almost 100 pages, it cannot be said that the replies filed by the Petitioner have not been considered by the Adjudicating Authority. The Adjudicating Authority has obviously not agreed with the Petitioner's stand in the replies filed to the SCN. In fact, some of the conclusions arrived at by the Adjudicating Authority as extracted above would show that the replies have been duly considered.

41. Moreover, a perusal of the reply dated 19th December, 2024 and the additional reply dated 30th December, 2024 show that most of the contents of these replies raised technical objections and there is no substantive reply that actual business was conducted. Deficiencies are being pointed out in the investigation process, supply of RUDs, recording of statements, etc.

42. The reply does not *prima facie* contest the investigation and the facts revealed therein. In a case of fraudulent availment of ITC or utilization of ITC, the best evidence for a person who is genuinely conducing a business would be to state the exact nature of the goods sold, the quantities purchased/sold, etc. There is, *prima facie,* no averment in the reply or the

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

additional reply giving such details. Thus, the conclusion of the Adjudicating Authority cannot be held to be arbitrary or perverse.

Consolidated SCN for Multiple Financial Years

43. Insofar as the issue of consolidated notice for various financial years is concerned, a perusal of Section 74 of the CGST Act would itself show that at least insofar as fraudulently availed or utilized ITC is concerned, the language used in Section 74(3) of the CGST Act and Section 74(4) of the CGST Act is *"for any period"* and *"for such periods"* respectively. This contemplates that a notice can be issued for a period which could be more than one financial year. Similar is the language even in Section 73 of the CGST Act. The relevant provisions read as under:

> *"**73. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.—***
>
> *XXXX*
>
> *(3) Where a notice has been issued **for any period** under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised **for such periods** other than those covered under sub-section (1), on the person chargeable with tax.*
>
> *(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.*
>
> *XXXX*
>
> ***74. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or***

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

> ***erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.***—
>
> *XXXX*
>
> *(3) Where a notice has been issued* ***for any period*** *under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised* ***for such periods*** *other than those covered under sub-section (1), on the person chargeable with tax.*
>
> *(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice."*

44. Some of the other provisions of the CGST Act, which are relevant, include Section 2(106) of the CGST Act, which defines *"tax period"* as under:

> *"2.[...] (106) "tax period" means the period for which the return is required to be furnished"*

45. Thus, Sections 74(3), 74(4), 73(3) and 73(4) of the CGST Act use the term *"for any period"* and *"for such periods"*. This would be in contrast with the language used in Sections 73(10) and 74(10) of the CGST Act where the term *"financial year"* is used. The said provisions read as under:

> *"73.[...] (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the* ***financial year*** *to which the tax not paid or short paid or input*

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund"

"74.[...] 10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the ***financial year*** *to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund."*

The Legislature is thus, conscious of the fact that insofar as wrongfully availed ITC is concerned, the notice can relate to a period and need not to be for a specific financial year.

46. The nature of ITC is such that fraudulent utilization and availment of the same cannot be established on most occasions without connecting transactions over different financial years. The purchase could be shown in one financial year and the supply may be shown in the next financial year. It is only when either are found to be fabricated or the firms are found to be fake that the maze of transactions can be analysed and established as being fraudulent or bogus.

47. A solitary availment or utilization of ITC in one financial year may actually not be capable of by itself establishing the pattern of fraudulent availment or utilization. It is only when the series of transactions are analysed, investigated, and enquired into, and a consistent pattern is established, that the fraudulent availment and utilization of ITC may be revealed. The language in the abovementioned provisions i.e., the word *`period' or `periods'* as against *`financial year' or `assessment year'* are therefore, significant.

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

48. The ITC mechanism is one of the salient features of the GST regime which was introduced to encourage genuine businesses. In the words of Shri Pranab Mukherjee, the then Hon'ble President of India, who addressed the Nation at the launch of the GST on 1st July, 2017, ITC was highlighted as one of the core features integral to the framework of the GST regime. The relevant extract of the said speech of the Hon'ble President is set out below:

> *"I am told that a key feature of the system is that buyers will get credit for tax paid on inputs only when the seller has actually paid taxes to the government. This creates a strong incentive for buyers* ***to deal with honest and compliant sellers who pay their dues promptly****."*

49. It is seen that the said feature of ITC has been misused by large number of unscrupulous dealers, businesses who have in fact utilized or availed of ITC through non-existent supplies/purchases, fake firms and non-existent entities. The ultimate beneficiary of the ITC in the most cases may not even be the persons in whose name the GST registration is obtained. Businesses, individuals, and entities have charged commissions for passing on ITC. In several cases, it has also been noticed that the persons in whose name the GST registration stands are in fact domestic helps, drivers, employees, etc., of businessmen who are engaged on salary and who may not even be aware that their identities are being misused.

50. In fact, Parliamentary questions have been raised on such fraudulent availment of ITC. In one such Parliamentary question, it was revealed as under:

> *"The press release issued by Ministry of Finance on 07.01.2024 (Annexure 1) brought out that 29,273*

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:12.08.2025
16:38:50

> *bogus firms involved in suspected Input Tax Credit (ITC) evasion of Rs 44,015 crore were detected in a sustained drive against non-existent tax payers by GST formations across the country since May 2023. An amount of Rs. 44,015 Crore (Rs.15240 Crore (State) + Rs. 28775 Crore (Centre)) of fake ITC has been detected."*[1]

51. On 7th January 2024, *vide* a press release issued by the Press Information Bureau, New Delhi, the Ministry of Finance brought to light the said large-scale involvement of fictitious entities in the alleged evasion of ITC. As per the contents of the said press release, a total of 29,273 non-genuine firms have purportedly been found to be involved in the evasion of ITC amounting to approximately Rs. 44,015 Crores, as unearthed during a sustained enforcement drive undertaken by the GST authorities across the country since May 2023 against non-existent taxpayers. The relevant portion of the said release reads as under:

> *"To curb frauds in Goods and Services Tax (GST) and increase compliance, the GST formations, under the Central Board of Indirect Taxes and Customs (CBIC) and the State/UT Governments, across the country are carrying out a focused drive on the issue of non-existent / bogus registrations and issuance of fake invoices without any underlying supply of goods and services.*
> ***Since the initiation of the special drive against fake registrations in mid-May 2023, a total of 29,273 bogus firms involved in suspected Input Tax Credit (ITC) evasion of Rs. 44,015 crore have been detected. This has saved Rs. 4,646 crore of which Rs. 3,802 crore is by blocking of ITC and Rs. 844 crore is by***

[1] Answer by the Minister of State in Ministry of Finance, Mr. Pankaj Chaudhary to a question raised on Monday, 05th February, 2024 in Lok Sabha being unstarred Question No. 435 titled as *'Unearthing of Fake Input Tax Credit'*

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

<u>way of recovery. So far, 121 arrests have been made in the cases.</u>
In the quarter ending December, 2023, 4,153 bogus firms that involved suspected ITC evasion of around Rs.12,036 crore were detected. 2,358 of these bogus firms were detected by the Central GST Authorities. This has protected revenue of Rs. 1,317 crore of which Rs. 319 crore has been realised and Rs 997 crore has been protected by blocking ITC. 41 persons were arrested in these cases. 31 of these arrests were by Central GST Authorities. State wise details are annexed."

52. Moreover, a Co-ordinate Bench of this Court *vide* order dated 3rd October, 2024 in ***W.P.(C) 13855/2024*** titled '***M/s Vallabh Textile Through Its Authorized Representative v. Additional/Joint Commissioner, CGST Delhi East Commiserate & Ors.',*** has held as under:

"1. The instant writ petition seeks to assail the validity of a Show Cause Notice ["SCN"] dated 29 May 2024 and which raises issues pertaining to Financial Years ["FYs"] 2017-18 to 2021-22.
2. The principal ground of challenge which was addressed before us was with respect to the action of the respondents who have proceeded to issue a consolidated notice for the aforesaid period.
<u>3. On an ex-facie perusal of Section 74 of the Central Goods & Services Tax Act, 2017 ["CGST"]/Delhi Goods & Services Tax Act, 2017 ["DGST"], we find ourselves unable to sustain that challenge in the absence of any prohibition that may have been statutorily engrafted in this respect. That in any case would not constitute a jurisdictional challenge warranting the writ petition being entertained against a SCN.</u>
4. Insofar as FY 2017-18 is concerned, it was the submission of learned counsel for the writ petitioner

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

that the same would not sustain bearing in mind the provisions contained in Section 74(10) of the CGST Act, 2017/DGST Act, 2017. Insofar as that question is concerned, we leave it open to the writ petitioner to initiate appropriate proceedings independently.

5. Bearing in mind the well settled principles which govern situations and contingencies in which a SCN challenge may be entertained by a Court under Article 226 of the Constitution, we find no ground to entertain the instant writ petition.

6. It shall, subject to the aforesaid observation, stand dismissed."

53. *Vide* the said decision, the Coordinate Bench of this Court has clarified the position in law that a consolidated SCN for multiple years is permissible under the purview of Section 74 of the CGST Act, and hence, the said argument cannot be a ground for entertaining a writ petition.

54. The present case appears to be one such case where a substantial amount of ITC is alleged to have been availed/utilized running into more than Rs.83 Crores. The Petitioner is alleged to be one of the main entities/persons involved in the said activity. The transactions are between the years 2017 to 2021. A consolidated notice is, therefore, not merely permissible but, in fact, required in such cases in order to establish the illegal modality adopted by such businesses and entities. The language of the provision itself does not prevent issuance of SCN or order for multiple years in a consolidated manner.

55. Even in the order which has been impugned before this Court, the details of the amounts for each year are set out clearly in the content of the order itself and is, therefore, clearly decipherable. Thus, it cannot be held that the issuance of consolidated notice or order violates the language of the

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

provisions. Especially, in the case of fraudulent availment of ITC or utilization of ITC such consolidated notice and order would not just be permissible but may, in fact, be required to show the wilful misstatement or suppression or the fraudulent availment/utilization.

56. Insofar as the statement that the impugned order travels beyond SCN is concerned, the same is a completely untenable argument as the SCN contemplates demands of tax, interest, and penalty for wrongful availment or utilization of ITC under Section 122 of the CGST Act. The impugned order does not travel beyond SCN in any manner.

57. Further, the impugned order is an appealable order under Section 107 of the CGST Act and there is a substantive appellate remedy available to the Petitioner. The allegation that an opportunity of cross-examination was not afforded to the Petitioner is completely misplaced inasmuch as such proceedings of SCN cannot be converted into mini-trials. The statements which are recorded are of the Petitioner's proprietor or its suppliers/ purchasers, some of whom appeared before the Department. Moreover, the right of cross-examination is not an unfettered right as held by this Court in the decision of '***M/s Vallabh Textiles v. Additional Commissioner Central Tax GST, Delhi East & Ors.', (2025: DHC: 2559-DB)*** wherein the Court observed as under:

> *"15.* ***While cross-examination can be granted in certain proceedings, if it is deemed appropriate, the right to cross-examine cannot be an unfettered right.*** *This has been so held recently by this Court in Sushil Aggarwal v. Principal Commissioner Of Customs (2025:DHC:698-DB). The relevant portion of the decision reads as under:*
>
> *"15. Accordingly, this Court is of the opinion that in*

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

order to ensure that there is compliance of Section 138(B) of the Act, ***though the same cannot be claimed as an unfettered right in all cases, in the facts of the present*** *case, both Mr. Sushil Aggarwal and Mr. Aidasani are afforded an opportunity to cross examine Mr. Bhalla."*

16. The rationale behind setting aside an order/judgment on the grounds of non-provision of the right to cross-examine is to safeguard the affected party from being prejudiced due to non-providing of cross examination. Therefore, such reasoning presumes/implies the existence of prejudice. In other words, if the alleging party fails to prove any substantial prejudice caused to it due to such non-provision, it shall not have the inherent right to set aside such an order/judgment. This view has been upheld by the Supreme Court in various judgments including ***M/s. Telestar Travels Pvt. Ltd. v Special Director Of Enforcement 2013(9) SCC 549.*** *The relevant portion of the said judgment reads as under:*

"23. That brings us to the third limb of the attack mounted by the appellants against the impugned orders. It was argued by Mr Divan that while holding that Bountiful Ltd. was a paper company and was being controlled and operated from India by the appellants through Shri Sirish Shah, the adjudicating authority had relied upon the statements of Miss Anita Chotrani and Mr Deepak Raut, and a communication received from the Indian High Commission in London. These statements and the report were, according to Mr Divan, inadmissible in evidence as the appellant's request for an opportunity to cross-examine these witnesses had been unfairly declined, thereby violating the principles of natural justice that must be complied with no matter the strict rules of the Evidence Act had been excluded from its application. ...

24. Mr Malhotra, on the other hand, argued that the

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

right of cross-examination was available to a party under the Evidence Act which had no application to the adjudication proceedings under FERA. ... ...He also placed reliance upon a decision of this Court in Surjeet Singh Chhabra v. Union of India(1997(1) SCC 508 1997 SCC (Cri) 272) to argue that cross-examination was unnecessary in certain circumstances such as the one at hand where all material facts were admitted by the appellants in their statements before the authority concerned.

25. There is, in our opinion, no merit even in that submission of the learned counsel. It is evident from Rule 3 of the Adjudication Rules framed under Section 79 of FERA that the rules of procedure do not apply to adjudication proceedings. That does not, however, mean that in a given situation, cross-examination may not be permitted to test the veracity of a deposition sought to be issued against a party against whom action is proposed to be taken. It is only when a deposition goes through the fire of cross-examination that a court or statutory authority may be able to determine and assess its probative value. Using a deposition that is not so tested, may therefore amount to using evidence, which the party concerned has had no opportunity to question. Such refusal may in turn amount to violation of the rule of a fair hearing and opportunity implicit in any adjudicatory process, affecting the right of the citizen. ***The question, however, is whether failure to permit the party to cross-examine has resulted in any prejudice so as to call for reversal of the orders and a de novo enquiry into the matter. The answer to that question would depend upon the facts and circumstances of each case."***

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18. A perusal of the above decisions reveals that while cross-examination would be required in certain cases,

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

> ***it need not be given as a matter of right in all cases. The provision of the opportunity to cross-examine depends on the facts and circumstances of each case and is warranted only when the party seeking such an opportunity is able to demonstrate that prejudice would be caused in the absence thereof.***
>
> *19. The Court is of the considered view that parties cannot, by praying for cross-examination, cannot convert Show-cause Notice proceedings into mini-trials. Persons seeking cross-examination ought to give specific reasons why cross-examination is needed in a particular situation and that too of specific witnesses.* ***A blanket request to cross-examine all persons whose statements have been recorded by the Department, many of whom are typically employees, sellers, purchasers, or other persons connected to the entity under investigation, cannot be sustained.*** *If a prayer for cross-examination is made, the Authority has to consider the same fairly and if the need is so felt in respect of a particular person, the same ought to be permitted. If not, the Authority can record the reasons and proceed in the case. Moreover, cross examination need not also be of all persons whose statements are recorded. It could be permitted by the Authority in case of some persons and not all.*
>
> ***20. In the present case, the mere rejection of the Petitioner's request for cross-examination cannot, in and of itself, be treated as a sufficient ground to bypass the statutorily prescribed appellate remedy and invoke the writ jurisdiction of this Court."***

58. In the facts of this case, no prejudice is caused to the Petitioner if cross-examination is not afforded as all the documents relied upon by the Adjudicating Authority are those which have been recovered from the Petitioner's premises itself and the Petitioner is well in the knowledge of the actual status of the purchasers and the suppliers.

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

59. This Court has already taken a view that interference in such cases in writ jurisdiction is limited. The Court cannot go into analysis of facts in writ jurisdiction. It is well-settled in law that the High Court, despite being vested with wide and extensive powers under Articles 226 and 227 of the Constitution of India, must exercise such powers within the bounds of judicial discipline and established legal principles. The jurisdiction of the High Court does not extend to reappreciation of evidence or interference with factual findings recorded by the competent authorities. The High Court cannot assume the role of an Appellate Authority for adjudication of disputed questions of fact. This position has been affirmed by the Supreme Court in the decision of ***Shamshad Ahmad v. Tilak Raj Bajaj, (2008) 9 SCC 1***. The relevant portion of the said decision reads as under:

> *"38.* ***Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law***
> *39. In Chandavarkar Sita Ratna Rao v. Ashalata S. Guram [(1986) 4 SCC 447] this Court stated : (SCC p. 458, para 16)*

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

> *"16. ... unless there was any grave miscarriage of justice or flagrant violation of law calling for intervention it was not for the High Court under Articles 226 and 227 of the Constitution to interfere. If there is evidence on record on which a finding can be arrived at and if the court has not misdirected itself either on law or on fact, then in exercise of the power under Article 226 or Article 227 of the Constitution, the High Court should refrain from interfering with such findings made by the appropriate authorities."*

60. Moreover, the scope of writ jurisdiction is quite limited when an efficacious and adequate alternative remedy is available to the litigant. Where a statutory remedy exists that is both efficacious and adequate, the invocation of the writ jurisdiction of the High Court under Article 226 is generally not warranted. While the existence of such alternative remedy does not divest the High Court of its jurisdiction to issue writs, it remains a material consideration in the exercise of its discretionary jurisdiction. Where such alternate remedy exists, it would be a sound exercise of judicial discretion to decline interference under Article 226, unless compelling circumstances and grounds are demonstrated to justify such invocation. This legal position stands affirmed by the Supreme Court way back in the case of ***Union of India v. T.R. Varma, 1957 SCC OnLine SC 30.*** The relevant portion of the said decision reads as under:

> *"6. At the very outset, we have to observe that a writ petition under Article 226 is not the appropriate proceeding for adjudication of disputes like the present. Under the law, a person whose services have been wrongfully terminated, is entitled to institute an action to vindicate his rights, and in such an action, the Court will be competent*

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

to award all the reliefs to which he may be entitled, including some which would not be admissible in a writ petition. ***It is well-settled that when an alternative and equally efficacious remedy is open to a litigant, he should be required to pursue that remedy and not invoke the special jurisdiction of the High Court to issue a prerogative writ. It is true that the existence of another remedy does not affect the jurisdiction of the Court to issue a writ; but, as observed by this Court in Rashid Ahmed v. Municipal Board, Kairana [(1950) SCR 566] "the existence of an adequate legal remedy is a thing to be taken into consideration in the matter of granting writs". Vide also K.S. Rashid and Son v. Income Tax Investigation Commission [(1954) SCR 738, 747] . And where such remedy exists, it will be a sound exercise of discretion to refuse to interfere in a petition under Article 226, unless there are good grounds therefor****. None such appears in the present case. On the other hand, the point for determination in this petition whether the respondent was denied a reasonable opportunity to present his case, turns mainly on the question whether he was prevented from cross-examining the witnesses, who gave evidence in support of the charge. That is a question on which there is a serious dispute, which cannot be satisfactorily decided without taking evidence. It is not the practice of courts to decide questions of that character in a writ petition, and it would have been a proper exercise of discretion in the present case if the learned Judges had referred the respondent to a suit. In this appeal, we should have ourselves adopted that course, and passed the order which the learned Judges should have passed. But we feel pressed by the fact that the order dismissing the respondent having been made on September 16, 1954, an action to set it aside*

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Signing Date:02.08.2025
16:38:50

would now be time-barred. As the High Court has gone into the matter on the merits, we propose to dispose of this appeal on a consideration of the merits."

61. The said legal position has been reaffirmed by the Supreme Court in the decisions of ***Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433*** and ***Radha Krishan Industries v. State of H.P., (2021) 6 SCC 771.*** The relevant portion of the said decisions read as under:

Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433

"11. Under the scheme of the Act, there is a hierarchy of authorities before which the petitioners can get adequate redress against the wrongful acts complained of. The petitioners have the right to prefer an appeal before the Prescribed Authority under sub-section (1) of Section 23 of the Act. If the petitioners are dissatisfied with the decision in the appeal, they can prefer a further appeal to the Tribunal under sub-section (3) of Section 23 of the Act, and then ask for a case to be stated upon a question of law for the opinion of the High Court under Section 24 of the Act. ***The Act provides for a complete machinery to challenge an order of assessment, and the impugned orders of assessment can only be challenged by the mode prescribed by the Act and not by a petition under Article 226 of the Constitution. It is now well recognised that where a right or liability is created by a statute which gives a special remedy for enforcing it, the remedy provided by that statute only must be availed of.*** *This rule was stated with great clarity by Willes, J. in Wolverhampton New Waterworks Co. v. Hawkesford [(1859) 6 CBNS 336, 356 : 28 LJCP 242 : 141 ER 486 : 7 WR 464] in the following passage:*

"There are three classes of cases in which a liability may be established founded upon statute. . . . But

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Signing Date:12.08.2025
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there is a third class, viz. where a liability not existing at common law is created by a statute which at the same time gives a special and particular remedy for enforcing it. . .the remedy provided by the statute must be followed, and it is not competent to the party to pursue the course applicable to cases of the second class. The form given by the statute must be adopted and adhered to."

The rule laid down in this passage was approved by the House of Lords in Neville v. London Express Newspapers Ltd. [1919 AC 368 : 1919 All ER Rep 61 : 88 LJKB 282 : 120 LT 299] and has been reaffirmed by the Privy Council in Attorney-General of Trinidad and Tobago v. Gordon Grant & Co. Ltd. [1935 AC 532 : 104 LJ PC 82 : 153 LT 441 (PC)] and Secretary of State v. Mask & Co. [AIR 1940 PC 105 : 67 IA 222 : 188 IC 231] It has also been held to be equally applicable to enforcement of rights, and has been followed by this Court throughout. The High Court was therefore justified in dismissing the writ petitions in limine."

Radha Krishan Industries v. State of H.P., (2021) 6 SCC 771.

*"**C.1. Maintainability of the writ petition before the High Court***

24. The High Court has dealt with the maintainability of the petition under Article 226 of the Constitution. Relying on the decision of this Court in CCT v. Glaxo Smith Kline Consumer Health Care Ltd. [CCT v. Glaxo Smith Kline Consumer Health Care Ltd., (2020) 19 SCC 681 : 2020 SCC OnLine SC 440] , the High Court noted that although it can entertain a petition under Article 226 of the Constitution, it must not do so when the aggrieved person has an effective alternate remedy available in law. However, certain exceptions to this "rule of alternate remedy" include where, the statutory authority has not acted in accordance with the

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By:DHIRENDER KUMAR
Signing Date:02.08.2025
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provisions of the law or acted in defiance of the fundamental principles of judicial procedure; or has resorted to invoke provisions, which are repealed; or where an order has been passed in violation of the principles of natural justice. Applying this formulation, the High Court noted that the appellant has an alternate remedy available under the GST Act and thus, the petition was not maintainable.

XXXXX

27. The principles of law which emerge are that:

27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of

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By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

28. These principles have been consistently upheld by this Court in Chand Ratan v. Durga Prasad [Chand Ratan v. Durga Prasad, (2003) 5 SCC 399] , Babubhai Muljibhai Patel v. Nandlal Khodidas Barot [Babubhai Muljibhai Patel v. Nandlal Khodidas Barot, (1974) 2 SCC 706] and Rajasthan SEB v. Union of India [Rajasthan SEB v. Union of India, (2008) 5 SCC 632] among other decisions."

62. Furthermore, recently the Supreme Court in the context of CGST Act, has in ***Civil Appeal No. 5121/2021*** dated 3rd September, 2021 titled ***'The Assistant Commissioner of State Tax & Ors. v. M/s Commercial Steel Limited',*** held as under:

"11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. ***But a writ petition can be entertained in exceptional circumstances where there is:***

(i) a breach of fundamental rights;
(ii) a violation of the principles of natural justice;
(iii) an excess of jurisdiction; or
(iv) a challenge to the vires of the statute or delegated legislation.

12 In the present case, none of the above exceptions

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By:DHIRENDER KUMAR
Signing Date:02.08.2025
16:38:50

was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent.

13. For the above reasons, we allow the appeal and set aside the impugned order of the High Court. The writ petition filed by the respondent shall stand dismissed. However, this shall not preclude the respondent from taking recourse to appropriate remedies which are available in terms of Section 107 of the CGST Act to pursue the grievance in regard to the action which has been adopted by the state in the present case"

63. The said legal position has also been reiterated by this Court in ***M/s Sheetal and Sons & Ors. v. Union of India & Anr., (2025: DHC: 4057-DB)*** and by the Allahabad High Court in ***Writ Tax No. 753 of 2023*** titled '***Elesh Aggarwal* v. *Union of India'*** wherein the Allahabad High Court has held that no ground is made for interference on merits in exercise of extra ordinary jurisdiction. The relevant portion of the decision in ***M/s Sheetal and Sons & Ors. (Supra)*** reads as under:

"15. The Supreme Court in the decision in Civil Appeal No 5121 of 2021 titled 'The Assistant Commissioner of State Tax & Ors. v. M/s Commercial Steel Limited' discussed the maintainability of a writ petition under Article226. ***In the said decision, the Supreme Court reiterated the position that existence of an alternative remedy is not absolute bar to the***

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Signing Date:02.08.2025
16:38:50

maintainability of a writ petition, however, a writ petition under Article 226 can only be filed under exceptional circumstances*....*

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16. In view of the fact that the impugned order is an appealable order and the principles laid down in the abovementioned decision i.e. ***The Assistant Commissioner of State Tax & Ors. (Supra)****, the Petitioners are relegated to avail of the appellate remedy."*

64. Recently, this Court in the case of ***'Mukesh Kumar Garg v. Union of India & Ors.'*** **(*2025: DHC: 3532-DB*),** while adjudicating upon a matter concerning fraudulent availment of ITC, observed as under:

"24. ***It is well settled in various decisions of the Supreme Court that petitions under Article 226 of the Constitution of India would be liable to be entertained only in case of persons who come with clean hands and not in favour of the persons who present twisted facts or misrepresent the true and correct picture on record.*** *The said decisions along with their relevant paragraphs read as under:*

- ***K.D. Sharma v. SAIL, (2008) 12 SCC 481***

  "34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.

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38. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes todisclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because "the court knows law but not facts"."

- ***Ramjas Foundation v. Union of India, (2010) 14 SCC 38***

"21. The principle that a person who does not come to the court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the principle is that every court is not only entitled but is duty bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case."

- ***Prestige Lights Ltd. v. SBI, (2007) 8 SCC 449***

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> *"33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter."*

65. In the light of the above facts and the settled position in law, the present writ petition is not liable to be entertained especially since the Petitioner has an alternative, effective and efficacious remedy available.

66. All the contentions raised before this Court can always be raised before the Appellate Authority.

67. The limitation for availing of the appellate remedy, however, has expired in terms of Section 107 of the CGST Act. Since the petition has remained pending before this Court since April 2025, the Petitioner is given time till 31st August, 2025 to file an appeal challenging the impugned order dated 23rd January 2025 along with the requisite pre-deposit. If the same is filed within the stipulated time, the appeal shall not be dismissed on the ground of being barred by limitation and shall be adjudicated on merits.

68. Needless to add, nothing said in this judgement shall affect the final adjudication by the Appellate Authority.

69. The writ petition is disposed of with costs of Rs.25,000/- to the Delhi High Court Bar Association. The said costs shall be deposited within two

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Signing Date:12.08.2025
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weeks. The bank details of the Delhi High Court Bar Association are as under:

- ***Name: Delhi High Court Bar Association***
- ***Account No.: 15530100000478***
- ***IFSC Code: UCBA0001553***
- ***Bank & Branch: UCO Bank, Delhi High Court***

70. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

JULY, 29 2025
dj/ck.

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CASE 23 OF 34 · GROUP C

Atlantis Intelligence Ltd. v. Union of India and 2 Others

Court	High Court of Judicature at Allahabad
Bench	Shekhar B. Saraf and Praveen Kumar Giri, JJ.
Date	11.08.2025
Case no. / citation	2025:AHC:135383-DB; WRIT TAX No. 3608 of 2025

Holding in brief

Writ court should not condone delay or override the statutory limitation scheme where there is no gross violation of natural justice. Writ petition dismissed in limine; no costs.

Provisions involved

CGST Act, 2017: Sections 74 and 107

Status

Dismissed; held in favour of the revenue. Directions: Petitioner may proceed in accordance with law; observations will not affect the appellate forum.

The judgment begins on compendium page 511.

Court No. - 3

Case :- WRIT TAX No. - 3608 of 2025

Petitioner :- Atlantis Intelligence Ltd.
Respondent :- Union of India And 2 Others
Counsel for Petitioner :- Mohit Singh
Counsel for Respondent:- A.S.G.I.,C.S.C.,Gaurav Mahajan, Saumitra Singh

Hon'ble Shekhar B. Saraf.J.
Hon'ble Praveen Kumar Giri.J.

(Judgment dictated in open Court by Shekhar B. Saraf, J.)

1. Heard Ms. Anjali Jha Manish, learned counsel appearing on behalf of the petitioner, Mr. Gaurav Mahajan, learned Senior Standing Counsel appearing on behalf of the respondent No.2/Assistant Commissioner, CGST and Mr. Arvind Kumar Mishra, learned Standing Counsel for the State-respondent.

2. This is a writ petition under Article 226 of the Constitution of India, wherein the writ petitioner is aggrieved by the impugned order in original dated January 1, 2025 passed by the Assistant Commissioner, CGST, Division -I, NOIDA. The prayers made out in the above writ petition are delineated below:

> *"A. Issue a writ, order or direction in the nature of certiorari to quash the Order In Original bearing No.84/AC/CGST/Div-I/N/2024-25 dated January 31, 2025 passed by the learned Assistant Commissioner, CGST, Division-I, Noida; and/or.*
>
> *B. Issue a writ, order or direction in the nature of certiorari to quash the Show Cause Notice dated 23.02.2022 issued by the Learned Assistant Commissioner, CGST, Division -I Noida and/or*
>
> *C. Stay the operation of impugned Order in Original bearing No.84/AC/CGST/Div-I/N/2024-25 dated 31.01.2025, passed by the Learned Assistant Commissioner, CGST, Division -I, Noida, during the pendency of the present petition;*
>
> *D. Interim and ad-interim reliefs in terms of prayer clauses as above;"*

3. Upon perusal of the record, it is clear that the impugned order was passed on January 31, 2025, while the writ petition was filed on July 3, 2025. It is to be noted that Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act'), provides for a statutory appeal against the order passed under Section 74 of the Act. The period prescribed therein is three months. By way of sub-section (4) to Section 107 of the Act, if sufficient cause is shown, the period may be extended for a month. As the Act provides for a specific period for filing of appeal and also provides for an extended period, if sufficient cause is shown for condoning the delay in filing of the appeal, Section 29(2) of the Limitation Act, 1963 would be applicable. Section 29(2) of the Limitation Act reads as under:

> *"29. Savings.—*
>
> *(1) .....*
>
> *(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law. (3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law. (4) Sections 25 and 26 and the definition of "easement" in section 2 shall not apply to cases arising in the territories to which the Indian Easements Act, 1882 (5 of 1882), may for the time being extend."*

Ergo, Section 29(2) clearly excludes the application of Section 5 of the Limitation Act for the purpose of condonation of delay in special statutes.

4. It is admitted by the petitioner that the petitioner was served by registered email on the very same date of passing of the impugned order. However, learned counsel appearing on behalf of petitioner, submits that there was no service made to the petitioner by way of registered post.

5. Upon perusal of Section 169 of the Act, we are of the view that in the event the service is made by way of the registered email, the same would be a good service and limitation would start from that date itself. The petitioner cannot be allowed to take a ground that the other modes of service that have been provided in clauses (a) to (f) of sub-section (1) to Section 169 of the Act have not been followed. If one were to read that for service to be complete more than one mode as has been prescribed under Section 169 of the Act is required to be followed, the entire purpose of the provision would become absurd. Such a reading is neither plausible nor can be countenanced by us.

6. Accordingly, we are of the view that service of the order by registered email is a valid service and the date on which such service is made would count as the date for the purpose of limitation.

7. The Supreme Court in **Singh Enterprises v. Commissioner of Central Excise**, reported in (2008) 3 SCC 70 has held that under the statute where specific limitation period is prescribed, Section 5 of the Limitation Act, has no applicability. **Singh Enterprises** (supra) categorically states that an appeal is required to be filed by the petitioner within the time frame provided in the special Statute. The relevant paragraph of the judgment is quoted hereinbelow:

> *"10. Sufficient cause is an expression which is found in various statutes. It essentially means as adequate or enough. There cannot be any straitjacket formula for accepting or rejecting the explanation furnished for delay caused in taking steps. In the instant case, the explanation offered for the abnormal delay of nearly 20 months is that the appellant concern was practically closed after 1998 and it was only opened for some short period. From the application for condonation of delay, it appears that the appellant has categorically accepted that on receipt of order the same was immediately handed over to the consultant for filing an appeal. If that is so, the plea that because of lack of experience in business there was delay does not stand to reason. ITC case [(1998) 8 SCC 610] was rendered taking note of the peculiar background facts of the case. In that case there was no law declared by this Court that even though the statute prescribed a particular period of limitation, this Court can direct condonation. That would render a*

specific provision providing for limitation rather otiose. In any event, the causes shown for condonation have no acceptable value. In that view of the matter, the appeal deserves to be dismissed which we direct. There will be no order as to costs."

8. The three-judges Bench of the Supreme Court in **Commissioner of Customs and Central Excise v. Hongo India Private Limited and Another**, reported in (2009) 5 SCC 791 while dealing with the issue of condoning the delay beyond the period specified in Section 35-H of the Central Excise Act, 1944 has reiterated the view of **Singh Enterprises** (supra) and has held that time limit prescribed for making reference and appeal to High Court is absolute and unextendable by Court under Section 5 of the Limitation Act. The limitation cannot be extended by applying a liberal interpretation. The relevant paragraph of the judgment is quoted hereinbelow:

"32. As pointed out earlier, the language used in Sections 35, 35-B, 35-EE, 35-G and 35-H makes the position clear that an appeal and reference to the High Court should be made within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days."

9. The Supreme Court in **Assistant Commissioner (CT) LTU, Kakinada and Others v. Glaxo Smith Kline Consumer Health Care Ltd.**, reported in (2020) 19 SCC 681, has dealt with the moot question as to whether the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India ought to entertain challenge to the assessment order on the sole ground that the statutory remedy of appeal against the order stood foreclosed by the law of limitation. The Apex Court while dealing with the issue of power of appellate authority to condone delay under Section 31 of the Andhra Pradesh Value Added Tax, 2005 has held that if a complete mechanism is provided for challenging the assessment orders, that

mechanism solely has to be followed, neither writ court nor Section 5 of the Limitation Act can condone the delay beyond prescribed statutory period. The relevant paragraphs of the judgment are quoted hereinbelow:

> *"16. Indubitably, the powers of the High Court under Article 226 of the Constitution are wide, but certainly not wider than the plenary powers bestowed on this Court under Article 142 of the Constitution. Article 142 is a conglomeration and repository of the entire judicial powers under the Constitution, to do complete justice to the parties. Even while exercising that power, this Court is required to bear in mind the legislative intent and not to render the statutory provision otiose. In a recent decision of a three-Judge Bench of this Court in ONGC v. Gujarat Energy Transmission Corpn. Ltd. [ONGC v. Gujarat Energy Transmission Corpn. Ltd., (2017) 5 SCC 42 : (2017) 3 SCC (Civ) 47] , the statutory appeal filed before this Court was barred by 71 days and the maximum time-limit for condoning the delay in terms of Section 125 of the Electricity Act, 2003 was only 60 days. In other words, the appeal was presented beyond the condonable period of 60 days. As a result, this Court could not have condoned the delay of 71 days. Notably, while admitting the appeal, the Court had condoned the delay in filing the appeal. However, at the final hearing of the appeal, an objection regarding appeal being barred by limitation was allowed to be raised being a jurisdictional issue and while dealing with the said objection, the Court referred to the decisions in Singh Enterprises v. CCE [Singh Enterprises v. CCE, (2008) 3 SCC 70] , CCE v. Hongo (India) (P) Ltd. [CCE v. Hongo (India) (P) Ltd., (2009) 5 SCC 791] , Chhattisgarh SEB v. CERC [Chhattisgarh SEB v. CERC, (2010) 5 SCC 23] and Suryachakra Power Corpn. Ltd. v. Electricity Deptt. [Suryachakra Power Corpn. Ltd. v. Electricity Deptt., (2016) 16 SCC 152 : (2017) 5 SCC (Civ) 761] and concluded that Section 5 of the Limitation Act, 1963 cannot be invoked by the Court for maintaining an appeal beyond maximum prescribed period in Section 125 of the Electricity Act.*
>
> *17. The principle underlying the dictum in this decision would apply proprio vigore to Section 31 of the 2005 Act including to the powers of the High Court under Article 226 of the Constitution. Notably, in this decision, a submission was canvassed by the assessee that in the peculiar facts of that case (as urged in the present case), the Court may exercise its jurisdiction under Article 142 of the Constitution, so that complete justice can be done. This argument has been considered and plainly rejected in the following words : (ONGC case [ONGC v. Gujarat Energy Transmission Corpn. Ltd., (2017) 5 SCC 42 : (2017) 3 SCC (Civ) 47] , SCC pp. 48-51, paras 12-16)*
>
> > *"12. In A.R. Antulay v. R.S. Nayak [A.R. Antulay v. R.S. Nayak, (1988) 2 SCC 602 : 1988 SCC (Cri) 372] , while explicating and*

elaborating the principles under Article 142, Sabyasachi Mukharji, J. (as his Lordship then was) opined thus : (SCC p. 656, para 50)

> *'50. … The fact that the rule was discretionary did not alter the position. Though Article 142(1) empowers the Supreme Court to pass any order to do complete justice between the parties, the court cannot make an order inconsistent with the fundamental rights guaranteed by Part III of the Constitution. No question of inconsistency between Article 142(1) and Article 32 arose. Gajendragadkar, J., speaking [Prem Chand Garg v. Excise Commr., AIR 1963 SC 996] for the majority of the Judges of this Court said that Article 142(1) did not confer any power on this Court to contravene the provisions of Article 32 of the Constitution. Nor did Article 145 confer power upon this Court to make rules, empowering it to contravene the provisions of the fundamental right. At AIR pp. 1002-03, para 12 : SCR p. 899 of the Reports, Gajendragadkar, J., reiterated that the powers of this Court are no doubt very wide and they are intended and "will always be exercised in the interests of justice". But that is not to say that an order can be made by this Court which is inconsistent with the fundamental rights guaranteed by Part III of the Constitution. It was emphasised that an order which this Court could make in order to do complete justice between the parties, must not only be consistent with the fundamental rights guaranteed by the Constitution, but it cannot even be inconsistent with the substantive provisions of the relevant statutory laws. The court, therefore, held that it was not possible to hold that Article 142(1) conferred upon this Court powers which could contravene the provisions of Article 32.'*

13. The said decision has been clarified by a Constitution Bench in Union Carbide Corpn. v. Union of India [Union Carbide Corpn. v. Union of India, (1991) 4 SCC 584] , wherein M.N. Venkatachaliah, J. (as his Lordship then was) speaking for the majority, ruled that : (SCC pp. 634-35, para 83)

> *'83. It is necessary to set at rest certain misconceptions in the arguments touching the scope of the powers of this Court under Article 142(1) of the Constitution. These issues are matters of serious public importance. The proposition that a provision in any ordinary law irrespective of the importance of the public policy on which it is founded, operates to limit the powers of the Supreme Court under Article 142(1) is*

unsound and erroneous. In both Prem Chand Garg v. Excise Commr.[Prem Chand Garg v. Excise Commr., AIR 1963 SC 996] , as well as A.R. Antulay v. R.S. Nayak [A.R. Antulay v. R.S. Nayak, (1988) 2 SCC 602 : 1988 SCC (Cri) 372] , cases the point was one of violation of constitutional provisions and constitutional rights. The observations as to the effect of inconsistency with statutory provisions were really unnecessary in those cases as the decisions in the ultimate analysis turned on the breach of constitutional rights. We agree with Shri Nariman that the power of the Court under Article 142 insofar as quashing of criminal proceedings are concerned is not exhausted by Section 320 or 321 or 482 CrPC or all of them put together. The power under Article 142 is at an entirely different level and of a different quality. Prohibitions or limitations or provisions contained in ordinary laws cannot, ipso facto, act as prohibitions or limitations on the constitutional powers under Article 142. Such prohibitions or limitations in the statutes might embody and reflect the scheme of a particular law, taking into account the nature and status of the authority or the court on which conferment of powers — limited in some appropriate way — is contemplated. The limitations may not necessarily reflect or be based on any fundamental considerations of public policy. Shri Sorabjee, learned Attorney General, referring to Garg case [Prem Chand Garg v. Excise Commr., AIR 1963 SC 996] , said that limitation on the powers under Article 142 arising from "inconsistency with express statutory provisions of substantive law" must really mean and be understood as some express prohibition contained in any substantive statutory law. He suggested that if the expression "prohibition" is read in place of "provision" that would perhaps convey the appropriate idea. But we think that such prohibition should also be shown to be based on some underlying fundamental and general issues of public policy and not merely incidental to a particular statutory scheme or pattern. It will again be wholly incorrect to say that powers under Article 142 are subject to such express statutory prohibitions. That would convey the idea that statutory provisions override a constitutional provision. Perhaps, the proper way of expressing the idea is that in exercising powers under Article 142 and in assessing the needs of "complete justice" of a cause or matter, the Supreme Court will take note of the express prohibitions in any substantive statutory provision based on some fundamental principles of public

policy and regulate the exercise of its power and discretion accordingly. The proposition does not relate to the powers of the Court under Article 142, but only to what is or is not "complete justice" of a cause or matter and in the ultimate analysis of the propriety of the exercise of the power. No question of lack of jurisdiction or of nullity can arise.'

14. In this regard, another Constitution Bench in Supreme Court Bar Assn. v. Union of India [Supreme Court Bar Assn. v. Union of India, (1998) 4 SCC 409] opined : (SCC pp. 437-38, para 56)

'56. As a matter of fact, the observations on which emphasis has been placed by us from the Union Carbide case [Union Carbide Corpn. v. Union of India, (1991) 4 SCC 584] , A.R. Antulay case [A.R. Antulay v. R.S. Nayak, (1988) 2 SCC 602 : 1988 SCC (Cri) 372] and Delhi Judicial Service Assn. v. State of Gujarat[Delhi Judicial Service Assn. v. State of Gujarat, (1991) 4 SCC 406] , go to show that they do not strictly speaking come into any conflict with the observations of the majority made in Prem Chand Garg case [Prem Chand Garg v. Excise Commr., AIR 1963 SC 996] . It is one thing to say that "prohibitions or limitations in a statute" cannot come in the way of exercise of jurisdiction under Article 142 to do complete justice between the parties in the pending "cause or matter" arising out of that statute, but quite a different thing to say that while exercising jurisdiction under Article 142, this Court can altogether ignore the substantive provisions of a statute, dealing with the subject and pass orders concerning an issue which can be settled only through a mechanism prescribed in another statute. This Court did not say so in Union Carbide case [Union Carbide Corpn. v. Union of India, (1991) 4 SCC 584] either expressly or by implication and on the contrary it has been held that the Supreme Court will take note of the express provisions of any substantive statutory law and regulate the exercise of its power and discretion accordingly. …'

15. From the aforesaid decisions, it is clear as crystal that the Constitution Bench in Supreme Court Bar Assn. v. Union of India [Supreme Court Bar Assn. v. Union of India, (1998) 4 SCC 409] , has ruled that there is no conflict of opinion in Antulay case [A.R. Antulay v. R.S. Nayak, (1988) 2 SCC 602 : 1988 SCC (Cri) 372] or in Union Carbide Corpn. Case [Union Carbide Corpn. v. Union of India, (1991) 4 SCC 584] with the principle set down in Prem Chand Garg v. Excise Commr. [Prem Chand Garg v. Excise Commr., AIR

1963 SC 996] Be it noted, when there is a statutory command by the legislation as regards limitation and there is the postulate that delay can be condoned for a further period not exceeding sixty days, needless to say, it is based on certain underlined, fundamental, general issues of public policy as has been held in Union Carbide Corpn. Case [Union Carbide Corpn. v. Union of India, (1991) 4 SCC 584]. As the pronouncement in Chhattisgarh SEB v. CERC [Chhattisgarh SEB v. CERC, (2010) 5 SCC 23] , lays down quite clearly that the policy behind the Act emphasising on the constitution of a special adjudicatory forum, is meant to expeditiously decide the grievances of a person who may be aggrieved by an order of the adjudicatory officer or by an appropriate Commission. The Act is a special legislation within the meaning of Section 29(2) of the Limitation Act and, therefore, the prescription with regard to the limitation has to be the binding effect and the same has to be followed regard being had to its mandatory nature. To put it in a different way, the prescription of limitation in a case of present nature, when the statute commands that this Court may condone the further delay not beyond 60 days, it would come within the ambit and sweep of the provisions and policy of legislation. It is equivalent to Section 3 of the Limitation Act. Therefore, it is uncondonable and it cannot be condoned taking recourse to Article 142 of the Constitution.

16. We had stated earlier that we will be adverting to the passage in Suryachakra Power Corpn. Ltd.v. Electricity Deptt. [Suryachakra Power Corpn. Ltd. v. Electricity Deptt., (2016) 16 SCC 152 : (2017) 5 SCC (Civ) 761] There, the Court had referred to Section 14 of the Limitation Act. It fundamentally relied on M.P. Steel Corpn. v. CCE [M.P. Steel Corpn. v. CCE, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510] , wherein the Court after referring to certain authorities, analysed thus : (M.P. Steel Corpn. Case [M.P. Steel Corpn. v. CCE, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510] , SCC p. 91, para 43)

> *'43. … when a certain period is excluded by applying the principles contained in Section 14, there is no delay to be attributed to the appellant and the limitation period provided by the statute concerned continues to be the stated period and not more than the stated period. We conclude, therefore, that the principle of Section 14 which is a principle based on advancing the cause of justice would certainly apply to exclude time taken in prosecuting proceedings which are bona fide and with due diligence pursued, which ultimately end without a decision on the merits of the case.'''*

(emphasis in original and supplied)

> *Similarly, in State v. Mushtaq Ahmad [State v. Mushtaq Ahmad, (2016) 1 SCC 315 : (2016) 1 SCC (Cri) 255] , this Court opined that where minimum sentence is provided for an offence then no court can impose lesser punishment on ground of mitigating factors.*

18. A priori, we have no hesitation in taking the view that what this Court cannot do in exercise of its plenary powers under Article 142 of the Constitution, it is unfathomable as to how the High Court can take a different approach in the matter in reference to Article 226 of the Constitution. The principle underlying the rejection of such argument by this Court would apply on all fours to the exercise of power by the High Court under Article 226 of the Constitution.

19. We may now revert to the Full Bench decision of the Andhra Pradesh High Court in Electronics Corpn. of India Ltd. [Electronics Corpn. of India Ltd. v. Union of India, 2018 SCC OnLine Hyd 21 : (2018) 361 ELT 22] , which had adopted the view taken by the Full Bench of the Gujarat High Court in Panoli Intermediate (India) (P) Ltd. v. Union of India [Panoli Intermediate (India) (P) Ltd. v. Union of India, 2015 SCC OnLine Guj 570 : AIR 2015 Guj 97] and also of the Karnataka High Court in Phoenix Plasts Co. v. CCE [Phoenix Plasts Co. v. CCE, 2013 SCC OnLine Kar 10432 : (2013) 298 ELT 481] . The logic applied in these decisions proceeds on fallacious premise. For, these decisions are premised on the logic that provision such as Section 31 of the 2005 Act, cannot curtail the jurisdiction of the High Court under Articles 226 and 227 of the Constitution. This approach is faulty. It is not a matter of taking away the jurisdiction of the High Court. In a given case, the assessee may approach the High Court before the statutory period of appeal expires to challenge the assessment order by way of writ petition on the ground that the same is without jurisdiction or passed in excess of jurisdiction — by overstepping or crossing the limits of jurisdiction including in flagrant disregard of law and rules of procedure or in violation of principles of natural justice, where no procedure is specified. The High Court may accede to such a challenge and can also non-suit the petitioner on the ground that alternative efficacious remedy is available and that be invoked by the writ petitioner. However, if the writ petitioner chooses to approach the High Court after expiry of the maximum limitation period of 60 days prescribed under Section 31 of the 2005 Act, the High Court cannot disregard the statutory period for redressal of the grievance and entertain the writ petition of such a party as a matter of course. Doing so would be in the teeth of the principle underlying the dictum of a three-Judge Bench of this Court in ONGC [ONGC v. Gujarat Energy Transmission Corpn. Ltd., (2017) 5 SCC 42 : (2017) 3 SCC (Civ) 47] In other words, the fact that the High Court

has wide powers, does not mean that it would issue a writ which may be inconsistent with the legislative intent regarding the dispensation explicitly prescribed under Section 31 of the 2005 Act. That would render the legislative scheme and intention behind the stated provision otiose.

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22. Suffice it to observe that this decision is on the facts of that case and cannot be cited as a precedent in support of an argument that the High Court is free to entertain the writ petition assailing the assessment order even if filed beyond the statutory period of maximum 60 days in filing appeal. The remedy of appeal is creature of statute. If the appeal is presented by the assessee beyond the extended statutory limitation period of 60 days in terms of Section 31 of the 2005 Act and is, therefore, not entertained, it is incomprehensible as to how it would become a case of violation of fundamental right, much less statutory or legal right as such.

23. Arguendo, reverting to the factual matrix of the present case, it is noticed that the respondent had asserted that it was not aware about the passing of assessment order dated 21-6-2017 although it is admitted that the same was served on the authorised representative of the respondent on 22-6-2017. The date on which the respondent became aware about the order is not expressly stated either in the application for condonation of delay filed before the appellate authority, the affidavit filed in support of the said application or for that matter, in the memo of writ petition. On the other hand, it is seen that the amount equivalent to 12.5% of the tax amount came to be deposited on 12-9-2017 for and on behalf of respondent, without filing an appeal and without any demur — after the expiry of statutory period of maximum 60 days, prescribed under Section 31 of the 2005 Act. Not only that, the respondent filed a formal application under Rule 60 of the 2005 Rules on 8-5-2018 and pursued the same in appeal, which was rejected on 17-8-2018. Furthermore, the appeal in question against the assessment order came to be filed only on 24-9-2018 without disclosing the date on which the respondent in fact became aware about the existence of the assessment order dated 21-6-2017. On the other hand, in the affidavit of Mr Sreedhar Routh, Site Director of the respondent Company (filed in support of the application for condonation of delay before the appellate authority), it is stated that the Company became aware about the irregularities committed by its erring official (Mr P. Sriram Murthy) in the month of July 2018, which presupposes that the respondent must have become aware about the assessment order, at least in July 2018. In the same affidavit, it is asserted that the respondent Company was not aware about the assessment order, as it was not brought to its notice by the employee concerned due to his negligence. The respondent in the writ petition has averred that the appeal was rejected by the appellate authority

on the ground that it had no power to condone the delay beyond 30 days, when in fact, the order examines the cause set out by the respondent and concludes that the same was unsubstantiated by the respondent. That finding has not been examined by the High Court in the impugned judgment and order [Glaxo Smith Kline Consumer Healthcare Ltd. v. CCT, 2018 SCC OnLine Hyd 1985] at all, but the High Court was more impressed by the fact that the respondent was in a position to offer some explanation about the discrepancies in respect of the volume of turnover and that the respondent had already deposited 12.5% of the additional amount in terms of the previous order passed by it. That reason can have no bearing on the justification for non-filing of the appeal within the statutory period. Notably, the respondent had relied on the affidavit of the Site Director and no affidavit of the employee concerned (P. Sriram Murthy, Deputy Manager-Finance) or at least the other employee [Siddhant Belgaonker, Senior Manager (Finance)], who was associated with the erring employee during the relevant period, has been filed in support of the stand taken in the application for condonation of delay. Pertinently, no finding has been recorded by the High Court that it was a case of violation of principles of natural justice or non-compliance of statutory requirements in any manner. Be that as it may, since the statutory period specified for filing of appeal had expired long back in August 2017 itself and the appeal came to be filed by the respondent only on 24-9-2018, without substantiating the plea about inability to file appeal within the prescribed time, no indulgence could be shown to the respondent at all.

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25. Taking any view of the matter, therefore, the High Court ought not to have entertained the subject writ petition filed by the respondent herein. The same deserved to be rejected at the threshold."

(Emphasis added)

10. The Division Bench of the Rajasthan High Court in **Malik Khan v. Chief Commissioner of GST & Central Excise**, reported in (2023) 120 GSTR 66 also examined a similar situation wherein the assessee had not filed the statutory appeal under Section 107 of the Act and after the expiry of the limitation period prescribed thereunder directly approached the High Court. The Court reiterating the judgment of Supreme Court in **Glaxo Smith Kline Consumer Health Care Limited** (supra) has held that such a writ petition is not maintainable. The relevant paragraphs of the judgment are quoted hereinbelow:

"15. We are of the view that after expiry of the limitation period of filing appeal, the writ petition filed by the petitioner challenging the impugned order is not maintainable. This view of us is getting support from the decision of the honourable Supreme Court rendered in Assistant Commissioner (CT) LTU, Kakinada (supra), which is also relied upon by the counsel for the petitioner.

17. As observed earlier, the petitioner has not filed any statutory appeal before the appellate authority within the limitation period and has directly filed this writ petition before this court after eight months of the expiry of limitation, we are of the view that as per the law laid down by the honourable Supreme Court rendered in Assistant Commissioner (CT) LTU, Kakinada's case (supra), the writ petition filed by the petitioner cannot be entertained as being not maintainable."

11. The Division Bench of Rajasthan High Court in **M/s Thekedar Pankaj Sharma v. State of Rajasthan**; reported in 2024:RJ-JP:17881-DB has also specifically dealt with the identical issue involved in the present writ petition and outrightly rejected the writ petition as not maintainable in view of the judgment of Supreme Court in **Glaxo Smith Kline Consumer Health Care Limited** (supra). The relevant paragraphs of the judgment are quoted hereinbelow:

"2. Though number of grounds have been urged in the writ petition as also before this Court to assail the correctness and validity of aforesaid show cause notice as also order dated 13.03.2023, learned counsel for the respondents, appearing on advance copy, brought to the notice of the Court that after the proceedings under Section 74 of the RGST Act, 2017/ the CGST Act, 2017 were drawn against the petitioner which culminated in order dated 13.03.2023 resulting in levy of tax liability along with interest and penalty, the petitioner did not file any appeal either within the period of limitation as prescribed under Section 107 of the RGST Act, 2017/ the CGST Act, 2017 or within the maximum period thereafter which could be condoned under the power to condone the delay in filing of the appeal. Therefore, in view of the decision of the Hon'ble Supreme Court in the case of Assistant Commissioner (CT) LTU, Kakinada and Others v. Glaxo Smith Kline Consumer Health Care Ltd. reported in (2020) 19 SCC 681(2020) 19 SCC 681, present writ petition is not maintainable and liable to be dismissed.

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6. Present is a case where the petitioner did not even file appeal and allowed the order passed in assessment proceedings to become final and thereafter approached this Court by filing writ petition seeking to challenge the determination of tax, interest and penalty by the competent authority vide order dated 13.03.2023. Present is not a case where the order under Section 74 of the RGST Act, 2017/ the CGST Act, 2017 levying tax along with interest and penalty was passed without giving any opportunity of hearing to the petitioner. Even according to the petitioner, he was issued show cause notice and thereafter, impugned order was passed. In the writ petition, no plausible explanation has been offered as to why the petitioner did not take recourse to the remedy of statutory appeal. It, therefore, appears that the petitioner consciously did not choose to take recourse to the remedy of appeal as provided under Section 107 of the RGST Act, 2017/the CGST Act, 2017, but waited for the expiry of the period of limitation for filing appeal as also the maximum period of delay which could be condoned in the exercise of powers conferred upon the appellate authority under the provisions of Section 107 of the RGST Act, 2017/ the CGST Act, 2017

7. Having not preferred an appeal, the petition in the present case, in view of the decision of Hon'ble Supreme Court in the case of Glaxo Smith Kline Consumer Health Care Ltd. reported in (2020) 19 SCC 681(supra), is not maintainable."

12. The Division Bench of the Delhi High Court in **Addichem Speciallity LLP v. Special Commissioner**, reported in (2025) 140 GSTR 451 referring to a catena of judgments of the Supreme Court and other High Courts has also held that the plenary power of the High Court cannot in any case exceed the jurisdictional powers under Article 142 of the Constitution of India, and even the Supreme Court cannot extend the period of limitation *de hors* the provisions contained in any statutory enactment. The court has summarised the precedents in paragraphs 69 and 70 which are quoted hereinbelow:

"69. In summary, the power to condone delay caused in pursuing a statutory remedy would always be dependent upon the statutory provision that governs. The right to seek condonation of delay and invoke the discretionary power inhering in an appellate authority would depend upon whether the statute creates a special and independent regime with respect to limitation or leaves an avenue open for the appellant to invoke the general provisions of the Limitation Act to seek condonation of delay. The facility to seek condonation can be resorted provided the legislation does not construct an independent regime with respect to an appeal being preferred.

Once it is found that the legislation incorporates a provision which creates a special period of limitation and proscribes the same being entertained after a terminal date, the general provisions of the Limitation Act would cease to apply.

70. In view of the forgoing discussion, as it is evident that each of the appeals was filed beyond the prescribed period of limitation provided by sections 107(1) and 107(4) of the CGST Act, the aforesaid writ petitions lack merit and are accordingly dismissed."

13. This Court in **Garg Enterprises v. State of U.P**., reported in (2024) 129 GSTR 299 penned by one of us has again followed the dictum laid down by Supreme Court in **Singh Enterprises** (supra) and **Hongo India (P) Ltd.** (supra) and held as follows:

"7. The Central Goods and Services tax Act is a special statute and a self-contained code by itself. Section 107 of the Act has an in built mechanism and has impliedly excluded the application of the Limitation Act. It is trite law that section 5 of the Limitation Act, 1963 will apply only if it is extended to the special statute. Section 107 of the Act specifically provides for the limitation and in the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of section 5 of the Limitation Act. Accordingly, one cannot apply section 5 of the Limitation Act, 1963 to the aforesaid provision."

14. Upon a perusal of the umpteen judgements cited above and sifting through the ratios laid down by the Supreme Court and High Courts in the various judgments, one may extract the principles with regard to maintainability of the writ petitions after expiry of the time frame for filing appeal stipulated in the special statute. The said principles are summarised below:

A. An order that this Court could make in order to do complete justice between the parties, must not only be consistent with the fundamental rights guaranteed by the Constitution of India, but also be consistent with the substantive provisions of the relevant statutory laws.

B. In exercising powers under Article 226 of the Constitution of India and in assessing the needs of 'complete justice' of a cause or

matter, the High Court should take note of the express prohibitions in any substantive statutory provision based on some fundamental principles of public policy and regulate the exercise of its power and discretion accordingly.

C. The prescription of limitation when the statute commands that delay may be condoned to a maximum of one month further would come within the ambit and sweep of the policy of legislation. In such cases, Section 29(2) read with Section 3 of the Limitation Act would apply, and accordingly, the Courts shall have no power to condone the delay of any further period even in writ jurisdiction under Article 226 of the Constitution of India.

D. The principle of Section 14 of the Limitation Act which is a principle based on advancing the cause of justice would certainly apply to exclude time taken in prosecuting proceedings which are bona fide and with due diligence pursued, which ultimately end without a decision on the merits of the case.

15. In the present case, the petitioner has come to this writ Court after the limitation has expired for filing an appeal under Section 107 of the Act. In light of the same, we are of the view that entertaining this writ petition would amount to allowing the petitioner to circumvent the statutory appellate procedure. In our view, no proper explanation has been provided by the petitioner for non-filing of the appeal within time and/or non-filing of the writ petition within the limitation period.

16. The dictum of the Supreme Court laid down in **Singh Enterprises** (supra), **Hongo India (P) Ltd.** (supra) and **Glaxo Smith Kline Consumer Health Care Ltd.** (supra) has been consistently followed by Supreme Court and various High Courts. In light of the same, this Court is of the view that this Court should not indulge the writ petitioner in condoning the delay as the present case is neither a case of gross violation of principles of natural justice nor patent illegality. Furthermore, writ jurisdiction can certainly not

be exercised when invoked to undermine or defeat the application of a statutory regime so as to render the provision of limitation provided in the statute otiose. Ergo, this Court ought not to entertain the present writ petition and the same deserves to be rejected *in limine*.

17. The writ petition, is accordingly, dismissed, with no order as to cost.

18. We make it clear that the petitioner shall be at liberty to proceed in accordance with law and if the petitioner files an appeal, the order passed by this Court and the observations herein shall not affect the decision of the appellate forum.

Order Date: 11.8.2025
DKS

(Praveen Kumar Giri.J.) (Shekhar B. Saraf.J.)

Digitally signed by :-
DEEPAK KUMAR SRIVASTWA
High Court of Judicature at Allahabad

Suresh Kumar v. Commissioner CGST Delhi North

Court	High Court of Delhi
Bench	Prathiba M. Singh and Shail Jain, JJ.
Date	13.08.2025
Case no. / citation	W.P.(C) 12199/2025

Holding in brief

E-mail is a valid mode under Section 169; consolidated SCN for multiple years covered by Ambika Traders. Writ disposed of; appeals to be filed.

Provisions involved

CGST Act, 2017: Sections 2, 73, 74, 107 and 169 (2(106), 73(3), 73(4), 73(10), 74(3), 74(4), 74(10))

Status

Disposed off; held in favour of the revenue. Directions: Appeals by 30.09.2025 with pre-deposit; not to be dismissed on limitation; limitation can be raised in appeal.

The judgment begins on compendium page 529.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 13th August, 2025

\+ **W.P.(C) 12199/2025 & CM APPL. 49693/2025**

SURESH KUMAR .....Petitioner

Through: Mr. Rajeev Aggarwal and Mr. Shubham Goel, Advs.

versus

COMMISSIONER CGST DELHI NORTH .....Respondent

Through: Mr. Aakarsh Srivastava, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

1. This hearing has been done through hybrid mode.

CM APPL. 49692/2025

2. Allowed subject to all just exceptions. Accordingly, the application is disposed of.

CM APPL. 49694/2025

3. This is an application for condonation of delay in refiling. For the reasons stated in the application, the delay is condoned. Application is disposed of.

W.P.(C) 12199/2025 & CM APPL. 49693/2025

4. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the following:

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S. No.	*Show Cause Notice*	*Order*	*DRC-07*
1.	26th July, 2024	16th January, 2025	27th January, 2025
2.	3rd August, 2024	1st February, 2025	18th February, 2025

5. Mr. Rajeev Aggarwal, ld. Counsel for the Petitioner submits that insofar as the first order dated 16th January, 2025 is concerned, the Petitioner is willing to prefer an appeal as the ground raised in this matter in respect of the said order is that it is being issued for multiple years. This issue now stands covered by decision of this this Court in ***Ambika Traders through Proprietor Gaurav Gupta v. Additional Commissioner, Adjudication DGGSTI, CGST Delhi North, 2025:DHC:6181-DB***, where the Court has held as under:

> *"Consolidated SCN for Multiple Financial Years*
>
> *43. Insofar as the issue of consolidated notice for various financial years is concerned, a perusal of Section 74 of the CGST Act would itself show that at least insofar as fraudulently availed or utilized ITC is concerned, the language used in Section 74(3) of the CGST Act and Section 74(4) of the CGST Act is "for any period" and "for such periods" respectively. This contemplates that a notice can be issued for a period which could be more than one financial year. Similar is the language even in Section 73 of the CGST Act. The relevant provisions read as under:*
>
> *"**73. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.—***

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xxx xxx xxx

*(3) Where a notice has been issued **for any period** under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised **for such periods** other than those covered under sub-section (1), on the person chargeable with tax.*

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

xxx xxx xxx

74. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.—

xxx xxx xxx

*(3) Where a notice has been issued **for any period** under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised **for such periods** other than those covered under sub-section (1), on the person chargeable with tax.*

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice."

44. Some of the other provisions of the CGST Act, which are relevant, include Section 2(106) of the CGST

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Act, which defines "tax period" as under:

"2.[…] (106) "tax period" means the period for which the return is required to be furnished"

45. Thus, Sections 74(3), 74(4), 73(3) and 73(4) of the CGST Act use the term "for any period" and "for such periods". This would be in contrast with the language used in Sections 73(10) and 74(10) of the CGST Act where the term "financial year" is used. The said provisions read as under:

*"73.[…] (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the **financial year** to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund"*

*"74.[…] 10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the **financial year** to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund."*

The Legislature is thus, conscious of the fact that insofar as wrongfully availed ITC is concerned, the notice can relate to a period and need not to be for a specific financial year.

46. The nature of ITC is such that fraudulent utilization and availment of the same cannot be established on most occasions without connecting transactions over different financial years. The purchase could be shown in one financial year and the supply may be shown in the next financial year. It is only when either are found to be fabricated or the firms are found to be fake that the maze of transactions can be analysed and established as being fraudulent or bogus.

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> *47. A solitary availment or utilization of ITC in one financial year may actually not be capable of by itself establishing the pattern of fraudulent availment or utilization. It is only when the series of transactions are analysed, investigated, and enquired into, and a consistent pattern is established, that the fraudulent availment and utilization of ITC may be revealed. The language in the abovementioned provisions i.e., the word `period' or `periods' as against `financial year' or `assessment year' are therefore, significant."*

6. Insofar as the second order dated 1st February, 2025 is concerned, the only ground raised is of limitation. According to ld. Counsel for the Petitioner, the limitation period for passing the impugned order came to an end by 5th February, 2025. The impugned order is dated 1st February, 2025, but it was only uploaded along with the DRC-07 only on 18th February, 2025.

7. However, this position is disputed by Mr. Aakarsh Srivastava, ld. SSC for the Respondent who has furnished a copy of an e-mail dated 4th February, 2025 sent by the Additional Director General (North) to various noticees in the order dated 1st February, 2025. Ld. SSC submits that Petitioner has received the said e-mail on 4th February, 2025 at the email address being '*mittal_k_satish@yahoo.co.in*'. The said email is taken on record.

8. It is submitted by the ld. Counsel for the Petitioner in response to this e-mail that the e-mail address appears to be of the chartered accountant of the Petitioner and may not be the registered e-mail of the Petitioner. Therefore, the same would not be adequate service under Section 169 of the Central Goods and Service Tax Act, 2017 (hereinafter, '*CGST Act*').

9. This Court in ***W.P. (C) 4096/2025*** titled ' ***M/s Raj International v. Additional Commissioner CGST Delhi West & Ors.'*** *vide* decision dated 25th

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Signing Date:18.08.2025
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April, 2025 had noticed that there was no uniform practice that was being followed by the GST Department in service of communications, notices, orders, etc. and accordingly in ***M/s Raj International (Supra)*** the Court had directed as under:

> *"5. The screen shot of the GST portal has been placed on record by the Petitioner which shows that the submissions of the Petitioner is clearly uploaded on the portal. Insofar as the Department is concerned, it is submitted by the ld. Senior Standing Counsel that the personal hearing notice was sent by email on the registered email address of the Petitioner. However, this fact is disputed by the Petitioner as he says that the said email was never received. The email dated 23rd January, 2025 is also placed on record.*
>
> *6. Clearly, there appears to have been a miscommunication in this matter. The Petitioner's written submissions have not been perused by the Department and the Department's email has not been received by the Petitioner.*
>
> *xxx xxx xxx*
>
> ***11. The Department shall make an endeavour to ensure that in terms of Section 169 of the Central Goods and Services Act, 2017, assessees are served through the common GST portal as also through their personal email and mobile number. In addition, the notice may also be sent through speed post so that situations as have arisen in this case, can be avoided in the future.***

10. Further, the Madras High Court in the decision in ***Udumalpet Sarvodaya Sangham, Represented by its Secretary, S.Thirumanasampandam, Udumalpet, Tiruppur District. v. The Authority,***

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Signing Date:18.08.2025
17:19:21

Under Shop and Establishment Act/ Deputy Commissioner of Labour, Coimbatore – 18 & Anr. in ***W.P.(MD)No.26481/2024*** held as under:

> *"22. In such view of the matter,* ***I am inclined to hold that Section 169 mandates a notice in person or by registered post or to the registered e-mail ID alternatively*** *and on a failure or impracticability of adopting any of the aforesaid modes, then the State can, in addition, make a publication of such notices/ summons/ orders in the portal/ newspaper through the concerned officials."*

11. In the present case, firstly, the order itself is dated 1st February, 2025. Secondly, the e-mail which has been handed over shows that the impugned order has been communicated either to the Petitioner or to his Chartered Accountant. The said email was also served through email on several other Noticees against whom the demands were raised.

12. Thereafter, Form DRC-07 was uploaded on 19th February, 2025. Usually, there is a gap between the passing of the order and the uploading of the Form DRC-07 for each of the parties. In the present case, it is noticed that there are a total of 650 noticees and allegation pertains to fraudulent availment of Input Tax Credit (hereinafter, '*ITC*') to the tune of Rs.173 crores.

13. When there are 650 noticees, obviously, the generation of DRC-07 for each of the noticees could take some reasonable time so long as the order has been communicated through e-mail or post or other modes as contained in Section 169 of the CGST Act. Accordingly, the delay in uploading Form DRC-07 or the order on the portal would not make the order barred by limitation.

14. *Prima-facie* this Court is of the opinion that e-mail dated 4th February, 2025 is sufficient mode of service. However, the impugned order being an

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Signing Date:18.08.2025
17:19:21

appealable order, the Petitioner is permitted to challenge the same by an appeal under Section 107 of the CGST Act. In the said appeal, the Petitioner is also permitted to raise the issue of limitation.

15. Let the appeals challenging the impugned orders be filed by 30th September, 2025 along with the requisite pre-deposit. If the same are filed by the said date, they shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

16. The present writ petition is disposed of in above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 13, 2025/kp/ck

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Rishi Enterprises v. Additional Commissioner Central Tax Delhi North & Anr.

Court	High Court of Delhi
Bench	Prathiba M. Singh and Shail Jain, JJ.
Date	20.08.2025
Case no. / citation	W.P.(C) 4374/2025

Holding in brief

Writ not entertained where factual matters need appraisal; statutory appeal is the remedy. Petition dismissed.

Provisions involved

CGST Act, 2017: Sections 73, 74, 107, 122 and 169 (74(1), 74(10), 169(1)(a), 169(1)(e), 169(2))

Status

Dismissed; held in favour of the revenue. Directions: Appeal under Section 107 by 30.09.2025 with pre-deposit; not to be dismissed on limitation.

The judgment begins on compendium page 538.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20th August, 2025

\+ **W.P.(C) 4374/2025 & CM APPL. 20152/2025**

RISHI ENTERPRISES THROUGH ITS PROPRIETOR RAJEEV KUMAR GOEL .....Petitioner

Through: Mr. Abhishek Garg & Mr. Yash Gaiha, Advs. (M: 9056299999)

versus

ADDITIONAL COMMISSIONER CENTRAL TAX DELHI NORTH & ANR. .....Respondents

Through: Mr. Aditya Singla, SSC, CBIC with Ms. Shreya Lamba, Mr. Ritwik Saha and Mr. Arya Suresh, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- Rishi Enterprises under Articles 226 and 227 of the Constitution of India, *inter alia,* assailing the impugned order dated 11th February, 2025 (*hereinafter*, '*impugned order*'), which was passed pursuant to Show Cause Notice dated 05th August, 2024 (*hereinafter 'impugned SCN*').

Factual Background

3. The Petitioner is engaged in the business of trading and has been registered under the Central Goods and Services Tax Act, 2017 (*hereinafter 'the Act') vide* GSTIN 07AHTPG4076A1ZE. The impugned SCN was issued

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Signing Date:26.08.2025
19:48:20

to a total of 90 entities. The allegation against the noticees was that there was wrongful availment of Input Tax Credit (hereinafter '*ITC*') by all these entities.

4. The brief facts of the case are that an investigation was initially started against M/s Padmavat Industries based in Anand Parbat Industrial Area, Central Delhi, Delhi-110005. The said investigation was initiated on the basis of information received from Directorate of Analytics and Risk Management (hereinafter, *'DGRAM'*). The allegation against M/s Padmavat Industries was that it was not existing at its principal place of business.

5. One M/s DS Enterprises was, thereafter, identified as one of the recipients of goods from M/s Padmavat Industries. Further investigation at premises of M/s DS Enterprises also showed that the said firm was non-existent at the declared place of business and the enquiries made during the physical inspection further did not yield any satisfactory answers to the Respondent- Department (*hereinafter 'Department'*). At that stage, on 19th October, 2023 summons were issued to M/s DS Enterprises seeking various documents.

6. It is stated that none appeared before the Department on behalf of M/s DS Enterprises and no response was received. The Department, then, came to the conclusion that M/s DS Enterprises itself was a bogus and non-existing firm. The said firm is alleged to have obtained GST registration merely to avail of ITC illegally and to utilise the same without any receipt of the goods itself. The said entity was also passing on the inadmissible ITC without supply of goods to various tax payers.

7. Accordingly, the GST registration of M/s DS Enterprises was cancelled retrospectively with effect from 15th September, 2017. Thereafter various

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By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

documents, which were filed by M/s DS Enterprises for the period between September, 2017 to September, 2023 were then analysed by the Department. All the entities to whom M/s DS Enterprises had issued invoices were given notices, and the entire transaction totalled to a sum of ₹26.42/- crores.

8. Though there were a total of 229 recipients, only 89 recipients were under the jurisdiction of Delhi, Central Goods and Services Tax, North Commissionerate. Consequently, all the 89 recipients were issued notice. Summonses were issued to all these noticees; several of them participated in the proceedings, and finally, the impugned order was passed by the Adjudicating Authority.

9. As per the impugned order, penalties have been imposed on several of the noticees including the Petitioner - M/s Rishi Enterprises who is mentioned at serial no. 14 as Noticee no. 15 in the impugned order. The tax and penalty imposed on the Petitioner is to the tune of ₹51,87,858 (Tax of ₹25,93,929.00/- and Penalty of ₹25,93,929.00/-).

Submissions of the Parties

10. The submissions of Mr. Abhishek Garg, ld. Counsel for the Petitioner are captured below:

(i) There was no wilful suppression or fraud in this case, therefore the five years period of limitation under Section 74(10) of the Act could not have been invoked by the Department. Further, the period prescribed for issuance of SCN under Section 73(10) of the Act, 2017 is three years, which has already lapsed, and, therefore, the impugned SCN itself is time-barred.

(ii) Secondly, without prejudice, even if it is considered that the

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

impugned SCN was issued in time in terms of Section 74 of the Act, the impugned order has not been issued within the period of five years from the due date for the filing of the annual return. The said five-year period expired on 05th February, 2025 but the impugned order has been passed only on 11th February, 2025. The ld. Counsel for the Petitioner is conscious of the fact that the date of the signed order is 31st January, 2025 but because of the date on which it is being uploaded along with the DRC-07 on the portal, the same is barred by law. Reliance is placed upon, the decision of the Division Bench of this Court in ***W.P.(C) 10/2022*** titled as '***Suman Jeet Agarwal v. Income Tax Officer, Ward 61(1) and Others',*** where a similar provision under the Income Tax Act, 1961 has been interpreted by the Coordinate Bench of this Court. Ld. Counsel then relies upon one of the Allahabad High Court in ***HCL Infotech Ltd. v. Commissioner, Commercial Tax and Another 2024 SCC Online 5769*** (Paragraph 25) to argue that if the notice lacks the basic ingredients of Section 74 of the Act, the notice would not be sustainable.

(iii) The next submission is that though the impugned order is an appealable order, question of limitation being one that is jurisdictional in nature, the writ petition would be maintainable.

(iv) The decision in ***Joint Commissioner v. M/s Lakshmi Mobile Accessories, 2025: KER: 9253*** of the Kerala High Court is also relied upon to argue that a consolidated notice for the period 2017 to 2023 could not have been issued and a consolidated order also cannot be passed as in the case of GST, each financial year would

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

have to be dealt with separately and separate orders would have to be passed. In support of this submission ld. Counsel also relies upon order dated 14th October 2024 in ***W.P. (C) 14366/2024*** titled '***M/s Sree Ananta EXIM v. Union of India & Ors.'*** where this Court has observed as under:

> *"5. We however find ourselves unable to sustain the challenge bearing in mind the following facts. Sub-sections (9) and (10) of Section 74 of the Act are concerned with the determination of the amount of tax and the ultimate liability that may come to be raised. They are not concerned with the commencement of proceedings or the issuance of notice itself. In our considered opinion even though the notice may be for a consolidated period, the same would not relieve the respondents from independently assessing each financial period before quantifying a demand and passing a final order as contemplated under Section 74 of the Act. The respondents would statutorily be obliged to examine the facts as they obtain for each tax period and any explanation that the petitioner may choose to proffer. The right of the respondent to assess each tax period independently would not be effaced merely because a consolidated notice came to be issued."*

11. On these grounds, ld. Counsel for the Petitioner submits that impugned SCN and the impugned order are liable to be quashed.

12. A brief summary of all the grounds are as follows -

a) Firstly, that single SCN cannot be issued for multiple financial years.

b) Secondly, that neither the impugned order nor the DRC-07 have been issued within the period of limitation, and therefore the impugned order is liable to be quashed.

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

c) Thirdly, that the grounds for invoking Section 74 of the Act are not satisfied.

13. He has relied upon the following decisions as well.

- ***Akash Garg v. State of M. P., [W.P. No.16117/2020 decided on 19th November, 2020]***
- ***L&T Hydrocarbon Engineering Ltd. v. Union of India, [R/Special Civil Application No.11308 of 2019 decided on 3rd February, 2022]***

14. On the other hand, Mr. Aditya Singla, ld. Sr. Standing Counsel on behalf of the Respondent - Department has submitted that -

(i) On the issue of provision of consolidated SCN for multiple years, the judgment of this Court in ***Ambika Traders through proprietor Gaurav Gupta v. Additional Commissioner, Adjudication DGGSTI, CGST Delhi North (W.P.(C) 4853/2025 decided on 29th July, 2025)*** has held that, if the allegations of fraudulent availment of ITC is raised in an SCN, then the same can deal with multiple financial years.

(ii) Secondly, addressing the issue of belated uploading of DRC-07, he submits that this Court in its decision in ***Suresh Kumar v. Commissioner CGST Delhi North, [W.P.(C) 12199/2025, decided on 13th August, 2025]*** has held that the belated uploading of the DRC-07 would not, in itself, make the order barred by limitation.

(iii) Thirdly, reliance has also been placed on the fact that in this case, though the uploading of the impugned order happened subsequently on 11th February, 2025, an email was sent to the Petitioner on 4th February, 2025 on the registered email address of the Petitioner communicating the impugned order.

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

15. In response to this, Mr. Garg on behalf of the Petitioner submits that the order relates to 90 parties and the email which has been shown, does not show that it has been transmitted to all the parties. Secondly, the attachment is 17MB, which is beyond the normal storage that's compatible with an email on established platforms such as Google, Hotmail, Yahoo. He further submits that under Section 169(2) of the Act, *'deemed service'* only would be in case of service, which is under Section 169(1)(a), 169(1)(e) or 169(1)(f) of the Act in view of the terms ***'tendered'*** or ***'published'*** or ***'affixed'*** being used in said subsection. The Petitioner's contention is that no '*deemed service*' can be attributed where service is effected through the modes prescribed under the remaining sub-clauses.

Analysis and Findings

16. The Court has heard the parties.

17. At the outset, it is relevant to point out that the impugned order deals with a case where there were 90 noticees. The investigation was based on the information, which was received by the Department, consequent to which an investigation was initiated against M/s D S Enterprises. It was found that the firm did not exist in the Anand Parbat area, which was the registered address of the said firm. The said M/s D S Enterprises was issued a notice, and summons were also issued on 19th October, 2023. It is the Department's case that the firm was only incorporated for the purpose of obtaining GST registration and utilisation of ITC. The said firm had filed a GSTR1 form for the period from September, 2017 to September, 2023. All the invoices were retrieved by the IO, which showed that the ITC was passed on to 229 recipients to the tune of ₹26.42 crores (Approx.). Out of the said entities, who had

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By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

received the ITC, it is alleged that in respect of 89 firms, the invoices were goods-less invoices totalling to an amount of ₹11,61,03,114. As mentioned above the Petitioner is listed at serial no.14 as Noticee no.15 in the impugned order in this case.

18. Reply to the impugned SCN was filed by the Petitioner in which the stand taken was that all the e-way bills, e-voices and payments have been duly supported by the documents. However, it is relevant to note that the said reply does not mention what goods were which were sold or received. The invoices collected by the Department show *'D3 Round'* and '*Alloy Steel Round'* as the products which were being sold. These are four invoices, which, according to the Petitioner, are the invoices from M/s D S Enterprises.

19. Thereafter, the impugned order was passed on 31st January, 2025. As per Table A of the impugned order the transaction value with M/s D S Enterprises and the ITC availed of by the Petitioner is mentioned along with the GST registration number. As per the invoices, the total value of the goods, insofar as the Petitioner is concerned, is to the tune of ₹1,44,10,717/- and the ITC involved is to the tune of ₹25,93,929/-. The impugned order -

(i) confirms the demand of ITC along with interest,

(ii) imposes a penalty equivalent to the tax liability and

(iii) also imposes a penalty under Section 122 of the Act

against noticee no. 2 - 90, except 34, 75 and 76 i.e., against Petitioner- Rishi Enterprises as well.

20. It is against the said order that the present petition has been preferred. One of the primary contentions of the Petitioner is that the reply has not been considered. However, a perusal of paragraph 14 of the impugned order shows that three hearings were fixed. But it is the case of the Petitioner that no notice

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

for personal hearing was received. This would be a factual issue and at this stage, when such detailed investigation has taken place, the Petitioner has filed a reply and hearing notices are stated to have been issued, there is no reason to disbelieve the Department. Moreover, once the reply was filed by the Petitioner, a duty was cast upon it to be diligent and attend any hearings that may be fixed. Paragraph 14 of the impugned order reads as under:

> *"14. Records of Personal hearing*
>
> *Keeping in view the* principal[1] *of natural justice, the noticees in the impugned show cause notice were provided personal hearing on 20.11.2024, 16.12.2024 and 26.12.2024, however none appeared albeit a few whose submission have already been tabulated in the above table. Hence, the undersigned is left with no other alternative, but to decide the matter on the basis of facts available on records."*

The above paragraph would show that personal hearings, as mentioned above, were, in fact, given to the Petitioner on three occasions.

21. Coming to the issue raised by ld. Counsel for the Petitioner on the aspect of multiple orders years being covered in a single SCN, the issue is squarely covered by the decision in ***Ambika Traders (supra)*** where this Court has observed as under:

> *"43. Insofar as the issue of consolidated notice for various financial years is concerned, a perusal of Section 74 of the CGST Act would itself show that at least insofar as fraudulently availed or utilized ITC is concerned, the language used in Section 74(3) of the CGST Act and Section 74(4) of the CGST Act is "for any period" and "for such periods" respectively. This contemplates that a notice can be issued for a period which could be more than one financial year. Similar is the language even in Section*

[1] Principle*

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By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

73 of the CGST Act. The relevant provisions read as under:

*"**73. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.—***

XXXX

*(3) Where a notice has been issued **for any period** under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised **for such periods** other than those covered under sub-section (1), on the person chargeable with tax.*

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

XXXX

74. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.—

XXXX

*(3) Where a notice has been issued **for any period** under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised **for such periods** other than those covered under sub-section (1), on the person chargeable with tax.*

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except

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Signing Date:26.08.2025
19:48:20

the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice."

44. Some of the other provisions of the CGST Act, which are relevant, include Section 2(106) of the CGST Act, which defines "tax period" as under:

"2.[...] (106) "tax period" means the period for which the return is required to be furnished"

45. Thus, Sections 74(3), 74(4), 73(3) and 73(4) of the CGST Act use the term "for any period" and "for such periods". This would be in contrast with the language used in Sections 73(10) and 74(10) of the CGST Act where the term "financial year" is used. The said provisions read as under:

*"73.[...] (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the **financial year** to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund"*

*"74.[...] 10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the **financial year** to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund."*

The Legislature is thus, conscious of the fact that insofar as wrongfully availed ITC is concerned, the notice can relate to a period and need not to be for a specific financial year.

46. The nature of ITC is such that fraudulent utilization and availment of the same cannot be established on most occasions without connecting

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

transactions over different financial years. The purchase could be shown in one financial year and the supply may be shown in the next financial year. It is only when either are found to be fabricated or the firms are found to be fake that the maze of transactions can be analysed and established as being fraudulent or bogus.

47. A solitary availment or utilization of ITC in one financial year may actually not be capable of by itself establishing the pattern of fraudulent availment or utilization. It is only when the series of transactions are analysed, investigated, and enquired into, and a consistent pattern is established, that the fraudulent availment and utilization of ITC may be revealed. The language in the abovementioned provisions i.e., the word `period' or `periods' as against `financial year' or `assessment year' are therefore, significant.

48. The ITC mechanism is one of the salient features of the GST regime which was introduced to encourage genuine businesses. In the words of Shri Pranab Mukherjee, the then Hon'ble President of India, who addressed the Nation at the launch of the GST on 1st July, 2017, ITC was highlighted as one of the core features integral to the framework of the GST regime. The relevant extract of the said speech of the Hon'ble President is set out below:

> *"I am told that a key feature of the system is that buyers will get credit for tax paid on inputs only when the seller has actually paid taxes to the government. This creates a strong incentive for buyers* ***to deal with honest and compliant sellers who pay their dues promptly****."*

49. It is seen that the said feature of ITC has been misused by large number of unscrupulous dealers, businesses who have in fact utilized or availed of ITC through non-existent supplies/purchases, fake firms and non-existent entities. The ultimate beneficiary of the ITC in the most cases may not even be the persons in whose name the GST registration is obtained. Businesses, individuals, and entities have charged commissions for

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

passing on ITC. In several cases, it has also been noticed that the persons in whose name the GST registration stands are in fact domestic helps, drivers, employees, etc., of businessmen who are engaged on salary and who may not even be aware that their identities are being misused.

50. In fact, Parliamentary questions have been raised on such fraudulent availment of ITC. In one such Parliamentary question, it was revealed as under:

> *"The press release issued by Ministry of Finance on 07.01.2024 (Annexure 1) brought out that 29,273 bogus firms involved in suspected Input Tax Credit (ITC) evasion of Rs 44,015 crore were detected in a sustained drive against non-existent tax payers by GST formations across the country since May 2023. An amount of Rs. 44,015 Crore (Rs.15240 Crore (State) + Rs. 28775 Crore (Centre)) of fake ITC has been detected."*

XXXX

54. ***The present case appears to be one such case where a substantial amount of ITC is alleged to have been availed/utilized running into more than Rs.83 Crores. The Petitioner is alleged to be one of the main entities/persons involved in the said activity. The transactions are between the years 2017 to 2021. A consolidated notice is, therefore, not merely permissible but, in fact, required in such cases in order to establish the illegal modality adopted by such businesses and entities. The language of the provision itself does not prevent issuance of SCN or order for multiple years in a consolidated manner.***

55. Even in the order which has been impugned before this Court, the details of the amounts for each year are set out clearly in the content of the order itself and is, therefore, clearly decipherable. Thus, it cannot be held that the issuance of consolidated notice or order violates the language of the provisions. Especially, in the case of fraudulent availment of ITC or utilization of ITC such consolidated notice and order would not just be in

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By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

***fact, be required to show the wilful misstatement or suppression or the fraudulent availment/utilization.*"**

22. Even in the present case, there are a maze of transactions, which may be spreading over various financial years and, therefore, owing to the statutory language and the view already taken by this Court in the above decision, it cannot be held that a SCN or an order passed under Section 74 of the Act relating to fraudulent availment of ITC cannot relate to multiple financial years.

23. Coming to the issue of limitation, it is relevant to note that the Petitioner assails the impugned order on the ground of limitation on two sub-grounds namely:

(i) The impugned order along with DRC-07 was uploaded on the portal only on 11th February, 2025 which was beyond the period of limitation.

(ii) The email communication of the impugned order cannot constitute valid '*service*' as the Petitioner allegedly had not received it and even otherwise email as a mode of communication would not fall into the scope of '*deemed service*' under Section 169(2) of the Act.

24. A perusal of Section 74(10) of the Act would show that the order issued under Subsection 74(9) has to be issued within a period of 5 years from the due date of filing of annual returns. The said provision reads as under:

> *"**74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.**—*
> *(1).....*
>
> *xxxxx*
>
> *(10) The proper officer shall **issue the order** under sub-section (9**) within a period of five years from the due date for furnishing of annual return** for the financial year to*

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By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

> *which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund."*

It is relevant to note that the above section only requires the order to be issued within a period of 5 years.

25. Rule 142 of the CGST Rules relied upon by the parties shall also be relevant which reads as under:

> ***"142. Notice and order for demand of amounts payable under the Act.-***
> *(1) …….*
> *xxxxxx*
>
> *(5) A **summary of the order issued** under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded **electronically** in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax."*

It is also essential to note that the summary order in FORM DRC-07 is required to be uploaded electronically.

26. That being said, the question that has to be adjudicated, is what would constitute ***'issue the order'*** in the present case because the impugned order appears to have been -

(i) signed on 31st January, 2025,

(ii) sent to the Petitioner *via* email on 4th February, 2025 and

(iii) uploaded along with DRC-07 on the portal on 11th February, 2025.

27. A perusal of Section 74(10) of the Act reveals that it merely requires the ***order*** and not the ***DRC-07*** to be mandatorily issued within the period of limitation. In fact, Rule 142 of the CGST Rules, as pointed out above, makes it

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By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

clear that DRC-07 is merely a summary of the ***order issued***. After the issuance of the order, DRC-07 is to be uploaded electronically. Thus, the order is issued first and, thereafter, the DRC-07 which is the summary, is to be uploaded. The amount, which would be liable to be paid or demanded in any particular order, is already contained in the order itself. For example, in the present case, the same is contained in paragraph 2 of the impugned order, which reads as under:

> "***2) In respect of Noticee No.2 to 90 (except Noticee No. 34,75 & 76):***
>
> *(i) I confirm the demand and order to recover the 'Input Tax Credit' (ITC) amount(s) from Noticee No. 2 to 90 (except Noticee No. 34, 75 & 76),* ***as mentioned against their names, Column (6) of Table-A****, wrongly availed and utilized by them, is disallowed under the provisions of Section 74(1) of CGST Act, 2017 read with the DGST Act, 2017 and IGST Act, 2017, by invoking the extended period of limitation;*
> *(ii) I also confirm the demand of Interest, at applicable rates, from Noticee No. 2 to 90 (except Noticee No.34, 75 & 76) against the amount of demand, as mentioned against their respective names, in Column (6) of Table-A, under Section 50 of CGST Act, 2017 read with the DGST Act, 2017 and IGST Act, 20l7;*
> *(iii) I also impose Penalty, equivalent to tax liability, upon Noticee No. 2 to 90 (except Noticee No. 34,75 & 76) as mentioned in Column (6) of Table-A, under Section 74(1) of CGST Act, 2017 read with the DGST Act, 2017 and IGST Act, 2017;*
> *(iv) I refrain from imposing Penalty under Section 122(1) (vii) & (xvii), Section 122(2)(b) and Section 122(3) (a) & (d) of the CGST Act, 2017 and the DGST Act, 2017 and IGST Act, 201 7, upon Noticee No. 2 to 90 (except Noticee No. 34,75 & 76).*

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Signing Date:26.08.2025
19:48:20

Sr.No.	*Noticee No.*	*GSTIN*	*Trade Name*	*Taxable Value*	*ITC Involved*
1	*Notice No.2*	*07AACPC3626L1ZW*	*Nanak Enterprises*	*7,03,82,426*	*1,26,68,837*
**********					
14	***Noticee No.15***	***07AHTPG4076A1ZE***	***Rishi Enterprises***	***1,44,10,717***	***25,93,929***

28. The Petitioner is Noticee no.15 in this case. The amount is specifically calculated in Chart A as extracted above. Thus, upon the impugned order being issued to the Petitioner *via* email, the amount that is demanded is clearly decipherable from the order itself.

29. Further, this issue has also been considered by this Court in ***Suresh Kumar (supra)*** wherein it has been held clearly that especially in the case of hundreds of noticees, a reasonable period may be taken by the Department to actually generate the DRC-07 in order to clearly specify the demand against each of the noticees, so that there is no ambiguity whatsoever. However, there is no doubt that the DRC-07 ought to ideally accompany the order or should be uploaded within a reasonable time, as without the DRC-07, no appeal can be filed and no demand can be enforced. Relevant portion of the decision in ***Suresh Kumar (supra)*** is set out below:

> *"13. When there are 650 noticees, obviously, the generation of DRC-07 for each of the noticees could take some reasonable time so long as the order has been communicated through e-mail or post or other modes as contained in Section 169 of the CGST Act. Accordingly, the delay in uploading Form DRC-07 or the order on the portal would not make the order barred by limitation.*
>
> *14. Prima-facie this Court is of the opinion that e-mail dated 4th February, 2025 is sufficient mode of service. However, the impugned order being an appealable order, the Petitioner is permitted to challenge the same by an appeal under Section 107 of the CGST Act. In the said*

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By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

appeal, the Petitioner is also permitted to raise the issue of limitation.

15. Let the appeals challenging the impugned orders be filed by 30th September, 2025 along with the requisite pre-deposit. If the same are filed by the said date, they shall not be dismissed on the ground of limitation and shall be adjudicated on merits."

30. The decision of the Telangana High Court, which has been placed before this Court, in ***Sahithi Marketers v. Superintendent of Central Tax, (2025) 29 Centax 129 (Telangana)*** also deals with a similar situation where there is delay in uploading of the DRC-07, which the Court held would not be liable to be raised as a ground for filing of writ petition. In the said decision, the ld. Division Bench of the Telangana High Court has pithily captured this very position in the following words:

" 3. The petitioner takes exception to the summary of the order in Form GST DRC-07, dated 03.05.2024, and the Order-in Original (O.I.O.) dated 24.04.2024 (Ex.P.2).

4. ***Learned counsel for the petitioner raised three fold submissions. Firstly, it is submitted that GST DRC-07, dated 03.05.2024, is barred by time. The time was extended by Notification No.56 of 2023 upto 30.04.2024 and DRC-07 is passed thereafter****. The second argument is that under the Goods and Services Tax Act, 2017 (for short "the GST Act"), there is no provision to pass the O.I.O. dated 24.04.2024. Thirdly, it is argued that DRC-07 dated 03.05.2024 does not have any physical or digital signature.*

5. ***Learned Senior Standing Counsel for CBIC pointed out that the order dated 24.04.2024 does contain physical signature and it is passed on 24.04.2024 which is well within the time. The limitation was extended upto 30.04.2024. DRC-07, dated 03.05.2024, is only a summary of the O.I.O. and whether or not it is signed will not cause any prejudice to the petitioner****. He further submits that O.I.O. is passed in consonance with Section*

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Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

73 of the GST Act. By placing reliance on the judgment of the Apex Court in ***CCT v. GLAXO SMITH KLINE CONSUMER HEALTH CARE LIMITED*** *, it is submitted that the petitioner could have preferred an appeal within ninety (90) days extendable by thirty (30) days under the GST Act. The petitioner has not filed the petition within aforesaid time. This point is considered by the Apex Court to the aforesaid case and in view of principles laid down therein this petition may not be entertained.*

6. We have heard the parties at length.

****

8. Admittedly, the petitioner had a remedy of appeal under the GST Act and did not avail such remedy. This petition is not filed within the statutory time limit prescribed under the GST Act. Thus, in view of the judgment of the Apex Court in GLAXO SMITH KLINE CONSUMER HEALTH CARE LIMITED (supra), we find substance in the argument of learned Senior Standing Counsel for CBIC that this petition is not liable to be entertained. Otherwise, it will be against the scheme and intention of the statutory provision. ***The O.I.O. dated 24.04.2024 contained physical signature and it is issued within the limitation period which was extended upto 30.04.2024. DRC-07 is only a 'summary of order' and even if it did not contain any signature, it will not cause any prejudice to the petitioner.***"

31. Coming to the second sub-ground on which the impugned order is being assailed, i.e., mode of service, Section 169 of the Act, provides for various options/modes for service of any decision, summons or order which reads as under:

*"**169. Service of notice in certain circumstances.**— (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—*

(a) by giving or tendering it directly or by a

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; *or*

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be ***deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed*** *in the manner provided in sub-section (1).*

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved."

32. A perusal of the above provision would show that the service can be effected either -

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

(i) through physical tendering, or

(ii) by registered post or speed post or courier with acknowledgment due, or

(iii) by a communication to the email address, or

(iv) uploading on the common portal, or

(v) by publication in a newspaper or by affixation.

It is not in dispute that service can be effected by any one of the above modes under Section 169 of Act. However, ld. Counsel for the Petitioner raises an interesting issue under Section 169(2) that *'deemed service'* only would be in case of service, which is under Section 169(1)(a), 169(1)(e) or 169(1)(f) of the Act in view of the terms ***'tendered'*** or ***'published'*** or ***'affixed'*** being used in said subsection. The Petitioner's contention is that no '*deemed service*' can be attributed where service is effected through the modes prescribed under the remaining sub-clauses.

33. Insofar as this argument is concerned, the Court has no doubt as to the fact that 'limitation' and 'service' are interlinked with each other. Therefore, the term issuance of an order has to be interpreted in the context of Section 169 of the Act and Rule 142 of the CGST Rules. Under the scheme of Section 169 of the Act the usual modes of service are stipulated and some modes of service are also construed as *'deemed service'* under Section 169(2). The usual modes of service could be physical service, registered post, speed post, courier, email, uploading on the common portal, affixation etc., In the case of some modes of service, the service is deemed to have been effected. However, it cannot be argued or held that only when the service is done by any of the deemed service modes, that the order would stand ***issued***. The issuance of the order in any of the stipulated modes of service would constitute ***service***. There is a difference

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By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

between issuance of an order and deemed service under Section 169(2) of the Act. Issuance of the order is what is required under Section 74(10) of the Act and service through a mode which would constitute ***deemed service*** of the order is not mandated. Therefore, communicating an order by email would be sufficient service in terms of Section 169 of Act for constituting issuance of an order. Rule 142 is also clear in the initial portion where it uses the expression, ***summary of the order issued*** under Section 74 of the Act.

34. Coming to the last and final issue of whether there is sufficient ground to invoke the extended period of limitation under Section 74 of the Act, there cannot be any doubt that Section 74 is to be invoked in circumstances where there is an allegation of fraud, wilful misstatement or suppression. In the present case, the impugned order as well as the impugned SCN itself reveal that the investigation was commenced sometime in October 2023 when the information was received from the investigation wing. Immediately, thereafter, M/s Padmavat Industries and M/s D S Enterprises have been investigated, and it has been found, as per the Department, that there is a fraudulent availment and passing on of ITC.

35. It is relevant to point out that, though the total number of recipients in the case of M/s D S Enterprises is 229, it is only in the case of 89 firms that the jurisdiction has been exercised by the Department. If, *prima facie*, in the process of investigating 89 entities and their documents, instances of fraudulent availment are revealed, then the extended period of limitation would obviously apply.

36. In ***L&T (supra)*** which has been relied upon by the Petitioner**,** the Court was considering a case where there was only an issue of law to be decided and no factual averment was to be considered. Paragraph 72 of the said judgment

Signature Not Verified
Digitally Signed
By:DHIRENDER KUMAR
Signing Date:26.08.2025
19:48:20

is relevant and is extracted herein below:

> *"72. Thus, in the case on hand, the facts are not in dispute. A pure question of law is to be decided on the very averments made by the Respondent in the show cause notice. Therefore, in our view the present writ application could be said to be maintained."*

Unlike in the case of ***L&T (supra)***, in the present case, there are various factual issues would have to be considered and analysed, which in writ jurisdiction cannot be gone into. Accordingly, this Court, upon a consideration of the overall conspectus of the matter, is satisfied that the provisions of Section 74 of the Act are applicable to the present case.

37. In this factual and legal background, this Court is not inclined to entertain the present writ petition. The Petitioner is, however, permitted to file the appeal under Section 107 of the Act before the Appellate Authority by 30th September, 2025 along with the requisite pre-deposit. If the same is filed within the stipulated period, the Appellate Authority shall not dismiss it on the grounds of limitation and adjudicate it on its own merits.

38. The petition is dismissed in the above terms. Pending applications, if any, are also disposed on in the above terms.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 20, 2025/*dk/Ar.*
(corrected & released on 26th August, 2025)

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Signing Date:26.08.2025
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CASE 26 OF 34 · GROUP C

M/s Mathur Polymers v. Union of India & Ors.

Court	High Court of Delhi
Bench	Prathiba M. Singh and Shail Jain, JJ.
Date	26.08.2025
Case no. / citation	W.P.(C) 2394/2025

Holding in brief

Service on the registered e-mail address is valid; consolidated orders for multiple years are not barred. Petition dismissed with costs of Rs.50,000 to the CGST Department.

Provisions involved

CGST Act, 2017: Sections 73, 74 and 169 (74(3), 74(4), 74(10), 169(1)(a), 169(1)(c), 169(1)(e), 169(2))

Status

Dismissed; held in favour of the revenue. Directions: Costs of Rs.50,000.

The judgment begins on compendium page 562.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 26th August, 2025

\+ **W.P.(C) 2394/2025 & CM APPL. 11289/2025**

M/S MATHUR POLYMERS .....Petitioner

Through: Mr. Akhil Krishan Maggu, Mr. Vikas Sareen, Mr. Aryan Nagpal, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Gibran Naushad, SSC with Mr. Harsh Singhal and Mr. Suraj Shekhar Singh, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Articles 226 & 227 of the Constitution of India seeking to set aside the impugned Order-in-Original dated 02nd February, 2025 passed by Respondent No. 3. The impugned order is challenged, *inter alia,* on the ground that the notices for personal hearing were not received by the Petitioner.

3. On previous dates of hearing, i.e., 10th March, 2025 and 17th April, 2025, the CGST Department was directed to place on record any documents to show that the personal hearing notices have been given to the Petitioner in this matter.

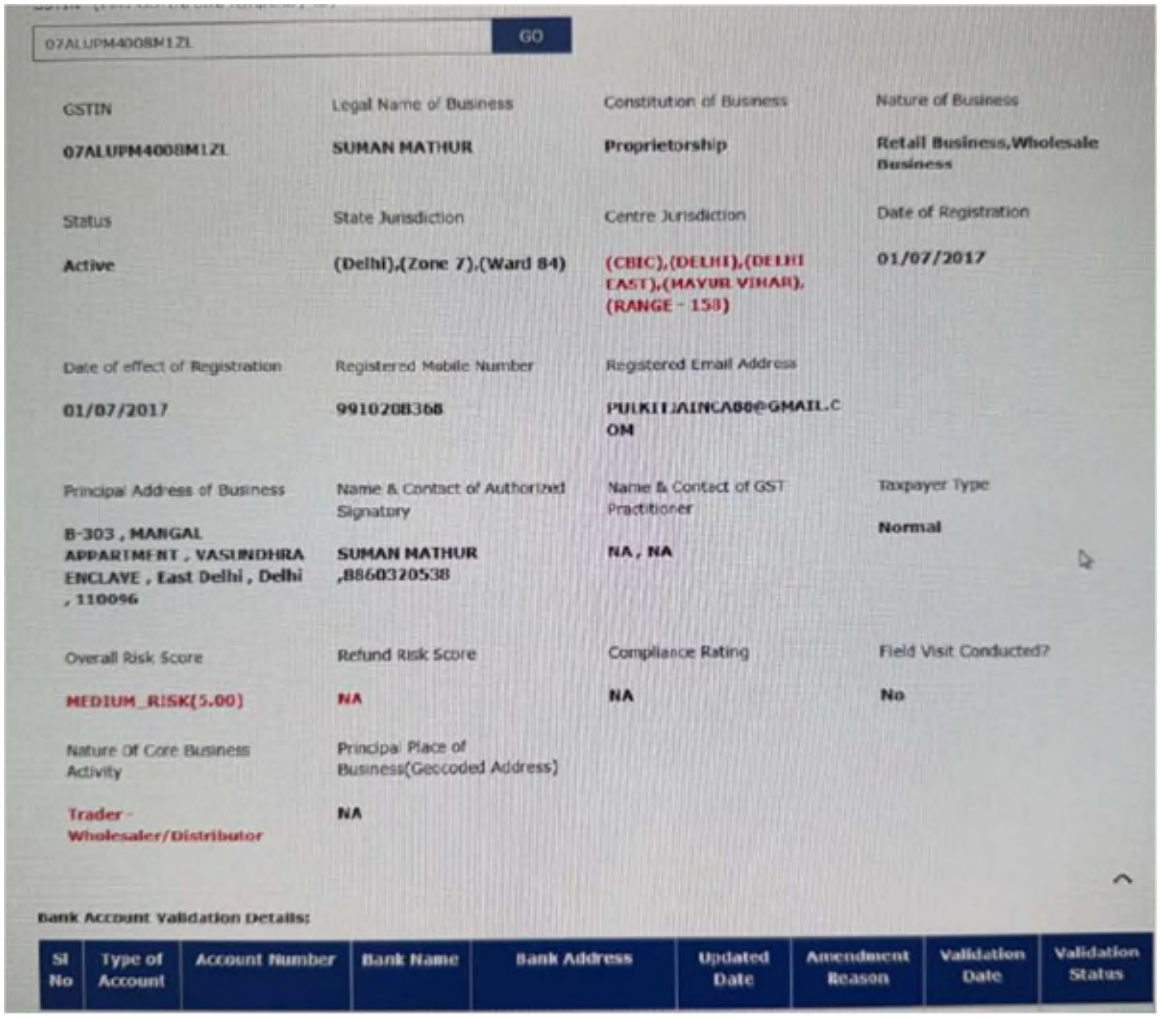
4. A set of documents, along with an affidavit, has been placed on record by the CGST Department. Mr. Gibran Naushad, ld. Counsel for the CGST Department has shown to the Court that there were three opportunities for

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By:RAHUL
Signing Date:28.08.2025
15:18:38

hearing which were given to the Petitioner *vide* two hearing notices.

5. For the first hearing on 16th January, 2025, an e-mail was sent to the registered e-mail address provided by the Petitioner. The e-mail dated 13th January, 2025, sent at 16:33 hrs to *pulkitjainca88@gmail.com*, which is the registered e-mail address of the Petitioner in the Goods and Services Tax *(hereinafter, 'GST')* portal has been placed on record. The second notice fixing the dates for personal hearing on 23rd January, 2025 and 29th January, 2025, was sent by e-mail to the same e-mail address i.e., *pulkitjainca88@gmail.com* on 18th January, 2025 at 05:44 p.m.

6. The GST portal of the Petitioner is relevant and is extracted below:



07ALUPM4008M1ZL GO

GSTIN	Legal Name of Business	Constitution of Business	Nature of Business
07ALUPM4008M1ZL	SUMAN MATHUR	Proprietorship	Retail Business,Wholesale Business
Status	**State Jurisdiction**	**Centre Jurisdiction**	**Date of Registration**
Active	(Delhi),(Zone 7),(Ward 84)	(CBIC),(DELHI),(DELHI EAST),(MAYUR VIHAR),(RANGE - 158)	01/07/2017
Date of effect of Registration	**Registered Mobile Number**	**Registered Email Address**	
01/07/2017	9910208368	PULKITJAINCA88@GMAIL.COM	
Principal Address of Business	**Name & Contact of Authorized Signatory**	**Name & Contact of GST Practitioner**	**Taxpayer Type**
B-303 , MANGAL APPARTMENT , VASUNDHRA ENCLAVE , East Delhi , Delhi , 110096	SUMAN MATHUR ,8860320538	NA , NA	Normal
Overall Risk Score	**Refund Risk Score**	**Compliance Rating**	**Field Visit Conducted?**
MEDIUM_RISK(5.00)	NA	NA	No
Nature Of Core Business Activity	**Principal Place of Business(Geocoded Address)**		
Trader - Wholesaler/Distributor	NA		

Bank Account Validation Details:

Sl No	Type of Account	Account Number	Bank Name	Bank Address	Updated Date	Amendment Reason	Validation Date	Validation Status

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Signing Date:28.08.2025 15:18:38

7. A perusal of the above GST portal of the Petitioner would show that the Petitioner is a proprietary concern of Smt. Suman Mathur who has given the registered mobile number as '9910208368'. The registered e-mail address is '*pulkitjainca88@gmail.com*'.

8. Insofar as the authorised signatory is concerned, the name is mentioned as Suman Mathur and under the heading of **'name & contact of GST practitioner', 'NA, NA'** has been provided.

9. Thus, the e-mail address which has been provided on the GST portal is presumed to be the registered email of the proprietor itself and is not reflected merely as a GST practitioner or consultant's e-mail.

10. In fact, the writ petition is conspicuously silent on this fact that the e-mails for personal hearing were sent to the Petitioner's registered e-mail address.

11. Be that as it may, under Section 169(1)(c) of the Central Goods and Service Tax Act, 2017 *(hereinafter, 'the Act'),* a communication sent to an e-mail address provided at the time of GST registration is adequate service of a decision, order, summons or notice or any other communication. Relevant portion of the said provision is extracted hereunder:

> *"169. Service of notice in certain circumstances.—(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—*
>
> *xxxx*
>
> ***(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time.."***

12. Ld. Counsel for the Petitioner relies upon ***Mrs. Neelam Ajit Phatarpekar vs. Assistant Commissioner of Income Tax, Tax Appeal No. 2756 of 2024*** to

Signature Not Verified
Digitally Signed
By:RAHUL
Signing Date:28.08.2025
15:18:38

argue that a notice given to the Chartered Accountant would not be sufficient notice under the Income Tax Act, 1961.

13. Insofar as this issue is concerned, the Court is of the view that the language in the Income Tax Act and in the CGST Act is different. With respect to Section169 of the Act, this Court has also taken a view recently in ***W.P. (C) 4374/2025*** titled ***Rishi Enterprises through its Proprietor v. Additional Commissioner Central Tax Delhi, North & Anr.*** that communication on the e-mail address is sufficient communication. The relevant part of the order reads as under:

> *32. A perusal of the above provision would show that the service can be effected either -*
>
> *(i) through physical tendering, or*
>
> *(ii) by registered post or speed post or courier with acknowledgment due, or*
>
> *(iii) by a communication to the email address, or*
>
> *(iv) uploading on the common portal, or*
>
> *(v) by publication in a newspaper or by affixation.*
>
> *It is not in dispute that service can be effected by any one of the above modes under Section 169 of Act. However, ld. Counsel for the Petitioner raises an interesting issue under Section 169(2) that 'deemed service' only would be in case of service, which is under Section 169(1)(a), 169(1)(e) or 169(1)(f) of the Act in view of the terms **'tendered'** or **'published'** or **'affixed'** being used in said subsection. The Petitioner's contention is that no 'deemed service' can be attributed where service is effected through the modes prescribed under the remaining sub-clauses.*
>
> *33. Insofar as this argument is concerned, the Court has no doubt as to the fact that 'limitation' and 'service' are interlinked with each other. Therefore, the term issuance of an order has to be interpreted in the context of Section 169 of the Act and Rule 142 of the CGST Rules. Under the scheme of Section 169 of the Act the usual modes of service are stipulated and some modes of service are also construed as*

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Digitally Signed By:RAHUL
Signing Date:28.08.2025 15:18:38

> *'deemed service' under Section 169(2). The usual modes of service could be physical service, registered post, speed post, courier, email, uploading on the common portal, affixation etc., In the case of some modes of service, the service is deemed to have been effected. However, it cannot be argued or held that only when the service is done by any of the deemed service modes, that the order would stand* ***issued****. The issuance of the order in any of the stipulated modes of service would constitute* ***service****. There is a difference between issuance of an order and deemed service under Section 169(2) of the Act. Issuance of the order is what is required under Section 74(10) of the Act and service through a mode which would constitute* ***deemed service*** *of the order is not mandated. Therefore, communicating an order by email would be sufficient service in terms of Section 169 of Act for constituting issuance of an order. Rule 142 is also clear in the initial portion where it uses the expression,* ***summary of the order issued*** *under Section 74 of the Act.*

14. Thus, in this case, the Court is satisfied that by both the e-mails, the proper hearing notices have been given to the Petitioner.

15. The second issue that is being raised herein is in respect of Section 74(10) of the Act, stating that a combined Show Cause Notice and order cannot be given and separate orders have to be passed in respect of separate financial years.

16. In support of the said submission, reliance is placed upon by the Petitioner on the decision of the Supreme Court in ***State of Jammu and Kashmir and Others Versus Caltex (India) Ltd. 1965 SCC OnLine SC 168,*** wherein reference was also made to the decision in ***Bennet and White (Calgary) Ltd. v. Municipal District of Sugar City No. 5, [1953] S.C.R. 1069.***

17. The judicial committee, in ***Bennet & White (supra)*** observed that when the assessment is not for an entire sum but for separate sums, the same ought

Signature Not Verified
Digitally Signed
By:RAHUL
Signing Date:28.08.2025
15:18:38

to be dissected and earmarked, each to a separate assessable item. The said decisions were, however, rendered in the context of sales tax.

18. In the case of ***Caltex (India) (supra),*** there was one assessment order passed from the period January, 1, 1955 to May, 1959, but the assessment could be easily split up and dissected and the items of sales could be separated and taxed for different periods. Hence, the Supreme Court held that in such a case, the assessment for the period from January 1, 1955 to September 6, 1955 can be separated from the assessment of the rest of the period.

19. However, the decision in ***Caltex (India)(supra)*** cannot be applied to the facts in the present case, since the case in hand pertains to allegations of fraudulent availment of Input Tax Credit *(hereinafter, 'ITC').* The impugned order contains the record of a long drawn investigation over a period of time which led to the confirmation of tax demand of ITC amounting to Rs. 81,54,990/-.

20. Another decision relied upon by the Petitioner is ***W.P. No. 33164 of 2023*** titled ***Titan Company Ltd. v. Joint Commissioner of GST & Central Excise***. In the said case, the issue of bunching of Show Cause Notices (SCNs) was considered by the Madras High Court and the Court was of the opinion that under Section 73, Central Goods and Service Tax Act, 2017, bunching of SCNs would not be permissible.

21. Heard. This Court has, in the past, considered several orders-in original involving demands on the ground of allegations of fraudulent availment of ITC and has held that there are several factual issues in such cases, which would need to be looked into, which cannot be adjudicated in a writ petition. In the decision of ***W.P.(C) 4853/2025*** titled ***Ambika Traders through Proprietor v. Additional Commissioner, Adjudication, DGGSTI, CGST Delhi North,*** in the

Signature Not Verified
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By:RAHUL
Signing Date:28.08.2025
15:18:38

Compendium: Service of Notice (Sec. 169) | page 567 of 836 Back to Index

context of issuance of multiple consolidated SCNs and passing of a consolidated order, this Court observed as under:

> *43. Insofar as the issue of consolidated notice for various financial years is concerned, a perusal of Section 74 of the CGST Act would itself show that at least insofar as fraudulently availed or utilized ITC is concerned, the language used in Section 74(3) of the CGST Act and Section 74(4) of the CGST Act is "for any period" and "for such periods" respectively. This contemplates that a notice can be issued for a period which could be more than one financial year. Similar is the language even in Section 73 of the CGST Act. The relevant provisions read as under:*
>
> *"**73. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.—***
>
> *XXXX*
>
> *(3) Where a notice has been issued **for any period** under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised **for such periods** other than those covered under sub-section (1), on the person chargeable with tax.*
>
> *(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.*
>
> *XXXX*
>
> ***74. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.—***

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Compendium: Service of Notice (Sec. 169) | page 568 of 836 Back to Index

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*(3) Where a notice has been issued **for any period** under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised **for such periods** other than those covered under sub-section (1), on the person chargeable with tax.*

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice."

44. Some of the other provisions of the CGST Act, which are relevant, include Section 2(106) of the CGST Act, which defines "tax period" as under:

"2.[…] (106) "tax period" means the period for which the return is required to be furnished"

45. Thus, Sections 74(3), 74(4), 73(3) and 73(4) of the CGST Act use the term "for any period" and "for such periods". This would be in contrast with the language used in Sections 73(10) and 74(10) of the CGST Act where the term "financial year" is used. The said provisions read as under:

*"73.[…] (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the **financial year** to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund"*

*"74.[…] 10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the **financial year** to which the tax not paid or short paid or*

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Compendium: Service of Notice (Sec. 169) | page 569 of 836 Back to Index

input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund."

The Legislature is thus, conscious of the fact that insofar as wrongfully availed ITC is concerned, the notice can relate to a period and need not to be for a specific financial year.

46. The nature of ITC is such that fraudulent utilization and availment of the same cannot be established on most occasions without connecting transactions over different financial years. The purchase could be shown in one financial year and the supply may be shown in the next financial year. It is only when either are found to be fabricated or the firms are found to be fake that the maze of transactions can be analysed and established as being fraudulent or bogus.

47. A solitary availment or utilization of ITC in one financial year may actually not be capable of by itself establishing the pattern of fraudulent availment or utilization. It is only when the series of transactions are analysed, investigated, and enquired into, and a consistent pattern is established, that the fraudulent availment and utilization of ITC may be revealed. The language in the abovementioned provisions i.e., the word `period' or `periods' as against `financial year' or `assessment year' are therefore, significant.

48. The ITC mechanism is one of the salient features of the GST regime which was introduced to encourage genuine businesses. In the words of Shri Pranab Mukherjee, the then Hon'ble President of India, who addressed the Nation at the launch of the GST on 1st July, 2017, ITC was highlighted as one of the core features integral to the framework of the GST regime. The relevant extract of the said speech of the Hon'ble President is set out below:

"I am told that a key feature of the system is that buyers will get credit for tax paid on inputs only when the seller has actually paid taxes to the government. This creates a strong incentive for buyers ***to deal with honest and compliant sellers who pay their dues promptly****."*

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Compendium: Service of Notice (Sec. 169) | page 570 of 836 Back to Index

> *49. It is seen that the said feature of ITC has been misused by large number of unscrupulous dealers, businesses who have in fact utilized or availed of ITC through non-existent supplies/purchases, fake firms and non-existent entities. The ultimate beneficiary of the ITC in the most cases may not even be the persons in whose name the GST registration is obtained. Businesses, individuals, and entities have charged commissions for passing on ITC. In several cases, it has also been noticed that the persons in whose name the GST registration stands are in fact domestic helps, drivers, employees, etc., of businessmen who are engaged on salary and who may not even be aware that their identities are being misused.*

In the above decision, the Court has fully considered the statutory scheme as also the legislative history of the GST Act and held that in cases relating to availment of Input Tax Credit, considering the maze of transactions and due to the fact that the transactions may be spread over several years, issuance of a consolidated notice for multiple Financial Years would be permissible and tenable.

22. Thus, this Court is of the opinion that in cases involving allegations of fraudulent availment of ITC, where the transactions are spread across several years, a consolidated notice may in fact be required in such cases in order to establish the illegal modality adopted by such businesses and entities. The language of the legislation, itself, does not prevent issuance of SCN or order for multiple years in a consolidated manner.

23. Thus, this Court is of the opinion that on both the contentions made by the Petitioner, there is no jurisdictional error and there is also no violation of the principles of natural justice.

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24. Thus, the impugned order does not warrant interference under writ jurisdiction of this Court.

25. Further, the Petitioner also had a duty to specifically plead in the writ petition that on the registered e-mail address, notices for personal hearing were received, which has not been done. The plea of Natural Justice was raised vehemently, until the Department established that emails were sent. Thereafter the plea being taken is that the emails were sent to the email address of the Chartered Accountant. This Court has already noted above that the said email was the registered email address of the Petitioner on the CGST portal. Thus, the notices were rightly sent and this Court is also of the opinion that the relevant and material facts have been concealed from the Court. The Petition is accordingly dismissed with costs of Rs.50,000/- to be paid to the CGST Department.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 26, 2025/*kp/ss*

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GVK Jaipur Expressway Pvt. Ltd. v. Deputy Commissioner of State Tax, Zone-III, Jaipur and Others

Court	High Court of Judicature for Rajasthan
Bench	Sanjeev Prakash Sharma, A.C.J. and Baljinder Singh Sandhu, J.
Date	18.03.2026
Case no. / citation	2026:RJ-JP:11573-DB; D.B. Civil Writ Petition No. 3636/2026

Holding in brief

A registered company that files regular returns cannot plead lack of knowledge of portal notices without proof. Writ petition dismissed.

Provisions involved

CGST Act, 2017: Section 74

Status

Dismissed; held in favour of the revenue.

The judgment begins on compendium page 574.

Rajasthan High Court Web Copy - Not Official

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 3636/2026

Gvk Jaipur Expressway Pvt. Ltd., Toll Plaza At 286, Village Thikariya, Ajmer Road (Nh-8) Jaipur 303007 Rajasthan (Gstin 08Aabcg5541J1Zk) Through Its Chief Financial Officer Shri Ravi Kumar Dharba, S/o Shri Subramanyam Gopalaiah, R/o Sri Nilayam, Street No. 8, Opp. Lane To Park No. 2, Gandhi Nagar, Secunderabad- 500080.

----Petitioner

Versus

1. Deputy Commissioner Of State Tax, Zone-Iii, Kar Bhawan, Jhalana Institutional Area Jaipur Rajasthan.
2. State Of Rajasthan, Through The Chief Commissioner Of State Tax, Kar Bhawan, Ambedkar Circle, Jaipur.
3. Union Of India Through The Chairman, Central Board Of Indirect Taxes And Customs, North Block, New Delhi.

----Respondents

For Petitioner(s) : Mr. Siddharth Ranka with
Mr. NK Jain
For Respondent(s) :

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

18/03/2026

1. The petitioner before us was issued GST DRC-07 order on 29.02.2024 and a demand was raised for Rs.3.39 crores. In the order it was specifically found that the taxpayer did not discharge due GST liability through DRC-13 for the year 2018-19 and accordingly, the demand as well as interest and penalty was imposed. The order was not challenged by the petitioner in appeal, therefore, vide order dated 19.12.2025, against the total

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demand including the tax and interest of Rs.14,06,54,640/-, the account of the petitioner was attached.

2. Learned counsel for the petitioner submits that the petitioner did not come to know about the orders passed by the GST Authorities and has vaguely averred in his petition without any documentary proof that the show cause notice as well as DRC-07 orders were not properly communicated and placed on the GST Portal. It is stated that the same was communicated on the main dashboard of the Portal, although no documentary proof in this regard has been filed.

4. Learned counsel for the petitioner also relies on the judgment passed by this Court in **D.B. Civil Writ Petition No.15466/2025 (Eagle Trans Shipping and Logistics India Private Ltd. Vs. Union of India & Ors.)** dated 06.11.2025 wherein, this Court allowed the petitioner to file appeal holding that a person cannot be left remediless, if the time period of filing of appeal has expired and there are valid reasons for the delay in filing of appeal.

5. In the present case however, we find that the said judgment would have no application to the present case. In the facts of the present case, neither an appeal has been filed nor an attempt has been made to file an appeal. In fact, the petitioner has moved a rectification application only for seeking rectification of the order. Thus, we do not find that contentions of the petitioner having no knowledge of the order or the show cause notice are correct. It appears that there has been a deliberate ignorance shown towards the show cause notice and the order because it is not possible for a company not to have known about the order passed under

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Section 74 of the RGST/CGST Act, 2017 (for short 'the Act of 2017'), more so, as it continues to hold the GST number and would, therefore, be filing regular monthly returns. Annual returns are also required to be filed as per the Act of 2017. In these circumstances, we are unable to accept the contentions of the petitioner that it had no knowledge of the orders being passed for show cause notice and it is only thereafter the bank account has been attached that the petitioner has approached this Court. Equity, therefore, does not lie in its favor. On facts, we find that that the petitioner does not deserve any indulgence.

6. The petition is, accordingly, dismissed. Pending application, if any, also stands dismissed.

(BALJINDER SINGH SANDHU),J (SANJEEV PRAKASH SHARMA),ACTING CJ

RAHUL MIRKHANI/12

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CASE 28 OF 34 · GROUP C

M/s Aparna Collection v. Union of India & Ors.

Court	High Court of Delhi
Bench	Anil Kshetarpal and Bharat Parashar, JJ.
Date	05.10.2026
Case no. / citation	W.P.(C) 3449/2026 and W.P.(C) 3501/2026

Holding in brief

Disputed factual matters on ITC and penalty are for the Appellate Authority under Section 107. Petitions disposed of; liberty to appeal under Section 107.

Provisions involved

CGST Act, 2017: Sections 73, 74, 76, 107, 122, 123, 124 and 125 (74(1), 74(2), 74(9), 74(10))

Status

Disposed off; held in favour of the revenue. Directions: Appeal liberty; Appellate Authority to consider any request to exclude time spent in writ.

The judgment begins on compendium page 578.

$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 28.09.2026***

Judgment pronounced on: 05.10.2026

Judgment uploaded on: 05.10.2026

\# **CNR No. DLHC010100782026**

\+ W.P.(C) 3449/2026 & CM APPL. 16548/2026

M/S APARNA COLLECTION .....Petitioner

Through: Mr. Akhil Krishan Maggu, Mr. Vikas Sareen, Ms. Oshin Maggu, Mr. Aryan Nagpal, Mr Harish Pal & Ms. Palak Sarna, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Kushagra Kumar, SPC with Mr. Anmol Ghai, Adv. for R-1 UOI

Mr. Ruchesh Sinha, Sr. Standing Counsel with Ms. Upasna Vashistha, Advs.

Mr. Anurag Ojha, SSC alongwith Mr. Dipak Raj & Mr. Aditya Chaudhary, Advs.

\# **CNR No. DLHC010102212026**

\+ W.P.(C) 3501/2026 & CM APPL. 16882/2026

M/S APARNA COLLECTION .....Petitioner

Through: Mr. Akhil Krishan Maggu, Mr. Vikas Sareen, Ms. Oshin Maggu, Mr. Aryan Nagpal, Mr Harish Pal & Ms. Palak Sarna, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr.Kushagra Kumar, SPC with Mr. Anmol Ghai, Adv. for R-1 UOI.

Mr. Ruchesh Sinha, Sr. Standing Counsel with Ms.

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Upasna Vashistha, Advs.
Mr. Anurag Ojha, SSC alongwith Mr. Dipak Raj & Mr. Aditya Chaudhary, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The present batch of two (02) Writ Petitions, both instituted by the same Petitioner, arise out of proceedings under Section 74 of the Central Goods and Services Tax Act, 2017[1] and involve substantially identical questions concerning the effect of the dates appearing on Forms GST DRC-01 and DRC-07 upon the limitation prescribed under Sections 74(2)[2] and 74(10)[3] of the CGST Act. The petitions are, therefore, being disposed of by this common Judgment.

2. In W.P.(C) 3449/2026[4], the Petitioner assails Form GST DRC-01 dated 23.08.2024 and the consequential proceedings arising therefrom. During the pendency of the proceedings, the adjudication culminated in the passing of Order-in-Original dated 27.01.2025.

3. In W.P.(C) 3501/2026[5], the Petitioner assails Form GST DRC-01 dated 28.08.2024 as also Form GST DRC-07 dated 21.02.2025 and the consequential Order-in-Original dated 29.01.2025.

[1] Hereinafter referred to as 'CGST Act'
[2] Hereinafter referred to as 'Section 74(2)'
[3] Hereinafter referred to as 'Section 74(10)'
[4] Hereinafter referred to as 'First Petition'
[5] Hereinafter referred to as 'Second Petition'

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4. Since the controversy in both the petitions substantially overlaps, the relevant facts of the two proceedings are noticed together, while the individual particulars of the respective proceedings are dealt with separately wherever necessary.

FACTUAL MATRIX:

5. The Petitioner is a proprietorship concern being run in the name and style of M/s Aparna Collection and is registered under the CGST Act. The proceedings against the Petitioner arise out of an investigation concerning alleged availment and passing on of inadmissible Input Tax Credit ('ITC') through entities which were alleged to be non-existent or involved in issuance of invoices without actual supply of goods.

6. In the First Petition, the investigation originated from an alert received from the Directorate General of Goods and Services Tax Intelligence, Gurugram Zonal Unit, concerning M/s Redmancy World. The investigation thereafter extended to several firms and recipients. According to the Respondents, the proceedings concerning the Petitioner formed part of the investigation relating to recipients falling within the jurisdiction of the concerned Commissionerate.

7. The Petitioner was alleged to have availed inadmissible ITC of Rs.23,06,264/- comprising CGST of Rs.11,53,132/- and SGST of Rs.11,53,132/-, on the strength of invoices allegedly issued by non-existent entities without actual receipt of goods.

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8. Significantly, the substantive Show Cause Notice[6] in the first proceeding bears date 11.07.2024. The same was issued under Section 74(1) of the CGST Act. Form GST DRC-01, however, bears date 23.08.2024.

9. The Petitioner contends that since Form GST DRC-01 was dated 23.08.2024, the proceedings must be treated as having been initiated only on that date. According to the Petitioner, the last date for issuance of SCN under Section 74(2) was 04.08.2024, having regard to the extended due date for furnishing the annual return for Financial Year 2017-18.

10. The proceedings thereafter culminated in Order-in-Original dated 27.01.2025, whereby the demand of Rs.23,06,264/- was confirmed along with the applicable interest and equivalent penalty.

11. In the Second Petition, the investigation originated from an analytical report dated 26.05.2022 received from the Directorate General of Analytics and Risk Management and concerned 14 allegedly non-existent firms. The investigation was thereafter extended to various recipient entities.

12. The Respondents alleged that the said 14 entities had passed on inadmissible ITC to several beneficiary firms, including entities falling within the jurisdiction of the concerned Commissionerate. The Petitioner was arrayed as Noticee No.203.

13. The substantive SCN in the second proceeding bears date 09.07.2024. The SCN proposed a demand of Rs.2,68,320/- comprising

[6] Hereinafter referred to as 'SCN'

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CGST of Rs.1,34,160/- and SGST of Rs.1,34,160/-, besides applicable interest and penalty. The Petitioner has placed the said SCN on record and states that it came to know of the same when Form GST DRC-01 dated 28.08.2024 was served upon it.

14. The adjudication proceedings thereafter culminated in Order-in-Original dated 29.01.2025. Form GST DRC-07 is dated 21.02.2025.

15. The Petitioner contends that the date of the DRC-01, namely 28.08.2024, renders the SCN time-barred under Section 74(2) and that the date of DRC-07, namely 21.02.2025, renders the adjudication order time-barred under Section 74(10).

16. The Petitioner has also challenged the invocation of Section 74 on the ground that the SCNs and the Impugned Orders do not disclose any material establishing fraud, wilful misstatement or suppression of facts with intent to evade tax. It is further contended that there is no material demonstrating that the Petitioner was aware of, or in connivance with, the alleged non-existent suppliers.

CONTENTIONS OF THE PARTIES:

17. Heard learned counsel representing the parties and, with their able assistance, perused the record.

18. Learned counsel representing the Petitioner, while submitting that the proceedings are without jurisdiction on account of limitation, has made the following submissions:

i. The statutory cut-off date under Section 74(2) was 04.08.2024, whereas the DRC-01 in the First Petition is dated

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Signing Date:05.10.2026 11:06:27

23.08.2024 and the DRC-01 in the Second Petition is dated 28.08.2024.

ii. Form GST DRC-01 constitutes the electronic summary of the SCN and that the SCN and DRC-01 having been served together, the effective date of issuance of the notice must be treated as the date appearing on the DRC-01.

iii. In the Second Petition, Form GST DRC-07 bears date 21.02.2025 and is, therefore, beyond the alleged limitation date of 04.02.2025 under Section 74(10).

19. Learned counsel further submits that the invocation of Section 74 is itself without jurisdiction since there is no material demonstrating that the Petitioner had knowledge of any alleged fraudulent activities of its suppliers or had colluded with them and that the extended period under Section 74 cannot be invoked in the absence of the foundational ingredients of fraud, wilful misstatement or suppression of facts.

20. Learned counsel has also contended that the existence of an alternative remedy under Section 107 of the CGST Act[7] does not bar the present petitions since the challenge is to the very jurisdiction of the Respondents and raises pure questions of law concerning limitation.

21. *Per contra*, learned counsel representing the Respondents submits that the substantive SCNs were issued well within the period

[7] Hereinafter referred to as 'Section 107'

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prescribed under Section 74(2). The date appearing on Form GST DRC-01 cannot displace the date of the substantive SCN.

22. It is further submitted that the Orders-in-Original were also passed within the period prescribed under Section 74(10). The subsequent date appearing on Form GST DRC-07 does not render the orders time-barred since DRC-07 is merely a summary of the adjudication order.

23. Learned counsel further submits that the Petitioner participated in the adjudication proceedings and had an opportunity to raise all its objections before the adjudicating authority. The challenge regarding the existence of fraud, wilful misstatement or suppression, the sufficiency of material and the alleged absence of knowledge or collusion are all matters which can be examined by the Appellate Authority under Section 107. It is, therefore, submitted that no exceptional circumstance exists warranting interference under Article 226 of the Constitution of India.

ANALYSIS AND FINDINGS:

24. This Court has carefully considered the submissions advanced on behalf of the learned counsel representing the parties and perused the material placed on record.

25. The principal question which arises for consideration is whether the dates appearing on Forms GST DRC-01 and DRC-07, in the facts of the present case, render the substantive SCNs or the adjudication orders barred by limitation under Sections 74(2) and 74(10).

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26. Section 74(2) provides that the proper officer shall issue the notice under Section 74(1) at least six (06) months prior to the time limit specified in Section 74(10) for issuance of the order. Section 74(10), in turn, prescribes the outer period within which the order under Section 74(9) is required to be issued. Both these provisions are reproduced hereinbelow for ready reference:

> *"**Section 74. Determination of tax pertaining to the period upto Financial Year 2023-24 not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful-misstatement or suppression of facts.-***
>
> ...
>
> *(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.*
>
> ***
>
> *(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund."*

27. The distinction between the substantive SCN/Order and the electronic summaries in Forms GST DRC-01 and DRC-07 assumes significance in the present case.

28. In the First Petition, the substantive SCN is dated 11.07.2024. In the Second Petition, the substantive SCN is dated 09.07.2024. Both dates are prior to 04.08.2024, which is the date asserted by the Petitioner as the outer limit for issuance of notice under Section 74(2).

29. The mere fact that the corresponding Forms GST DRC-01 bear later dates, namely 23.08.2024 and 28.08.2024 respectively, cannot, by itself, render the substantive SCNs time-barred. The statutory requirement under Section 74(2) is with respect to issuance of the

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notice under Section 74(1). The electronic summary in Form GST DRC-01 is consequential to the substantive SCN and cannot be treated as substituting the substantive SCN itself.

30. The aforesaid position is also consistent with the scheme of Rule 142 of the Central Goods and Services Tax Rules, 2017. The Rule contemplates the service of a summary of the notice electronically in Form GST DRC-01 and, thereafter, the uploading of a summary of the order electronically in Form GST DRC-07. The said Rule is extracted hereunder:

> *"**Rule 142. Notice and order for demand of amounts payable under the Act. -***
>
> *(1) The proper officer shall serve, along with the*
>
> *(a) Notice issued under section 52 or section 73 or section 74 2 [or section 74A] or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, **a summary thereof electronically in FORM GST DRC-01**,*
>
> *(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74 [or subsection (3) of section 74A], a summary thereof electronically in **FORM GST DRC-02**, specifying therein the details of the amount payable.*
>
> ***
>
> *(5) **A summary of the order issued** under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 [or section 74A] or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of [tax, interest and penalty, as the case may be, payable by the person concerned]."*
>
> **(Emphasis supplied.)**

31. The submission that the limitation under Section 74(2) is necessarily to be computed with reference to the date appearing on Form GST DRC-01, therefore, cannot be accepted.

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32. The second limb of the challenge concerns Section 74(10) and, in particular, the contention that the DRC-07 dated 21.02.2025 in the Second Petition was beyond the period of limitation.

33. This issue is no longer *res integra* insofar as this Court is concerned. In ***Rishi Enterprises through its Proprietor Rajeev Kumar Goel v. Additional Commissioner Central Tax Delhi North & Anr.***, W.P.(C) 4374/2025, decided on 20.08.2025, this Court was confronted with an identical contention concerning the distinction between the date of the substantive adjudication order and the subsequent uploading of Form GST DRC-07.

34. In ***Rishi Enterprises*** *(supra)*, the Court noted that Section 74(10) requires the order to be issued within the prescribed period and does not prescribe that Form GST DRC-07 itself must be issued within that period. The Court further noticed Rule 142(5), which treats DRC-07 as a summary of the order. The relevant observations of the Court in the said decision are reproduced below:

> *"23. Coming to the issue of limitation, it is relevant to note that the Petitioner assails the impugned order on the ground of limitation on two sub-grounds namely:*
>
> *(i) The impugned order along with DRC-07 was uploaded on the portal only on 11th February, 2025 which was beyond the period of limitation.*
>
> *(ii)The email communication of the impugned order cannot constitute valid 'service' as the Petitioner allegedly had not received it and even otherwise email as a mode of communication would not fall into the scope of 'deemed service' under Section 169(2) of the Act.*
>
> *24. A perusal of Section 74(10) of the Act would show that the order issued under Subsection 74(9) has to be issued within a period of 5 years from the due date of filing of annual returns. The said provision reads as under:*

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*"**74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.**—*
(1)…..

xxxxx

*(10) The proper officer shall **issue the order** under subsection (9) **within a period of five years from the due date for furnishing of annual return** for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund."*

It is relevant to note that the above section only requires the order to be issued within a period of 5 years.

25. Rule 142 of the CGST Rules relied upon by the parties shall also be relevant which reads as under:

*"**142. Notice and order for demand of amounts payable under the Act.**-*
(1) …….

xxxxxx

*(5) A **summary of the order** issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded **electronically** in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax."*

It is also essential to note that the summary order in FORM DRC-07 is required to be uploaded electronically.

*26. That being said, the question that has to be adjudicated, is what would constitute **'issue the order'** in the present case because the impugned order appears to have been –*

(i) signed on 31st January, 2025,

(ii) sent to the Petitioner via email on 4th February, 2025 and

(iii) uploaded along with DRC-07 on the portal on 11th February, 2025.

*27. A perusal of Section 74(10) of the Act reveals that it merely requires the **order** and not the **DRC-07** to be mandatorily issued within the period of limitation. In fact, Rule 142 of the CGST Rules, as pointed out above, makes it clear that DRC-07 is merely a summary of the **order issued**. After the issuance of the order, DRC-07 is to be uploaded electronically. Thus, the order is issued first and, thereafter, the DRC-07 which is the summary, is to be uploaded. The amount, which would be liable to be paid or demanded in any particular order, is already contained in the order itself. For example, in the present case, the same is contained in paragraph 2 of the impugned order, which reads as under:*

*"**2) In respect of Noticee No.2 to 90 (except Noticee No. 34,75 & 76)**:*

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*(i) I confirm the demand and order to recover the 'Input Tax Credit' (ITC) amount(s) from Noticee No. 2 to 90 (except Noticee No. 34, 75 & 76), **as mentioned against their names, Column (6) of Table-A**, wrongly availed and utilized by them, is disallowed under the provisions of Section 74(1) of CGST Act, 2017 read with the DGST Act, 2017 and IGST Act, 2017, by invoking the extended period of limitation;*
(ii) I also confirm the demand of Interest, at applicable rates, from Noticee No. 2 to 90 (except Noticee No.34, 75 & 76) against the amount of demand, as mentioned against their respective names, in Column (6) of Table-A, under Section 50 of CGST Act, 2017 read with the DGST Act, 2017 and IGST Act, 20l7;
(iii) I also impose Penalty, equivalent to tax liability, upon Noticee No. 2 to 90 (except Noticee No. 34,75 & 76) as mentioned in Column (6) of Table-A, under Section 74(1) of CGST Act, 2017 read with the DGST Act, 2017 and IGST Act, 2017;
(iv) I refrain from imposing Penalty under Section 122(1) (vii) & (xvii), Section 122(2)(b) and Section 122(3) (a) & (d) of the CGST Act, 2017 and the DGST Act, 2017 and IGST Act, 201 7, upon Noticee No. 2 to 90 (except Noticee No. 34,75 & 76).

Sr. No.	*Noticee No.*	*GSTIN*	*Trade Name*	*Taxable Value*	*ITC Involved*
1	*Notice No.2*	*07AACPC3626L1ZW*	*Nanak Enterprises*	*7,03,82,426*	*1,26,68,837*
**********					
14	***Noticee No. 15***	***07AHTPG4076A1ZE***	***Rishi Enterprises***	***1,44,10,717***	***25,93,929***

***

*29. Further, this issue has also been considered by this Court in **Suresh Kumar (supra)** wherein it has been held clearly that especially in the case of hundreds of noticees, a reasonable period may be taken by the Department to actually generate the DRC-07 in order to clearly specify the demand against each of the noticees, so that there is no ambiguity whatsoever. However, there is no doubt that the DRC-07 ought to ideally accompany the order or should be uploaded within a reasonable time, as without the DRC-07, no appeal can be filed and no demand can be enforced. Relevant portion of the decision in **Suresh Kumar (supra)** is set out below:*

"13. When there are 650 noticees, obviously, the generation of DRC-07 for each of the noticees could take some reasonable time so long as the order has been communicated through e-mail or post or other modes as contained in Section 169 of the CGST Act. Accordingly, the delay in uploading Form DRC-07 or the order on the portal would not make the order barred by limitation.
14. Prima-facie this Court is of the opinion that email dated 4th February, 2025 is sufficient mode of service. However, the impugned order being an appealable order, the Petitioner is permitted to challenge the same by an appeal under Section 107 of the CGST Act. In the said appeal, the Petitioner is also permitted to raise the issue of limitation.
15. Let the appeals challenging the impugned orders be filed by 30th September, 2025 along with the requisite pre-deposit. If the same are filed by the said date, they shall not be dismissed on the ground of limitation and shall be adjudicated on merits."

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*30. The decision of the Telangana High Court, which has been placed before this Court, in **Sahithi Marketers v. Superintendent of Central Tax, (2025) 29 Centax 129 (Telangana)** also deals with a similar situation where there is delay in uploading of the DRC-07, which the Court held would not be liable to be raised as a ground for filing of writ petition. In the said decision, the ld. Division Bench of the Telangana High Court has pithily captured this very position in the following words:*

> *" 3. The petitioner takes exception to the summary of the order in Form GST DRC-07, dated 03.05.2024, and the Order-in Original (O.I.O.) dated 24.04.2024 (Ex.P.2).*
> *4. **Learned counsel for the petitioner raised three fold submissions. Firstly, it is submitted that GST DRC-07, dated 03.05.2024, is barred by time. The time was extended by Notification No.56 of 2023 upto 30.04.2024 and DRC-07 is passed thereafter**. The second argument is that under the Goods and Services Tax Act, 2017 (for short "the GST Act"), there is no provision to pass the O.I.O. dated 24.04.2024. Thirdly, it is argued that DRC-07 dated 03.05.2024 does not have any physical or digital signature.*
> *5. **Learned Senior Standing Counsel for CBIC pointed out that the order dated 24.04.2024 does contain physical signature and it is passed on 24.04.2024 which is well within the time. The limitation was extended upto 30.04.2024. DRC-07, dated 03.05.2024, is only a summary of the O.I.O. and whether or not it is signed will not cause any prejudice to the petitioner**. He further submits that O.I.O. is passed in consonance with Section 73 of the GST Act. By placing reliance on the judgment of the Apex Court in **CCT v. GLAXO SMITH KLINE CONSUMER HEALTH CARE LIMITED**, it is submitted that the petitioner could have preferred an appeal within ninety (90) days extendable by thirty (30) days under the GST Act. The petitioner has not filed the petition within aforesaid time. This point is considered by the Apex Court to the aforesaid case and in view of principles laid down therein this petition may not be entertained.*
> *6. We have heard the parties at length.*
> *********
> *8. Admittedly, the petitioner had a remedy of appeal under the GST Act and did not avail such remedy. This petition is not filed within the statutory time limit prescribed under the GST Act. Thus, in view of the judgment of the Apex Court in GLAXO SMITH KLINE CONSUMER HEALTH CARE LIMITED (supra), we find substance in the argument of learned Senior Standing Counsel for CBIC that this petition is not liable to be entertained. Otherwise, it will be against the scheme and intention of the statutory provision. **The O.I.O. dated 24.04.2024 contained physical signature and it is issued within the limitation period which was extended upto 30.04.2024. DRC-07 is only a 'summary of order' and even if it did not contain any signature, it will not cause any prejudice to the petitioner**."""*

35. The above principle was also considered by this Court shortly prior thereto in ***Suresh Kumar v. Commissioner, CGST Delhi North***, W.P.(C) 12199/2025, decided on 13.08.2025.

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36. In ***Suresh Kumar*** *(supra)*, the Court was dealing with proceedings involving a large number of noticees. The substantive order had been passed and communicated, while the corresponding Form GST DRC-07 was uploaded subsequently. The Court held that such subsequent uploading would not, by itself, render the order barred by limitation. Paragraph Nos.11 to 14 of the said decision, insofar as relevant, read as under:

> *"11. In the present case, firstly, the order itself is dated 1st February, 2025. Secondly, the e-mail which has been handed over shows that the impugned order has been communicated either to the Petitioner or to his Chartered Accountant. The said email was also served through email on several other Noticees against whom the demands were raised.*
>
> *12. Thereafter, Form DRC-07 was uploaded on 19th February, 2025. Usually, there is a gap between the passing of the order and the uploading of the Form DRC-07 for each of the parties. In the present case, it is noticed that there are a total of 650 noticees and allegation pertains to fraudulent availment of Input Tax Credit (hereinafter, 'ITC') to the tune of Rs.173 crores.*
>
> ***13. When there are 650 noticees, obviously, the generation of DRC-07 for each of the noticees could take some reasonable time so long as the order has been communicated through e-mail or post or other modes as contained in Section 169 of the CGST Act. Accordingly, the delay in uploading Form DRC-07 or the order on the portal would not make the order barred by limitation.***
>
> ***14. Prima-facie this Court is of the opinion that e-mail dated 4th February, 2025 is sufficient mode of service. However, the impugned order being an appealable order, the Petitioner is permitted to challenge the same by an appeal under Section 107 of the CGST Act. In the said appeal, the Petitioner is also permitted to raise the issue of limitation****."*
>
> **(Emphasis supplied.)**

37. The principle emerging from the aforesaid decisions is clear. The statutory limitation under Section 74(10) attaches to the substantive adjudication order contemplated under Section 74(9). Form GST DRC-07 is the electronic summary of such order.

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Consequently, the mere fact that DRC-07 is uploaded or bears a date subsequent to the expiry of the period prescribed under Section 74(10) would not, by itself, render the substantive adjudication order time-barred.

38. The present case stands on an even clearer footing. In the First Petition, the substantive Order-in-Original is dated 27.01.2025. In the Second Petition, the substantive Order-in-Original is dated 29.01.2025. Both orders precede 04.02.2025, which is the date asserted by the Petitioner as the expiry of the limitation under Section 74(10). Thus, the challenge based solely upon the dates appearing on Forms GST DRC-01 and DRC-07 cannot be sustained.

39. The fact that the Petitioner received the substantive SCN together with, or came to know of it through, the subsequently generated DRC-01 does not alter the date borne by the substantive SCN. In any event, the question of the precise mode and date of service, if disputed on facts, would require examination of the departmental record and the material concerning service. Such an exercise is not warranted in the present proceedings when the substantive SCNs themselves precede the alleged cut-off date.

40. The reliance placed by the Petitioner upon the decisions concerning the meaning of the expression 'issue' does not advance its case. Those decisions concern situations where the substantive notice itself was not issued within the prescribed period. The present case is materially different inasmuch as the substantive SCNs relied upon by the Petitioner itself bear dates prior to 04.08.2024.

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41. The Petitioner has further challenged the invocation of Section 74 on the ground that the SCNs and the Orders-in-Original allegedly do not contain sufficient material to establish fraud, wilful misstatement or suppression of facts with intent to evade tax.

42. The Petitioner has also contended that there is no material demonstrating its knowledge of the alleged activities of the suppliers or any collusion on its part, and ITC cannot be denied to a *bona fide* purchasing dealer in the absence of material establishing collusion.

43. These submissions, however, concern the substantive merits of the adjudication. Whether the material collected by the Department is sufficient to establish the ingredients of Section 74, whether the suppliers were in fact non-existent, whether the invoices represented transactions without actual supply of goods, whether the Petitioner had knowledge of such circumstances, whether the ITC was wrongly availed or utilized, and whether the findings recorded in the Orders-in-Original are sustainable on the material placed before the adjudicating authority, are all matters which require examination of the record and appreciation of evidence.

44. The Orders-in-Original are appealable under Section 107. The Appellate Authority is competent to examine both questions of law and fact, including the validity of the invocation of Section 74, the material relied upon by the Department, the computation of tax and penalty and the documents and explanations relied upon by the Petitioner. It is, therefore, necessary to consider whether the aforesaid grounds justify bypassing the statutory appellate remedy.

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45. It is well settled that the existence of an alternative remedy does not constitute an absolute bar to the exercise of jurisdiction under Article 226 of the Constitution. At the same time, where the statute provides a complete and efficacious appellate mechanism, the High Court ordinarily exercises self-imposed restraint, particularly where the challenge involves examination of disputed facts, appreciation of material or correctness of the findings returned by the adjudicating authority.

46. In ***Assistant Commissioner of State Tax and Others v. Commercial Steel Limited***[8], the Supreme Court has reiterated that the recognised exceptions to the rule of alternative remedy include cases involving breach of fundamental rights, violation of principles of natural justice, proceedings wholly without jurisdiction, or a challenge to the *vires* of legislation or delegated legislation. The mere assertion of one of these grounds, however, does not by itself require the High Court to entertain the writ petition.

47. In the present case, no case of denial of opportunity of hearing has been demonstrated. The Petitioner participated in the adjudication proceedings and the grievances raised in the petitions concern principally the alleged insufficiency of material, the invocation of Section 74 and the correctness of the findings returned by the adjudicating authority.

48. The challenge to limitation, which forms the principal basis for invoking the extraordinary jurisdiction of this Court, also does not disclose a patent jurisdictional defect. As noticed hereinabove, the

[8] (2022) 16 SCC 447

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substantive SCNs were issued prior to the date asserted by the Petitioner as the expiry of limitation under Section 74(2), and the substantive adjudication orders were passed prior to the date asserted as the expiry of limitation under Section 74(10).

49. The subsequent dates appearing on Forms GST DRC-01 and DRC-07 cannot, in view of the statutory scheme and the decisions of this Court in ***Suresh Kumar*** *(supra)* and ***Rishi Enterprises*** *(supra)*, by themselves render the substantive proceedings time-barred.

50. The remaining grounds raised by the Petitioner essentially invite this Court to undertake an examination of the material forming the basis of the adjudication and to substitute its own assessment for that of the statutory authority. Such an exercise would, in the facts of the present case, amount to converting the writ jurisdiction into appellate jurisdiction.

51. The Petitioner shall, therefore, have the liberty to urge all such grounds, including the contention regarding the applicability of Section 74, the sufficiency of the allegations of fraud, wilful misstatement or suppression, the absence of alleged knowledge or collusion, the admissibility of the ITC in question, the material relied upon by the Department, the computation of liability and the validity of the penalty, before the Appellate Authority under Section 107.

CONCLUSION:

52. Accordingly, the present Writ Petitions, along with the pending applications, are disposed of.

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53. The Petitioner shall, however, be at liberty to avail the statutory remedy of appeal under Section 107, if so advised. All contentions available to the Petitioner in law are left open to be urged before the Appellate Authority.

54. It is clarified that this Court has not expressed any opinion on the merits of the aforesaid contentions in Paragraph No.51. In the event the Petitioner prefers an appeal under Section 107, the Appellate Authority shall consider the same in accordance with law and on its own merits.

55. In the event the Petitioner seeks exclusion of the period spent in prosecuting the present proceedings before this Court for the purposes of computation of limitation for filing the statutory appeal, the Appellate Authority shall consider such request in accordance with law, without being influenced by any observation contained in the present Judgment.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER 05, 2026
s.godara/shah

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M/s Rajkalpana Travels Pvt. Ltd. v. Commissioner CGST, Delhi North Commissionerate

Court	High Court of Delhi
Bench	Anil Kshetarpal and Bharat Parashar, JJ.
Date	28.10.2026
Case no. / citation	W.P.(C) 6040/2026

Holding in brief

Disputed service of hearing notices is for the appellate forum. Writ petition disposed of; petitioner relegated to appeal.

Provisions involved

CGST Act, 2017: Sections 74, 75, 107 and 169 (75(4))

Status

Disposed off; held in favour of the revenue. Directions: All contentions open in appeal; application under Section 14 of the Limitation Act to be considered by the appellate authority.

The judgment begins on compendium page 598.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 28.10.2026

\# **CNR No. DLHC010193812026**

\+ W.P.(C) 6040/2026 and CM APPL. 29750/2026

M/S RAJKALPANA TRAVELS PVT. LTD. .....Petitioner

Through: Ms. Priyanka Goel, Adv.

versus

COMMISSIONER CGST, DELHI NORTH COMMISSIONERATE .....Respondent

Through: Mr. Shubham Tyagi, SSC along with Ms. Navruti Ojha, Adv.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T (O R A L)

1. Through the present Writ Petition, the Petitioner assails the Order-in-Original dated 16.03.2026[1], passed by the Respondent under Section 74 of the Central Goods and Services Tax Act, 2017[2], whereby a demand of Rs.4,49,93,111/- has been confirmed against the Petitioner, along with applicable interest and an equivalent penalty. The Petitioner seeks quashing of the Impugned Order, principally on the ground that the same was passed *ex parte*, without affording an effective opportunity of personal hearing.

2. At the outset, it deserves notice that the Impugned Order is appealable under Section 107 of the CGST Act. The statutory scheme provides a mechanism for challenging an order passed by the

[1]Hereinafter, the 'Impugned Order'
[2]Hereinafter, the 'CGST Act'

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adjudicating authority, enabling the appellate authority to examine the legality and correctness of the determination, including questions of fact and law arising therefrom.

3. The controversy in the present Writ Petition centres around the service of notices fixing personal hearings during the adjudication proceedings. While the Petitioner contends that no such notices were served at its correct and registered email address, the Respondent maintains that the notices were duly communicated to the email address available in their records. The Petitioner has, in support of its contention, relied upon a screenshot of an email and asserted that the email address to which the notices were sent was incorrect and that its email particulars had been updated.

4. In order to appreciate the controversy involved in the present Writ Petition, the relevant facts, in brief, are required to be noticed.

5. The Petitioner states that an audit for the financial years 2019-20 to 2023-24 was undertaken by the Department under Section 65 of the CGST Act. In the course of the audit, an Audit Memo dated 06.09.2025 was issued raising certain discrepancies concerning, *inter alia*, alleged short payment of tax, classification of services and availment of input tax credit.

6. The Petitioner submitted its response to the Audit Memo *vide* communication dated 17.09.2025, explaining its position with respect to the observations raised by the Department. Thereafter, a Final Audit Report in Form GST ADT-02 dated 19.09.2025 was issued. An intimation in Form GST DRC-01A dated 23.09.2025 was subsequently

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issued, communicating the proposed tax liability arising from the audit observations.

7. Thereafter, Show Cause Notice dated 29.09.2025[3] was issued to the Petitioner under Section 74 of the CGST Act, proposing recovery of tax, along with applicable interest and penalty. The proceedings culminated in the passing of the Impugned Order dated 16.03.2026, confirming the demand against the Petitioner.

8. The Impugned Order records that opportunities of personal hearing were fixed for 03.02.2026, 11.02.2026 and 19.02.2026. According to the Petitioner, however, no notice intimating the aforesaid dates of hearing was received either through email, physical mode or on the GST portal. The Petitioner, therefore, contends that the adjudication proceedings were concluded *ex parte* without affording it a meaningful opportunity to present its defence.

9. Aggrieved by the Impugned Order, the Petitioner has approached this Court seeking its quashing, together with a direction to the Respondent to afford an effective opportunity of hearing and pass a fresh order after considering the Petitioner's submissions.

10. Heard learned counsel representing the parties and, with their able assistance, perused the paper book.

11. Learned counsel representing the Petitioner submits that the Impugned Order has been passed in violation of the principles of natural justice, without affording an effective opportunity of personal hearing. It is contended that the demand has been confirmed without

[3]Hereinafter, the 'SCN'

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Signing Date:29.10.2026 16:06:39

due consideration of the Petitioner's explanations. In support, learned counsel relies upon a screenshot of an email and the Petitioner's GST registration particulars, asserting that the hearing notices were sent to an incorrect email address, namely, *av636148@gmail.com*, whereas the registered email address is *rajkalpanatravels@gmail.com*. It is further submitted that the Respondent has not established valid service in accordance with Section 169 of the CGST Act or demonstrated that the links and time slots for the proposed virtual hearings were duly communicated.

12. *Per contra*, learned counsel representing the Respondent opposes the Writ Petition on the ground that the Petitioner has an efficacious alternative remedy under Section 107 of the CGST Act. On merits, it is submitted that three opportunities of personal hearing were fixed for 03.02.2026, 11.02.2026 and 19.02.2026, and the corresponding notices were duly sent to the email address available in the Department's records through emails dated 02.02.2026, 05.02.2026 and 16.02.2026, which did not bounce back. The Respondent contends that the Petitioner failed to avail these opportunities and did not file a reply to the SCN, and that the adjudicating authority was, therefore, justified in proceeding on the basis of the material available on record.

13. In Rejoinder, learned counsel representing the Petitioner disputes that the mere dispatch of emails, or their not having bounced back, establishes valid service. It is submitted that the correctness of the email address and the service of the hearing notices must be examined with reference to the relevant registration particulars and contemporaneous communications.

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14. No other submissions have been advanced by learned counsel representing the parties.

15. This Court has considered the submissions advanced on behalf of the parties and perused the material placed on record.

16. The rule concerning the exhaustion of an alternative statutory remedy is well settled. Ordinarily, where the legislature has provided an efficacious appellate mechanism for redressal of grievances arising from an adjudication order, the High Court would exercise restraint in entertaining a challenge to such order under Article 226 of the Constitution. Such restraint is not founded upon an absence of constitutional jurisdiction, but upon the settled principles governing the discretionary exercise of that jurisdiction, particularly where the statute provides a specialised mechanism for examination of the controversy.

17. At the same time, the existence of an alternative remedy does not constitute an absolute bar to the exercise of writ jurisdiction. In ***Assistant Commissioner of State Tax and Others v. Commercial Steel Limited***[4], the Supreme Court reiterated that the High Court may entertain a Writ Petition notwithstanding the availability of an alternative remedy in recognised circumstances, including breach of fundamental rights, violation of the principles of natural justice, proceedings undertaken in excess of jurisdiction, or a challenge to the *vires* of the legislation. The applicability of any such exception, however, has to be examined in the context of the facts and circumstances of the individual case.

[4](2022) 16 SCC 447

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18. The mere invocation of the principles of natural justice would not, by itself, dispense with the requirement of ordinarily availing the statutory remedy. The Court must consider the nature of the grievance raised, the material relied upon in support thereof and whether the controversy can appropriately be examined by the statutory appellate authority.

19. In the present case, the principal grievance urged by the Petitioner concerns the alleged non-service of notices fixing personal hearings. The Petitioner contends that the email address to which the notices were sent was incorrect and that the email particulars reflected against its GST registration were different. In support of this contention, reliance has been placed upon a screenshot of an email and the registration particulars stated to be available on the GST portal.

20. The Respondent, on the other hand, asserts that notices of personal hearing were issued on three separate occasions and communicated to the email address available in their records. It relies upon the email communications dated 02.02.2026, 05.02.2026 and 16.02.2026, and contends that the emails were not returned undelivered. The Respondent consequently maintains that the Petitioner was afforded sufficient opportunities to participate in the adjudication proceedings but failed to avail the same.

21. It is, therefore, evident that the parties have taken competing positions on a matter which has a direct bearing on the Petitioner's grievance of denial of an opportunity of hearing. The question is not merely whether emails were dispatched by the Respondent, but whether the notices were communicated in accordance with the applicable

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statutory provisions and to the relevant email address attributable to the Petitioner at the material time. The Petitioner's assertion that its email particulars had been updated, and the Respondent's reliance upon the address available in their records, would have to be considered in the light of the relevant registration particulars and contemporaneous communications.

22. The screenshot relied upon by the Petitioner is required to be considered in its proper factual context. Equally, the email communications relied upon by the Respondent and the registration particulars maintained by the Department would be relevant in determining whether the notices were sent to the email address registered against the Petitioner's GST registration.

23. This Court is conscious that the Petitioner has sought to characterise the aforesaid dispute as a violation of the principles of natural justice, relying upon Section 75(4) of the CGST Act and the judicial precedents.

24. The decisions relied upon by the Petitioner underscore the importance of compliance with the principles of natural justice in proceedings having civil consequences. However, the applicability of those decisions to the present controversy would have to be considered in the context of the facts established on record. The existence of a dispute on these aspects does not, by itself, require this Court to undertake a detailed factual inquiry in the exercise of writ jurisdiction when a statutory appellate remedy is available.

25. The Petitioner has also questioned whether the relevant links and

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time slots for the proposed virtual hearings were communicated to it. The Respondent, on the other hand, maintains that the hearing notices were duly issued and that the Petitioner failed to participate. The extent to which the hearing notices were communicated, and whether the procedure adopted afforded a meaningful opportunity of hearing, are issues that may be examined by the appellate authority upon consideration of the relevant record.

26. In this regard, it is also relevant to notice that the Petitioner has questioned the manner in which the audit observations and the explanations furnished in response to the Audit Memo were dealt with in the proceedings culminating in the Impugned Order. The Petitioner alleges that the demand has been confirmed mechanically, without due consideration of the facts and material placed before the Department. The Respondent disputes these allegations and maintains that the adjudication was undertaken in accordance with law.

27. The aforesaid contentions, insofar as they concern the consideration of the Petitioner's explanations, the basis of the demand and the correctness of the determination under Section 74 of the CGST Act, are also matters which may be urged before the statutory appellate authority. This Court does not consider it appropriate, in the present proceedings, to enter into the merits of the tax demand or to return findings on the correctness of the adjudication when the Petitioner has an efficacious appellate remedy available.

28. In view of the availability of the statutory remedy under Section 107 of the CGST Act, and having regard to the nature of the controversy raised, this Court is of the opinion that the Petitioner may

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appropriately pursue its grievances before the appellate authority. All contentions, including those concerning the service of notices, the alleged violation of Section 75(4) of the CGST Act, the consideration of the Petitioner's explanations and the merits of the demand, are left open to be urged in accordance with law.

29. In view of the foregoing discussion, the Petitioner is relegated to the statutory appellate remedy available under Section 107 of the CGST Act. The present Writ Petition is disposed of accordingly, without expressing any opinion on the merits of the Impugned Order or the rival contentions raised by the parties.

30. It is clarified that all contentions are left open to be raised before the appellate authority, which shall consider the same independently and in accordance with law. The pending application also stands disposed of.

31. It is further clarified that, in the event the Petitioner files an application under Section 14 of the Limitation Act, 1963, seeking exclusion of the period during which the present Writ Petition remained pending, the same shall be considered by the appellate authority in accordance with law.

ANIL KSHETARPAL, J

BHARAT PARASHAR, J

OCTOBER 28, 2026
s.godara/shah

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M/s. Bigleap Technologies and Solutions Pvt. Ltd. and Others v. State of Telangana and Others

Court	High Court for the State of Telangana
Bench	Sujoy Paul, A.C.J. and Renuka Yara, J.
Date	28.02.2025
Case no. / citation	Writ Petition No. 21101 of 2024 & batch

Holding in brief

Show cause notices and orders must bear the signature of the proper officer; an unsigned document is invalid. Notices and orders in all petitions set aside; writ petitions allowed.

Provisions involved

CGST Act, 2017: Sections 73, 74, 129 and 160

Status

Allowed; held in favour of the taxpayer. Directions: Liberty to respondents to issue fresh SCNs/orders in accordance with law; limitation will not be a hurdle.

The judgment begins on compendium page 608.

***THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL**
AND
***THE HON'BLE SMT. JUSTICE RENUKA YARA**

+WRIT PETITION No. 21101 of 2024 and batch

% 28-02-2025

#M/s. Bigleap Technologies and Solutions Pvt. Ltd. and others.

...Petitioners

vs.

$The State of Telangana and others.

... Respondents

!Counsel for the Petitioners:

1. Sri Karan Talwar.
2. Sri M.V.J.K.Kumar.
3. Sri M.Uma Shankar.
4. Sri M. Naga Deepak
5. Sri A.V.A.Siva Kartikeya.
6. Sri Raja Shekar Rao Salvaji.
7. Sri P. Venkata Prasad, learned counsel appearing for Sri Md.Shabaz.
8. Sri Mohd.Mukhairuddin.
9. Sri P. Karthik Ramana.
10. Sri S.Suri Babu.
11. Smt. S.Rama Lakshmi
12. Sri Singam Srinivasa Rao.
13. Sri Kailash Nath P.S.S..
14. Sri Srinarayan Toshniwal.
15. Sri K.P.Amarnath Reddy and Sri Md.Asrar Ahmed, learned counsel appearing for Ms.Yammanuru Siri Reddy.
16. Sri V.Veeresham
17. Sri Shaik Jeelani Basha.
18. Sri M.Uma Shankar, learned counsel appearing for Sri Puppala Bharat Nandan.

^Counsel for Respondents:

1. Sri Swaroop Oorilla, learned Special Government Pleader for State Tax assisted by Sri T. Chaitanya Kiran, learned Assistant Government Pleader.
2. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC.
3. Sri B.Mukherjee, learned counsel represeintng Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India.
4. Sri C. Vishwanath, learned counsel for DCB Bank Limited.

<Gist :

>Head Note :

? Cases referred

1. 2024 (4) TMI 367-THC
2. W.P.No.9331 of 2022 decided on 21st September, 2022
3. (2025) 26 CENTAX 79 (Gau.)
4. W.P.No.29397 of 2023, decided on 10.11.2023.
5. (2018) 9 SCC 1
6. 1992 Supp (1) SCC 471
7. (1996) 7 SCC 613
8. 2023 SCC OnLine Bom 59
9. (1982) 29 CTR 71 (MP)
10. 2024 (12) TMI 1512 (Ker)
11. AIR 1959 SC 93
12. (2002) 1 SCC 633
13. (2014) 11 SCC 639
14. MANU/DE/0704/2004
15. MANU/GJ/0311/1993

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT. JUSTICE RENUKA YARA

WRIT PETITION Nos.21101, 5763, 20418, 20827, 20903, 20943, 20997, 21765, 22333, 22334, 22335, 22526, 22571, 22579, 22690, 23341, 26029, 29063, 29415, 29477, 29756, 30022, 31003, 31008, 31025, 31916, 32265, 32914, 32984, 33003, 33054, 33070, 33072, 33086, 33260, 33765, 33905, 33975, 34181, 34598, 35293, 35493, 35503, 35510, 35581, 35593, 35630, 35736, 35904, 35964, 35987, 35989, 36045, 36366, 36375, 36385, 36402, 36421, 36425, 36471, 36581, 36613, 36616, 36620, 36682, 36705, 36730, 36759, 36763, 36776, 36786, 36795, 36799, 36836, 36837, 36910, 36945, 36969, 37051, 37059, 37107 and 37116 of 2024 & 14, 32, 89, 109, 123, 126, 129, 148, 160, 216, 268, 270, 273, 280, 304, 330, 335, 341, 342, 349, 366, 581, 1327, 1430, 1443, 1474, 1476, 1521, 1534, 1537, 1576, 1586, 1614, 1721, 1764, 1774, 1796, 1825, 1998, 2106, 2114, 2116, 2139, 2142, 2170, 2212, 2217, 2246, 2360, 2363, 2530, 2681, 2700, 2716, 2720, 2750, 2780, 2794, 2848, 2864, 2867, 2931, 2939, 2956, 2995, 3000, 3012, 3013, 3015, 3027, 3137, 3150, 3171, 3226, 3252, 4277 and 4491 of 2025.

COMMON ORDER: *(Per Hon'ble The Acting Chief Justice)*

In this batch of Writ Petitions, the petitioners have challenged the legality, validity and propriety of the show-cause notices and final orders which admittedly do not contain physical or digital signatures of the Proper Officer, although the impugned show-cause notices and final orders were placed on the portal.

Contention of the Petitioners:-

2. Learned counsel for the petitioners commenced their arguments by placing reliance on the judgment of coordinate

Bench of this Court in the case of **M/s. Silver Oak Villas LLP v. Assistant Commissioner (ST)**[1]. It is submitted that the view taken in the said judgment was consistently followed in several matters. Therefore, in absence of any physical or digital signature on the impugned show-cause notices and orders, the same cannot sustain judicial scrutiny.

Contention of the Respondents:-

3. Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, at the outset, fairly admitted that the impugned show-cause notices and orders do not contain physical or digital signatures. However, absence of signature will not cause any dent to the said show-cause notices or orders, if the scheme of **The Central Goods and Services Act, 2017** ('GST Act') and **The Central/Telangana State Goods and Services Rules, 2017** ('GST Rules') are examined.

4. It was strenuously contended by Sri Swaroop Oorilla that the judgment in **M/s. Silver Oak Villas** (supra) is founded upon the judgment of the Bombay High Court in **Ramani Suchit Malushte v. Union of India**[2]. A careful reading of said judgment makes it clear that the matter was relating to 'Registration'. Chapter-III of

[1] 2024 (4) TMI 367-THC
[2] W.P.No.9331 of 2022 decided on 21st September, 2022.

the GST Rules deals with 'Registration'. This Court in **M/s. Silver Oak Villas** (supra) not only followed the judgment of Bombay High Court in the case of **Ramani Suchit Malushte** (supra), but also heavily relied upon Rule 26 (3) of the GST Rules, which clearly provides that it relates to 'this chapter' i.e., Chapter-III i.e., 'Registration'. Thus, the judgment in the case of **Ramani Suchit Malushte** (supra) and Rule 26 (3) of the GST Rules are of no assistance to the petitioners because neither the said Rule nor the judgment deals with either issuance of show-cause notices or passing of final orders. Thus, the judgment of **M/s. Silver Oak Villas** (supra) cannot be pressed into service. Reliance is placed on the judgment of learned Single Judge of Gauhati High Court in the case of **Dihingia Motors Pvt. Ltd. v. Union of India**[3], wherein judgment of this Court in **M/s. Silver Oak Villas** (supra) was considered. Learned Single Judge of Gauhati High Court in the said judgment opined that the manner in which the Proper Officer should authenticate the show-cause notice or order in so far as other Chapters, the GST Rules are silent except Chapter-III, which deals with 'Registration'. Thus, the view taken in **M/s. Silver Oak Villas** (supra) is clearly distinguishable and not binding.

[3] (2025) 26 CENTAX 79 (Gau.)

5. It is highlighted that statutory Form issued under Chapter-III are in Form GST REG. Chapter-XVIII of the GST Rules deals with 'Demands and Recovery' and Forms under this Chapter are in FORM GST DRC. Rule 142 of Chapter-XVIII of the GST Rules deals with the procedure of issuing demand notice and passing of demand order. Rule 142 (1) (a) deals with serving of summary of notice in Form GST DRC-01 and Rule 142 (5) deals with summary or order to be uploaded electronically in Form GST DRC-07. In both the Rules, it is nowhere mentioned that summary of notice or order requires digital signature on it.

6. The Goods and Services Tax Network (GSTN) through its advisory dated 25.09.2024 clarified that the show-cause notices and orders are generated on the common portal through the officers' login, which is accessed using the digital signature. These documents being computer generated upon the officers' command do not require digital signature as they can only be issued by the officers by logging into the portal with their digital signatures. Thus, neither show-cause notices nor the orders can bear a stamp of invalidity in the absence of physical or digital signatures of the officers.

7. The next contention is that the impugned show-cause notices and orders contain the name of the Proper Officer, his designation and the name of the concerned circle. Thus, no prejudice is caused to the assessee. The judgment of Andhra Pradesh High Court in the case of **M/s. SRK Enterprises v. Assistant Commissioner**[4] on which reliance is placed by this Court in **M/s. Silver Oak Villas** (supra) deals with Section 160 (1) of the GST Act only. Furthermore, it is submitted that in the teeth of Section 160 (1) and (2), the technical defect, if any, about non-availability of signature will not make the show-cause notice/order as invalid. The Rules by no stretch of imagination can prevail over the main Sections namely Sections 73/74 of the GST Act. Both the Sections are silent about the requirement of physical or digital signature and in that event, no Rule can help the petitioners.

8. Sri Swaroop Oorilla, by placing reliance on the judgment in the case of **Commissioner of Customs v. Dilip Kumar & Co.**[5], urged that the taxation statute must be construed strictly. Thus, by inferential process a fiscal statute cannot be interpreted in a way which is neither intended nor expressed. A plain reading of

[4] W.P.No.29397 of 2023, decided on 10.11.2023.
[5] (2018) 9 SCC 1

relevant provisions of the GST Act, the GST Rules and Forms makes it clear that there is no requirement of putting physical/digital signature and placing the document on the portal is sufficient. Heavy reliance is placed on the following communication:

Advisory on issuance of Notices/Orders without digital signatures of the issuing authorities.

September 25th, 2024

Doubts have been created regarding the validity of documents issued by the tax officers on the common portal viz. Show cause Notices, Order of Assessment, Refund Orders etc. which are not containing the Digital signatures on the pdf. document downloaded from the common portal. In this context, it is to be mentioned that such documents (i.e. SCN/Orders) are generated on the common portal from the login of the officer, who logs in through Digital Signatures. Further, these documents being computer generated on the command of the officer, may not require physical signatures of the officer as these documents can be issued by the officer only after logging into the common portal using Digital Signature. Thus, all these documents in JSON format containing the order details along with the issuing officer details are stored in the GST system with the digital signature of the issuing officer.

The validity of the document in question vis-à-vis who and for what purpose these documents have been issued can also be verified by the taxpayer pre-login as well as after login from the GST common portal by navigating to the following path:

Post-login: www.gst.gov.in-->Dashboard-->Services-->User Services-->Verify RFN



All communications from the officers to the taxpayer/ any other person initiated through the system can also be verified pre-login through the link https://services.gst.gov.in/services/verifyRfn .

It is further mentioned that all the critical actions on the part of officers are performed through digital signature authentication of the officer concerned who is authorised for taking that action, such as:

1. Issue of any notice in any module
2. Issue of any order in any module
3. Issue of any refund order

Thanks

Team GSTN

(Emphasis Supplied)

9. The tax payers have an alternative remedy under Section 107 of the GST Act is the last submission put-forth by Sri Swaroop Oorilla.

10. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, submits that CBIC is just a formal party and as such no arguments were advanced by him.

Rejoinder submissions of the Petitioners:-

11. Sri Karan Talwar submits that the law is well settled that show-cause notices/orders must contain the signature of the officer, who has issued them. In absence of any signature, the document is not authenticated. Reliance is placed on judgments of Supreme Court in **Collector of Central Excise, Madras v. M/s. M.M. Rubber and Company** [6] and **Kilasho Devi Burman v. Commissioner of Income Tax, W.B., Calcutta**[7]. To counter, the argument of Sri Swaroop Oorilla, which is based on Section 160 (1) and (2) of the GST Act, it is submitted that the defect in the show-cause notices are substantive in nature and not merely technical defect. When the impugned show-cause notices and final orders are pregnant with such serious inherent defect, in the light of judgment in the cases of **M.M.Rubber and Company** and

[6] 1992 Supp (1) SCC 471
[7] (1996) 7 SCC 613

Kilasho Devi Burman (both supra), the said notices and orders cannot be treated to be valid notices/orders. Thus, both Sub-sections (1) and (2) of the Section 160 of the GST Act do not improve the case of the Department. No *principle of waiver* can be pressed into service in view of the judgment of Bombay High Court in the case of **Prakash Krishnavtar Bharadwaj v. Income Tax Officer**[8].

12. The next submission of Sri Karan Talwar is based on Sections 3 and 5 of **The Information Technology Act, 2000** ('IT Act'). To elaborate, it is urged that as per those Sections, documents in question must contain digital or physical signature.

13. Sri M.V.J.K.Kumar, learned counsel for petitioners in some of the Writ Petitions, argued in the same line and placed reliance on the judgment of Madhya Pradesh High Court in the case of **Umashankar Mishra v. Commissioner of Income Tax**[9].

14. Sri Uma Shankar, learned counsel for petitioners in some of the Writ Petitions, placed reliance on Rules 59 (2) and 104 of the GST Rules and urged that digital or physical signature is must for treating an order/show-cause notice as valid.

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[8] 2023 SCC OnLine Bom 59
[9] (1982) 29 CTR 71 (MP)

15. Sri M. Naga Deepak, learned counsel for petitioners in some of the Writ Petitions, placed reliance on paragraph No.6 of the counter of the respondents, wherein the respondents admitted that it is settled law that the show-cause notice or order must contain signature.

16. Sri A.V.A. Siva Kartikeya, learned counsel for petitioners in some of the Writ Petitions, placed reliance on Forms DRC-01 and DRC-07 to submit that certain informations are required to be furnished with the signature of the Proper Officer.

17. Sri Raja Shekar Rao Salvaji, learned counsel for petitioners in some of the Writ Petitions, in addition, relied on the statutory Form DRC-01B and urged that this Form in no uncertain terms provides that in this Form the signature of the Proper Officer is not required, whereas DRC-01 and DRC-07 provides a column for signature of Proper Officer. Thus, the intention of the law makers was clearly spelled out in DRC-01B that signature is not a requirement. Rule 26 (1) of the GST Rules was highlighted to show that it talks about *method of authentication*. Rule 26 (1) is not confined to Chapter-III, instead, it is wider in nature and as rightly held by the Gauhati High Court in **Dihingia Motors Pvt.**

Ltd. (supra) unless there exists anything contrary, requirement of Rule 26 must be followed.

18. Sri P. Karthik Ramana, learned counsel for petitioners in some of the Writ Petitions, urged that Rule 142 of the GST Rules uses the words 'served' and 'issued' which shows that both are used for different purposes and have different meaning. A notice/order can be said to be validly issued only when it contains signature. The question of service is a different facet. Rule 142 (5) is highlighted to show that notice/order needs to be 'issued' and 'uploaded'.

19. Sri Venkata Prasad, learned counsel representing Sri Md. Shabaz, learned counsel for petitioners in some of the Writ Petitions, submits that the statutory Forms are medium to perform statutory function and therefore, must be strictly followed.

20. Sri Mohd.Mukhairuddin, Sri S. Suri Babu, Smt. S.Rama Lakshmi, Sri Singam Srinivasa Rao, Sri Kailash Nath P.S.S., Sri Srinarayan Toshniwal, Sri K.P.Amarnath Reddy and Md.Asrar Ahmed, learned counsel representing Ms.Yammanuru Siri Reddy, Sri V.Veeresham and Sri Shaik Jeelani Basha, also appeared for

Writ Petitioners in some of the cases and borrowed the arguments of learned counsel for the petitioners.

21. Sri Swaroopa Oorilla, learned Special Government Pleader for State Tax, in support of his submissions filed written synopsis.

22. It is noteworthy that the learned counsel for the parties have produced compilation of judgments. However, we are dealing with only such judgments which were relied upon by them during the course of arguments.

23. No other point was pressed.

24. We have heard the parties at length and perused the records.

Findings:

25. The parties have taken diametrically opposite stand regarding applicability of judgment of this Court in **M/s. Silver Oak Villas** (supra). Indisputedly, in the said case, the notice/order was interfered with because it did not contain physical/ digital signature. However, this order was sought to be distinguished by Sri Swaroop Oorilla on twin counts. *Firstly*, the order in **M/s. Silver Oak Villas** (supra) is based on a Bombay

High Court judgment which relates to registration and not issuance of show cause notice or order. *Secondly*, the order in **M/s. Silver Oak Villas** (supra) refers to Rule 26 (3) of the GST Rules which relates to Chapter-III which deals with 'Registration' and not relating to 'Demands and Recovery' which forms part of Chapter-XVII.

26. It is noteworthy that this aspect has been considered by Gauhati High Court in **Dihingia Motors Pvt. Ltd.** (supra) and Kerala High Court in **M/s. Fortune Service v. Union of India**[10]. The Gauhati High Court opined that unless the void is fulfilled in relation to requirement of signature in the notice/order, the requirement of Rule 26 of the GST Rules can be followed. The Kerala High Court, although, did not agree with the view taken in **M/s. Silver Oak Villas** (supra) by this Court to the extent reliance is placed on Rule 26(3) of the GST Rules, otherwise ruled in agreement with the findings in the judgment of **M/s. Silver Oak Villas** (supra). No doubt that Chapter-III deals with 'registration' and judgment of Bombay High Court deals with a case relating with the registration. It is equally true that in **M/s. Silver Oak Villas** (supra), this Court also placed reliance on Rule 26 (3) of the GST Rules which essentially relates with Chapter-III of the GST

[10] 2024 (12) TMI 1512 (Ker)

Rules. However, the ancillary question is whether despite these two aspects strenuously highlighted by Sri Swaroop Oorilla to distinguish the judgment in **M/s. Silver Oak Villas** (supra), the said judgment becomes distinguishable and whether a different view can be taken in view of the scheme of the GST Act, the GST Rules and Forms prescribed thereunder. Learned counsel has certainly raised a ponderable point which deserves serious consideration.

27. Before dealing with the relevant provisions of the GST Act, Rules and Forms on which heavy reliance is placed by learned counsel for the parties, it is apposite to note that this Court in **M/s. Silver Oak Villas** (supra) has not only considered the judgment of Bombay High Court and Rule 26 (3) of the GST Rules, the Court considered other judgments of different High Courts including Delhi and Andhra Pradesh High Courts and came to hold that in view of judicial precedents, the Court is of considered opinion that the impugned order in the instant case being an unsigned document lost its efficacy under the GST Act and the GST Rules. Thus, conclusion drawn in paragraph No.9 of the judgment in **M/s. Silver Oak Villas** (supra) shows that it is based on various precedents as well as on the provisions of the GST Act and Rules.

28. In this backdrop, the relevant provisions of GST Act and the GST Rules can be looked into. Rule 26 of the GST Rules deals with 'Method of authentication'. Sub-rule (3) of Rule 26, in no uncertain terms, makes it clear that it talks about notice, certificates and orders issued under the provisions of Chapter-III. To this extent, we find no difficulty in accepting the argument of Sri Swaroop Oorilla that unsigned document will not be hit by Rule 26 (3) of the GST Rules. It is apposite to note that Sections 73 and 74 of the GST Act are the substantive provisions for 'Demands and Recovery'. In order to translate Demands and Recovery into reality, Rules were introduced and the Rules are pregnant with statutory Forms for effectively exercising the power.

29. Indisputedly, statutory Form GST DRC-01 talks about 'summary of show cause notice'. Likewise, GST DRC-07 talks about 'summary of the order'. In both the statutory Forms namely DRC-01 and DRC-07, it is imperative to provide signature, name, designation, jurisdiction and address. The statutory Form DRC-01 is reproduced for ready reference.

"FORM GST DRC - 01
[See rule 100 (2) & 142(1)(a)]

Reference No:

Date:

To
_____ GSTIN/Temp. ID
---------- Name
_____Address

Tax Period ---------- F.Y. ---------- Act –
Section / sub-section under which SCN is being issued: -
SCN Reference No. ----
Date ----

Summary of Show Cause Notice

(a) Brief facts of the case :
(b) Grounds :
(c) Tax and other dues :

(Amount in Rs.)

Sr. No	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												

Signature
Name
Designation
Jurisdiction
Address

(Emphasis Supplied)

30. There is no 'head on' between Sections 73/74 of the GST Act and DRC-01 and DRC-07 and hence we find no merit in the contention of Sri Swaroop Oorilla that since Sections 73/74 of the GST Act are silent about the requirement of digital/physical signature any such requirement in DRC-01 and DRC-07 can be ignored. This is trite that Rules are introduced to translate the scheme of the Act into reality. When there is no difference or 'head on' between the Sections and the Rules/Forms, the Rules supplement the Sections and do not supplant it. In this view of the matter, we are constrained to hold that once there exists a

specific column earmarked for the signature, the said requirement becomes a statutory requirement. For this reason, the argument that taxation statute must be strictly interpreted based on the judgment of Supreme Court in **Dilip Kumar & Co** (supra) is of no assistance to the respondents. Instead it supports the contention of the petitioners. If strict rule of interpretation is applied in view of statutory requirement of existence of signature in the statutory Forms, it cannot be said non-existence of signature will not cause any dent to the notice/order. It is also noteworthy that in paragraph No.6 of counter of respondent No.3, it is pleaded that *'it is settled law that the order of any authority should contain signature of officer concerned who is passing the order'*.

31. It is profitable to examine the legal journey on this aspect. The Supreme Court in **M/s. M.M. Rubber and Company** (supra) opined as under:

> "12. It may be seen therefore, that, if an authority is authorised to exercise a power or do an act affecting the rights of parties, he shall exercise that power within the period of limitation prescribed therefor. The order or decision of such authority comes into force or becomes operative or becomes an effective order or decision on and from the date when it is signed by him…."
>
> (Emphasis Supplied)

32. Similarly view was taken in **Kailasho Devi Burman** (supra).

33. In view of these two judgments of Supreme Court coupled with the statutory requirement ingrained in DRC-01 and DRC-07, we are constrained to hold that a notice or final order can become legal or bear authenticity on its forehead only when it is physically/digitally signed by the Proper Officer. Section 160 on which reliance is placed by Sri Swaroop Oorilla reads thus:

> '**Section 160. Assessment proceedings, etc., not to be invalid on certain grounds.**
> (1) No assessment, reassessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.
> (2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.'
>
> (Emphasis Supplied)

34. These sub-sections were highlighted by the Revenue to show that the assessment proceedings cannot be invalidated on technical grounds. A careful reading of sub-section (1) of Section 160 of the GST Act makes it clear that the assessment, re-assessment, adjudication, review, revision, appeal, rectification,

notice, summons and other proceedings will not become invalid for any mistake, defect or omission if in substance and same is in conformity with and according to the intent, purpose and requirement of this Act or any existing law. As noticed above, the requirement of the GST Rules read with Forms is to put the signature on DRC-01 and DRC-07 at specified place. Thus, sub-section (1) does not help the respondents in any way.

35. So far, sub-section (2) of Section 160 of the GST Act is concerned, the argument of Sri Swaroop Oorilla is that the respondents have already acted upon the notices in certain cases and filed their reply and therefore notices cannot be invalidated. We do not see any merit in this contention. In none of the cases, it could be pointed out that the petitioners fulfilled the demand or satisfied the recovery.

36. It is apt to take into account Rule 142 which reads thus:

> **'Rule 142. Notice and order for demand of amounts payable under the Act. -**
>
> (1) The proper officer shall serve, along with the
>
> (a) Notice issued under section 52 or section 73 or section 74 or section 74A or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in **FORM GST DRC-01**,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74 or sub-section (3) of section 74A, a summary thereof electronically in **FORM GST DRC-02**, specifying therein the details of the amount payable.

(1A) The proper officer may, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74, as the case may be, [3][communicate] the details of any tax, interest and penalty as ascertained by the said officer, in **Part A** of **FORM GST DRC-01A.**;

(2) Where, before the service of Notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of subsection (5) of section 74, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A), he shall inform the proper officer of such payment in **FORM GST DRC-03** and an acknowledgement, accepting the payment made by the said person in **FORM GST DRC–04.**

(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in **Part B** of **FORM GST DRC-01A.**

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), or where the person concerned makes payment of the amount referred to in sub-section (1) of Section 129 within of section 129 within seven days of the notice issued under subsection (3) of section 129 but before the issuance of order under the said sub-section (3) of Section 129, he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer of such payment in **FORM GST DRC-03** and the proper officer **shall** issue an order in **FORM GST DRC-05** concluding the proceedings in respect of the said notice.

> (4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 or the reply to any Notice issued under any section whose summary has been uploaded electronically in **FORM GST DRC-01** under sub-rule (1) **shall be** furnished in **FORM GST DRC-06.**
>
> (5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or sub-section (12) of Section 75 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 **shall be** uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned.
>
> (6) The order referred to in sub-rule (5) shall be treated as the Notice for recovery.
>
> (7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order **shall be** uploaded electronically by the proper officer in **FORM GST DRC-08**.
>
> (Emphasis Supplied)

37. A minute reading of this Rule makes it clear like noonday that the Rule mandates and makes it imperative for the Proper Officer to serve the notice/order in the prescribed Forms. At the cost of repetition, the requirement of the Form is to provide signature, name, designation, jurisdiction and address. Thus, the Form DRC-01 and DRC-07 have statutory backing and requirement. We also find substance in the argument of Sri Raja Shekar Rao Salvaji, learned counsel for petitioners in some Writ Petitions, that when there was no such requirement of putting

signature, it was specifically spelled out in such Forms such as Form GST DRC-01B. Clause 4 of this Form provides "*this is a system generated notice and does not require signature*". Thus, where signature was not a statutory requirement, a specific note was put in the statutory Form itself.

38. Conversely, in every sub-rule of Rule 142 of the GST Rules, the law makers have used the word 'shall' for issuance of Statutory Forms which makes the issuance of Forms in prescribed form as mandatory. Since prescribed Forms as per Rule 142 need signature, such requirement must be held to be mandatory. In absence of signature, notice/order cannot be held to be a valid notice/order.

39. As analyzed, in view of judgment of Supreme Court in **M/s. M.M. Rubber and Company** (supra) and **Kailasho Devi Burman** (supra), such notices/orders issued without signatures are held to be invalid, the same will not get immunity in the teeth of sub-sections (1) and (2) of Section 160 of the GST Act. At the cost of repetition, the principle of waiver also cannot be pressed into service (see **Prakash Krishnavtar Bhardwaj** (supra). Relevant para reads thus:

> "14. The High Court of Calcutta in **B.K. Gooyee v. CIT** [1966] 62 ITR 109 (Cal) was considering the legal impact of an

unsigned notice issued under section 34 of the Indian Income-tax Act, 1922 and whether there can be a **waiver** of a right of an assessee to challenge the same on the ground that the notice was unsigned. Whilst holding that a lack of signature on a notice invalidates the same, it has further gone on to hold that there can be **no waiver to the** right of an assesseeto raise this objection where **the condition precedent for assuming jurisdiction by the Assessing Officer is not fulfilled. To quote from the judgment it holds** (page 119 of 62 ITR):

> **In the present case there was more than a mere irregularity or a clerical mistake for, in my view, a notice without the signature lacks an essential and/or an integral and/or an inseparable vital part or requirement of a notice under section 34, a notice in terms of which is a condition precedent to the assumption of jurisdiction by the Income-tax Officer. It is notice with a body but without a soul. Hence, it is an invalid notice and consequently equivalent to no notice...**"
>
> (Emphasis Supplied)

40. We will be failing in our duty, if we do not consider the advisory dated 25.09.2024 reproduced hereinabove on which Sri Swaroop Oorilla has placed heavy reliance. Despite repeated query from the Bench, it could not be pointed out whether this advisory has any statutory backing or at least can be called as an executive instruction issued under any enabling provision. Thus, at best, it is an internal communication between the Departmental Authorities. Curiously, in the latter portion of this advisory also, it is clearly mentioned that the officers need to perform through digital signature authentification in relation to (i) issuance of notice, (ii) issuance of order and (iii) issuance of refund order. In view of statutory requirement of putting signature on the notice

and the order, this advisory will not improve the case of the respondents.

41. This is trite that if a law prescribes a thing to be done in a particular manner, the same must be done in the same manner and other methods are forbidden (see **Baru Ram v. Prasanni**[11] and **Commissioner of Income Tax, Mumbai v. Anjum M.H. Ghaswala** [12]). Since Rule and prescribed Forms mandate requirement of signature of Proper Officer, its violation makes the notice/order vulnerable. Any contrary view taken by Court about DRC-07 having no signature without considering the above rule and prescribed Form must be held as *per incuriam.*

42. Chapter-II of the IT Act deals with digital signature and electronic signature. The authentification of electronic records is based on fulfillment of requirement of Sections 3 and 5 and we find substance in the argument of Sri Karan Talwar that apart from GST Act, GST Rules and Statutory Forms prescribed thereunder and Sections 3 of the IT Act, make it obligatory for the Proper Officer to put his signature. Section 3A of the IT Act on which Sri Swaroop Oorilla placed reliance does not insulate the notice/order if it does not contain signature of Proper Officer.

[11] AIR 1959 SC 93
[12] (2002) 1 SCC 633

43. The legal journey discussed hereinabove shows that various High Courts including Delhi, Andhra Pradesh, Kerala, Gauhati and this Court have taken the view that notice/order must contain the signature, and in absence thereof, they are invalid.

44. Hence, the matter may be viewed from another stand point i.e., point of *comity*. As per **Bryan A.Garner's Black's Law Dictionary (9th Edition)**, the *comity* is defined as under:

> "**1.** A practice among political entities (as nations, states, or **courts or different jurisdictions)**, involving esp. mutual recognition of legislative, executive, and judicial acts. Also termed *comitas gentium; courtoisie internationale.*"

45. In **World Sport Group (Mauritius) Ltd. v. MSM Satellite (Singapore) Pte. Ltd.**[13], the Supreme Court opined as under:

> "**22.** We are unable to accept the first contention of Mr. Venugopal that as Clause 9 of the Facilitation Deed provides that any party may seek equitable relief in a court of competent jurisdiction in Singapore, or such other court that may have jurisdiction over the parties, the Bombay High Court had no jurisdiction to entertain the suit and restrain the arbitration proceedings at Singapore because of the principle of Comity of Courts. In Black's Law Dictionary, 5th Edition, Judicial Comity, has been explained in the following words:
>
> "Judicial comity. The principle in accordance with which the courts of one state or jurisdiction will give effect to the laws and judicial decisions <u>of another, not as a matter of obligation, but out of deference and respect.</u>"

[13] (2014) 11 SCC 639

> Thus, what is meant by the principle of "comity" is that courts of one state or jurisdiction will give effect to the laws and judicial decisions of another state or jurisdiction, not as a matter of obligation but out of deference and mutual respect."
>
> (Emphasis Supplied)

46. The similar view is taken by Delhi High Court in **Commissioner of Income Tax v. SAE Head Office Monthly Paid Employees Welfare Trust** [14] and High Court of Gujarat in **Commissioner of Income Tax v. Deepak Family Trust and Ors.** [15]. In **SAE Head Office Monthly Paid Employees Welfare Trust** (supra), the Division Bench of the Delhi High Court opined as under:

> "27. When in the tax matters which are governed by all India statute, there is a decision of another High Court on the interpretation of a statutory provisions, it would be a wise judicial policy and practice not to take a different view barring, of course, certain exceptions, like where the decision is sub silentio, per incuriam, obiter dicta or based on a concession or takes a view which it is impossible to arrive at or there is another view in the field or there is a subsequent amendment of the statute or reversal or implied overruling of the decision by a higher Court or some such or similar infirmity is manifestly perceivable in the decision. [see Arvind Boards and Paper Products Ltd. v. CIT, (1982) 137 ITR 635 (Guj)]
>
> 28. It must be remembered that it is a general policy in Income Tax matters that whatever the view of the Bench at the time of hearing may be, but the Bench should follow the view taken by another High Court on the interpretation of section. In case of CIT v. Sarabhai Sons Limited (1983) 143 ITR 473 (Guj), the Gujarat High Court observed that "Even though we may be persuaded to take a different view, we are not inclined to do so in view of the settled practice referred to

[14] MANU/DE/0704/2004
[15] MANU/GJ/0311/1993

> in the decision of Madras High Court and the decisions of Bombay High Court and Madhya Pradesh High Court adverted above."
>
> (Emphasis Supplied)

47. Thus, from the view point of *comity* also, we are inclined to interpret the provisions of the GST Act, GST Rules and Statutory Forms prescribed thereunder in the same manner different High Courts have considered it. More-so, when Revenue could not make out any exception based on aspects of *per incuriam, sub silentio, obiter dicta* or concession, etc. We have considered the scheme of the GST Act, Rules and Statutory Forms prescribed thereunder and, in our judgment, the impugned show cause notices and the orders which are not pregnant with the signature of the Proper Officer cannot sustain judicial scrutiny.

48. Resultantly, the impugned notices and orders in all the Writ Petitions are set aside. Liberty is reserved to the respondents to issue fresh show cause notices/orders in accordance with law and, for undertaking this exercise afresh, the limitation will not be a hurdle for the respondents. It is made clear that this Court has not expressed any opinion on the merits of the case.

49. The Writ Petitions are **allowed** to the extent indicted above. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

SUJOY PAUL, ACJ

RENUKA YARA, J

Date: 28.02.2025.

Note:
LR copy be marked.
B/o.GVR/MYK/TJMR

CASE 31 OF 34 · GROUP D

Gudla Vanaja and Others v. Assistant Commissioner (ST), Saroor Nagar-I Circle, Telangana and Others (includes M/s Minttu Sarna)

Court	High Court for the State of Telangana
Bench	Aparesh Kumar Singh, C.J., N. Tukaramji, J. and G.M. Mohiuddin, J.
Date	30.09.2026
Case no. / citation	W.P.Nos.20397 of 2025 and batch (lead: Gudla Vanaja and Others)

Holding in brief

Notice uploaded on the common portal is valid service; limitation runs from the date of upload; documents lacking DIN/RFN are invalid. Reference answered; Bigleap Technologies held not to lay down the correct position; writs disposed of.

Provisions involved

CGST Act, 2017: Sections 73, 74, 75, 146 and 169 (169(1)(d))

Status

Disposed off; held in favour of the revenue. Directions: Petitioners may file statutory appeal within two weeks from 30.09.2026 and raise other grounds.

The judgment begins on compendium page 638.

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

***THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH**

***THE HON'BLE SRI JUSTICE N.TUKARAMJI**

AND

***THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN**

+W.P.Nos.20397 of 2025, 26393 of 2024, 15821, 15975, 19150, 19170, 19388, 19894, 19900, 20001, 20090, 20101, 20125, 20196, 20404, 20409, 20427, 20473, 20528, 20599, 20625, 20653, 20798, 21005, 21024, 21060, 21114, 21466, 21642, 21853, 22081, 22326, 22395, 22490, 22562, 22577, 22582, 22588, 22806, 23297, 23308, 23347, 23395, 23466, 23475, 23504, 23524, 23545, 23623, 23730, 23761, 23785, 23831, 23833, 23906, 24014, 24069, 24196, 24218, 24230, 24349, 24354, 24402, 24420, 24513, 24632, 24808, 24812, 24816, 24818, 24833, 25208, 25257, 25271, 25279, 25317, 25337, 25339, 25340, 25361, 25382, 25384, 25385, 25387, 25395, 25406, 25413, 25496, 25529, 25562, 25671, 25710, 25726, 26012, 26046, 26085, 26210, 26229, 26236, 26248, 26280, 26298, 26300, 26475, 26536, 26553, 26566, 26570, 26617, 26641, 26643, 26659, 26759, 26822, 26887, 27122, 27165, 27204, 27214, 27232, 27249, 27304, 27317, 27323, 27349, 27360, 27678, 27683, 27736, 27770, 28065, 28304, 28513, 28618, 28644, 28761, 28775, 28801, 28846, 28906, 28954, 29146, 29313, 29504, 29507, 29688, 29692, 29696, 29908, 29926, 29932, 29935, 29951, 30090, 30104, 30158, 30166, 30184, 30222, 30247, 30382, 30481, 30571, 30843, 30846, 30847, 30928, 30935, 30948, 31032, 31383, 31406, 31408, 31410, 31419, 31428, 31432, 31504, 31880, 31904, 31909, 31911, 32387, 32498, 32535, 32660, 33099, 33147, 33495, 33749, 33768, 34129 and 34134 of 2025

% Dated: 30.09.2026

Reserved on: 15.07.2026

Pronounced on: 30.09.2026

Uploaded on: 02.10.2026

Gudla Vanaja and others.

…Petitioners

vs.

$ Assistant Commissioner (ST),
Saroor Nagar-I Circle, Telangana and others.

…Respondents

! **Counsel for the petitioners:**

Ms. Yammanuru Siri Reddy, Mr. A.V.A. Siva Kartikeya, Mr. M. Naga Deepak, Mr. Venkatram Reddy Mantur, Mr. Jai Kishan Solanki, Mr. Santosh Sagar Kapilvai, Mr. K.P. Amarnath Reddy, Mr. Dandu Suresh Babu, Mr. Gouraram Rajashekar Reddy, Mr. S.V. Pranav Ram, Mr. T. Pradyoth, Mr. S. Suri Babu, Mr. B. Krishna Reddy, Mr. E. Rakesh Reddy, Mr. Shaik Jeelani Basha, Mr. P. Srikanth Rao, Mr. Karan Talwar, Mr. Raja Shekar Rao Salvaji, Mr. P. Bharath Nandan, Mr. Dantu Srinivas, Mr. Ch. Samson Babu, Mr. P. Venkata Prasad, representing M/s. P.V. Prasad Associates, Mr. J. Dheeraj Reddy, Mr. Upadhyay Raghavender, Mr. Goondla Venkateswarlu, Mr. B.Srinivas, Mr. Mohd. Ismail Khan, Mr. Srinarayan Toshniwal, Mr. V. Veeresham, Mr. C.Sanjeeva Rao, Mr. Karthik Ramana Puttamreddy, Mr. G.N.G. Shankar, Mr. Vedantam Sriramnivas, Mr. Nishanth Rao K N, Mr. Hari Kishan Kudikala, Mr. K. Sudhakar Reddy, Mr. Aitharaju Venkateshwarlu, Mr. Pullabhotla VLS Sri Chakrapani, Mr. M.V.L. Narasimha Rao, Mr. G. Narendra Chetty, Mr. Nagendra Prasad, Mr.Mohammed Mukhairuddin, Mr. Muktinutalapati Ramachandra Murthy, Mr. G.R.S. Akhileswar, Mr. V. Aneesh, Mr. V. Rajeshwar Rao, Mr. Singam Srinivasa Rao, Mr. M. Umashankar, Mr. Ravi Sankara Reddy.P and Mr. Kohir Bhaskar Reddy.

^ **Counsel for the respondents:**

Mr. A. Sudarshan Reddy, learned Advocate General duly assisted by Mr. Swaroop Oorilla, learned Special Government Pleader for State Tax and Mr. K.Sai Akarsh, learned Assistant Government Pleader for State Tax appears for the State.

Mr. B. Narasimha Sharma, learned Additional Solicitor General of India and Mr. Dominic Fernandes, learned Senior Standing Counsel for the Central Board of Indirect Taxes and Customs, assisted by Ms. B.N.Pravalika Goud, Ms. T.Shivani Reddy and Mr.B.Praneeth, appear for Goods and Services Tax Network.

Mr. D.Raghavendra Rao, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs appears for Central Tax Department.

Learned counsel Mr. Hemanth Kumar Vemuri appears for Karur Vysya Bank.

Learned counsel Mr. N. Praveen Reddy, learned counsel Mr. Sudharshan Narahari and learned counsel Mr. G.Kalyan Chakravarthy appear for ICICI Bank.

Mr. N.Bhujanga Rao, learned Deputy Solicitor General of India, Mr. K. Arvind Kumar, learned Senior Standing Counsel,

Mr. Janardhan Goud Sunkari, learned Central Government Senior Counsel, Sri B.Jithender, learned Central Government Counsel, Mr. A.S.Vasudevan, learned counsel, Mr. A. Kranthi Kumar Reddy, learned counsel, Mr. Pulimamidi Shashidhar Reddy, learned counsel, Ms. B.Kavita Yadav, learned Senior Standing Counsel for Central Government and Mr. Kalvala Sanjeev, learned counsel appear for Union of India.

< Gist:

> Head Note:

? Cases referred

1. [2025] 142 GSTR 608 (Telangana)
2. [2025] 137 GSTR 620 (Telangana)
3. (2009) 11 SCC 244
4. WP (C) No.16532 of 2025, CM Appl.67713/2025 & CM Appl.67714/2025, dated 31.10.2025
5. 1992 Supp 1 SCC 471
6. (1996) 7 SCC 613
7. (2022) 1 Centax 289
8. (2025) 29 Centax 394 (Mad)
9. [2025] 181 taxmann.com 888 : 2025 (12) TMI 1598 – Allahabad High Court
10. 2024 (1) TMI 1434 – Rajasthan High Court : 2025 (95) G.S.T.L. 264 (Raj)
11. (2023) 12 Centax 198 (AP)
12. 2005 (186) E.L.T. 266 (S.C.)
13. 2007 (209) E.L.T. 161 (S.C.)
14. (2026) 38 Centax 90 (S.C.)
15. AIR 2015 Gujarat 1
16. AIR 1965 SC 1636
17. 2025 (2) TMI 1091 – Kerala High Court
18. (1975) 45 Comp Cas 43
19. 2010 SCC OnLine Bom 516
20. R/Special Leave Application No.2699 of 2025, dated 20.06.2025
21. R/Special Civil Application No.8125 of 2024, dated 20.03.2025
22. (2024) 18 Centax 490 (Ori.)
23. (2007) 2 SCC 230
24. W.P.No.4005 of 2025, dated 20.02.2025
25. W.P.No.14874 of 2025, dated 26.09.2025
26. W.P.No.1363 of 2026, dated 31.01.2026
27. (1998) 2 SCC 44
28. (2025) 32 Centax 130 (Telangana)
29. 1950 SCC 205
30. (2011) 6 SCC 508
31. 2025 Supreme (Online) (Mad) 49709
32. AIR 1954 SC 340
33. (2015) 8 SCC 519
34. AIR 1959 SC 93
35. (2002) 1 SCC 633
36. (1999) 8 SCC 266
37. [1986] 59 Comp Cas 548 : (1986) 1 SCC 264
38. 2025 (34) Centax 442 (Del)
39. 2025 (31) Centax 224 (Del)
40. 2025 (31) Centax 158 (Del)
41. [2023] 112 GSTR 149 (Bom)
42. (1999) 4 SCC 575

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

THE HON'BLE SRI JUSTICE N.TUKARAMJI

AND

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

W.P.Nos.20397 of 2025, 26393 of 2024, 15821, 15975, 19150, 19170, 19388, 19894, 19900, 20001, 20090, 20101, 20125, 20196, 20404, 20409, 20427, 20473, 20528, 20599, 20625, 20653, 20798, 21005, 21024, 21060, 21114, 21466, 21642, 21853, 22081, 22326, 22395, 22490, 22562, 22577, 22582, 22588, 22806, 23297, 23308, 23347, 23395, 23466, 23475, 23504, 23524, 23545, 23623, 23730, 23761, 23785, 23831, 23833, 23906, 24014, 24069, 24196, 24218, 24230, 24349, 24354, 24402, 24420, 24513, 24632, 24808, 24812, 24816, 24818, 24833, 25208, 25257, 25271, 25279, 25317, 25337, 25339, 25340, 25361, 25382, 25384, 25385, 25387, 25395, 25406, 25413, 25496, 25529, 25562, 25671, 25710, 25726, 26012, 26046, 26085, 26210, 26229, 26236, 26248, 26280, 26298, 26300, 26475, 26536, 26553, 26566, 26570, 26617, 26641, 26643, 26659, 26759, 26822, 26887, 27122, 27165, 27204, 27214, 27232, 27249, 27304, 27317, 27323, 27349, 27360, 27678, 27683, 27736, 27770, 28065, 28304, 28513, 28618, 28644, 28761, 28775, 28801, 28846, 28906, 28954, 29146, 29313, 29504, 29507, 29688, 29692, 29696, 29908, 29926, 29932, 29935, 29951, 30090, 30104, 30158, 30166, 30184, 30222, 30247, 30382, 30481, 30571, 30843, 30846, 30847, 30928, 30935, 30948, 31032, 31383, 31406, 31408, 31410, 31419, 31428, 31432, 31504, 31880, 31904, 31909, 31911, 32387, 32498, 32535, 32660, 33099, 33147, 33495, 33749, 33768, 34129 and 34134 of 2025

Dated: 30.09.2026

Reserved on: 15.07.2026 **Pronounced on: 30.09.2026**
Uploaded on: 02.10.2026

WRIT PETITION No.20397 of 2025
CNR No. HBHC010402922025

Between:
Gudla Vanaja

…Petitioner

and

Assistant Commissioner (ST),
Saroor Nagar-I Circle, Telangana and 2 others

…Respondents

WRIT PETITION No.26393 of 2024
CNR No. HBHC010512422024

Between:
M/s.Naskon Associates LLP

…Petitioner

and

The Deputy Commissioner of State Tax,
Madhapur Division, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.15821 of 2025
CNR No. HBHC010296482025

Between:
M/s.Sai Earth Movers

…Petitioner

and

The State of Telangana, Department of Revenue (CT),
Rep. by its Principal Secretary, Hyderabad and 4 others.

…Respondents

WRIT PETITION No.15975 of 2025
CNR No. HBHC010319422025

Between:
Lakshmi Enterprises

…Petitioner

and

The State Tax Officer (GST)(ST), Karimnagar-II Circle,
Karimnagar Division, Telangana and 5 others.

…Respondents

WRIT PETITION No.19150 of 2025
CNR No. HBHC010378432025

Between:
Mahadevan & Co

…Petitioner

and

The Assistant Commissioner (ST), Commercial Taxes Department,
Basheerbagh-Nampally I Circle,
Abids, Hyderabad – 500 001, Telangana and 3 others.

…Respondents

WRIT PETITION No.19170 of 2025
CNR No. HBHC010373302025

Between:
M/s.Mahalaxmi Electricals

…Petitioner

and

State Tax Officer, Ferozguda Circle,
Hyderabad Rural Division, Hyderabad and 2 others

…Respondents

WRIT PETITION No.19388 of 2025
CNR No. HBHC010344922025

Between:
M/s.Rasun Exports Private Limited

…Petitioner

and

The State Tax Officer, Khairatabad-Somajiguda-2 Circle, Hyderabad, 8th Floor, B-Block, Mayur Complex, Abids, Hyderabad – 500 001, Telangana and 4 others

…Respondents

WRIT PETITION No.19894 of 2025
CNR No. HBHC010391052025

Between:
M/s.Shiva Sai Enterprises

…Petitioner

and

Assistant Commissioner (ST), Saroor Nagar-III Circle, Commercial Tax Department, Government of Telangana, Hyderabad and 2 others.

…Respondents

WRIT PETITION No.19900 of 2025
CNR No. HBHC010392942025

Between:
Venkata Subbaraya Choudary Maddukuri

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary, Revenue, (Commercial Taxes Department), Dr. B.R.Ambedkar Telangana Secretariat, Saifabad, Hyderabad – 500 022 and 3 others

…Respondents

WRIT PETITION No.20001 of 2025
CNR No. HBHC010392642025

Between:
Pavan Electrical and Sanitation

…Petitioner

and

The State Tax Officer (GST)(ST), Madhapur 8 Circle, Madhapur Division, and 4 others.

…Respondents

WRIT PETITION No.20090 of 2025
CNR No. HBHC010393182025

Between:
M/s.Tanmayi Aircon

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary,
Commercial Taxes, Secretariat, Hyderabad and 3 others

…Respondents

WRIT PETITION No.20101 of 2025
CNR No. HBHC010395652025

Between:

M/s.Cisne for Arts and Entertainments LLP

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary to Government,
Revenue (CT-II) Department, Secretariat, Hyderabad and 2 others

…Respondents

WRIT PETITION No.20125 of 2025
CNR No. HBHC010397712025

Between:

M/s.Ahmed Traders

…Petitioner

and

Assistant Commissioner (ST), Bodhan and Nizamabad-III Circle,
Nizamabad and 2 others

…Respondents

WRIT PETITION No.20196 of 2025
CNR No. HBHC010398362025

Between:

M/s.Pragati Road Carriers

…Petitioner

and

The State of Telangana, Department of Revenue (CT)
rep. by its Principal Secretary, Secretariat, Hyderabad,
Telangana and another

…Respondents

WRIT PETITION No.20404 of 2025
CNR No. HBHC010399622025

Between:

Harini Ganti

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary to Government,
Revenue (CT-II) Department, Secretariat, Hyderabad and 2 others

…Respondents

WRIT PETITION No.20409 of 2025
CNR No. HBHC010359692025

Between:

M/s. Siva Sai Ganesh Enterprises

…Petitioner

and

The Deputy Commissioner (ST-5), Enforcement Wing-II,
HOD, Telangana and 4 others

…Respondents

WRIT PETITION No.20427 of 2025
CNR No. HBHC010402952025

Between:
Gudla Vanaja

…Petitioner

and

Assistant Commissioner (ST), Saroor Nagar-I Circle,
Saroor Nagar, Telangana and 2 others

…Respondents

WRIT PETITION No.20473 of 2025
CNR No. HBHC010315752025

Between:
M/s.Satyanarayana Reddy Kandimalla

…Petitioner

and

The Deputy Commissioner (ST)-IV, Enforcement Wing-1,
CT Complex, Nampally, Hyderabad and 3 others

…Respondents

WRIT PETITION No.20528 of 2025
CNR No. HBHC010401872025

Between:
Krishna Clothings

…Petitioner

and

Assistant Commissioner (ST), Malakpet-II, Charminar,
Telangana, Hyderabad and 3 others

…Respondents

WRIT PETITION No.20599 of 2025
CNR No. HBHC010397322025

Between:
M/s.Cisne for Arts and Entertainments LLP

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary to Government,
Revenue (CT-II) Department, Secretariat, Hyderabad and 2 others

…Respondents

WRIT PETITION No.20625 of 2025
CNR No. HBHC010399742025

Between:
Harini Ganti

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Secretariat, Hyderabad and 2 others

…Respondents

WRIT PETITION No.20653 of 2025
CNR No. HBHC010401362025

Between:
R. Balarami Reddy and Co.

…Petitioner

and

Appellate Joint Commissioner (ST) (FAC), Secunderabad Division, Hyderabad, 5th Floor, CT Complex, Nampally, Hyderabad – 500 001 and 4 others.

…Respondents

WRIT PETITION No.20798 of 2025
CNR No. HBHC010284422025

Between:
M/s.Srinidhi Power Solutions

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary, Revenue (CT-II) Department, Secretariat, Hyderabad, Telangana and another

…Respondents

WRIT PETITION No.21005 of 2025
CNR No. HBHC010415392025

Between:
M/s.Srinidhi Power Solutions

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary, Revenue (CT-II) Department, Secretariat, Hyderabad, Telangana and another

…Respondents

WRIT PETITION No.21024 of 2025
CNR No. HBHC010284942025

Between:
M/s.Srinidhi Power Solutions

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary, Revenue (CT-II) Department, Secretariat, Hyderabad, Telangana and 2 others

…Respondents

WRIT PETITION No.21060 of 2025
CNR No. HBHC010414982025

Between:
M/s. Maks FMS India Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Lad Bazar,
Charminar, State of Telangana, Hyderabad and 4 others

…Respondents

WRIT PETITION No.21114 of 2025
CNR No. HBHC010417082025

Between:

Geetha Kirana General Stores

…Petitioner

and

The Assistant Commissioner (GST)(ST),
IDA Gandhi Nagar/Hyder Nagar-I,
Hyderabad Rural Division, T.G., and 4 others

…Respondents

WRIT PETITION No.21466 of 2025
CNR No. HBHC010412472025

Between:

M/s. Raja Ram Agencies

…Petitioner

and

State of Telangana, Rep. by its Principal Secretary,
Commercial Taxes, Secretariat, Hyderabad and 2 others.

…Respondents

WRIT PETITION No.21642 of 2025
CNR No. HBHC010422282025

Between:

Salapi Consultants Private Limited

…Petitioner

and

Assistant Commissioner (ST), Hyderguda-Ashok Nagar Circle,
Abids, Hyderabad – 01, Telangana and 2 others

…Respondents

WRIT PETITION No.21853 of 2025
CNR No. HBHC010417802025

Between:

M/s. Sri Venkateswara Gas Agency

…Petitioner

and

State of Telangana, Rep. by its Secretary, Commercial Tax Department,
Government of Telangana, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.22081 of 2025
CNR No. HBHC010436432025

Between:

Vasu Katakam

…Petitioner

and

Assistant Commissioner (ST), Keesara,
Malkajgiri, Telangana and 3 others.

…Respondents

WRIT PETITION No.22326 of 2025
CNR No. HBHC010294772025

Between:

Terminus Kg Ventures Private Limited

…Petitioner

and

The Deputy Commissioner of State Tax, STU-2,
Punjagutta Division, Mayur Kushal Complex,
Beside Chermas, Abids, Hyderabad–500 001 and 3 others

…Respondents

WRIT PETITION No.22395 of 2025
CNR No. HBHC010443482025

Between:

Fortuna Identity Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Commercial Taxes Department 6,
Madhapur, Telangana and 3 others

…Respondents

WRIT PETITION No.22490 of 2025
CNR No. HBHC010426282025

Between:

M/s.Ragi & Ragi Enterprises

…Petitioner

and

The Assistant Commissioner (ST),
Mahankali Street – R.P. Road, Secunderabad
and 2 others

…Respondents

WRIT PETITION No.22562 of 2025
CNR No. HBHC010446122025

Between:

M/s.Export Cargo Packagings

…Petitioner

and

The Deputy Commissioner (ST), Enforcement Wing-1,
CCT, Hyderabad and 5 others

…Respondents

WRIT PETITION No.22577 of 2025
CNR No. HBHC010446312025

Between:
Planet Sigma Embedded Systems Private Limited

…Petitioner

and

The Assistant Commissioner (State Tax),
Office of the Assistant Commissioner (ST),
Hydernagar-II, Hyderabad Rural, 3rd Floor,
East Wing, Gaganvihar Building, Nampally,
Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.22582 of 2025
CNR No. HBHC010446302025

Between:
Planet Sigma Embedded Systems Private Limited

…Petitioner

and

The Assistant Commissioner (State Tax),
Office of the Assistant Commissioner (ST),
Hydernagar-II, Hyderabad Rural, 3rd Floor,
East Wing, Gaganvihar Building, Nampally,
Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.22588 of 2025
CNR No. HBHC010426342025

Between:
M/s. Vinci Global Private Limited

…Petitioner

and

Assistant Commissioner (ST), Madhapur – 8 Circle,
Madhapur Division, Hyderabad and 4 others

…Respondents

WRIT PETITION No.22806 of 2025
CNR No. HBHC010450232025

Between:
M/s. Minttu Sarna

…Petitioner

and

Assistant Commissioner of State Tax,
Basheerbagh – Nampally Circle, Abids Division,
Old Kakatiya Hotel Building, 3rd Floor, Nampally,
Hyderabad – 500 001 and 2 others

…Respondents

WRIT PETITION No.23297 of 2025
CNR No. HBHC010450062025

Between:
M/s. Minttu Sarna

…Petitioner

and

Assistant Commissioner of State Tax,
Basheerbagh – Nampally Circle, Abids Division,
Old Kakatiya Hotel Building, 3rd Floor, Nampally,
Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.23308 of 2025
CNR No. HBHC010460982025

Between:
M/s. Sony Electronics

…Petitioner

and

Assistant Commissioner (ST), Nagarkurnool – Jadcherla,
Nalgonda, Telangana and 3 others

…Respondents

WRIT PETITION No.23347 of 2025
CNR No. HBHC010450342025

Between:
M/s. Minttu Sarna

…Petitioner

and

Assistant Commissioner of State Tax,
Basheerbagh – Nampally Circle, Abids Division,
Old Kakatiya Hotel Building, 3rd Floor, Nampally,
Hyderabad – 500 001 and 2 others

…Respondents

WRIT PETITION No.23395 of 2025
CNR No. HBHC010460932025

Between:
M/s. Sony Electronics

…Petitioner

and

Assistant Commissioner (ST), Nagarkurnool – Jadcherla,
Nalgonda, Telangana and 3 others

…Respondents

WRIT PETITION No.23466 of 2025
CNR No. HBHC010463092025

Between:
M/s.Swastik Agencies

…Petitioner

and

Assistant Commissioner (ST), Saroornagar – I,
Saroornagar Division, Nampally, Hyderabad and 3 others

…Respondents

WRIT PETITION No.23475 of 2025
CNR No. HBHC010460632025

Between:
Mohammed Tabrez Uddin

…Petitioner

and

The Union of India, rep. by its Secretary (Finance),
Ministry of Finance, North Block,
New Delhi – 110 001 and 3 others

…Respondents

WRIT PETITION No.23504 of 2025
CNR No. HBHC010450322025

Between:
M/s. Minttu Sarna

…Petitioner

and

Assistant Commissioner of State Tax,
Basheerbagh – Nampally Circle, Abids Division,
Old Kakatiya Hotel Building, 3rd Floor, Nampally,
Hyderabad – 500 001 and 2 others

…Respondents

WRIT PETITION No.23524 of 2025
CNR No. HBHC010463082025

Between:
M/s.Swastik Agencies

…Petitioner

and

The Assistant Commissioner (ST), Saroornagar – I,
Saroornagar Division, Nampally, Hyderabad and 3 others

…Respondents

WRIT PETITION No.23545 of 2025
CNR No. HBHC010463972025

Between:
M/s.RK Traders

…Petitioner

and

The Assistant Commissioner (ST), Division – Warangal,
Circle – Kothagudem I, Door No.3-2-44, 2nd Floor,
Near Hanuman Temple, Vidyanagar Colony,
Kothagudem – 507 101, Telangana and 2 others.

…Respondents

WRIT PETITION No.23623 of 2025
CNR No. HBHC010465682025

Between:
M/s.Austrazen Bio Pharmaceuticals Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Saroornagar – 1 Circle, Saroornagar Division, Hyderabad and 2 others

…Respondents

WRIT PETITION No.23730 of 2025
CNR No. HBHC010470802025

Between:
M/s. UHC Lifesciences

…Petitioner

and

The Assistant Commissioner ST, Nacharam – 1 Circle, Malkajgiri Division, 12th Floor, South Wing, Gaganvihar, Nampally, Hyderabad-500001 and 4 others

…Respondents

WRIT PETITION No.23761 of 2025
CNR No. HBHC010470472025

Between:
M/s.Sikhwal Metal

…Petitioner

and

Assistant Commissioner of State Tax, Afzalgunj – Maharajgunj Circle, Charminar Division, 8th Floor, Gaganvihar Building, Nampally, Telangana, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.23785 of 2025
CNR No. HBHC010472132025

Between:
Smt. Suneetha Pantham

…Petitioner

and

The Appellate Joint Commissioner (ST), Hyderabad Rural Division, 5th Floor, CT Complex, Nampally, Hyderabad and 4 others

…Respondents

WRIT PETITION No.23831 of 2025
CNR No. HBHC010432112025

Between:
M/s. Laxmi Ganapathi Enterprises

…Petitioner

and

The Assistant Commissioner ST, Warangal Urban – II Circle,
Warangal Division, House No.23-6-163/1, 3rd Floor,
CTO Office Complex, Behind Vishal Mart, Hunter Road,
Warangal – 506 002, and 4 others

…Respondents

WRIT PETITION No.23833 of 2025
CNR No. HBHC010470642025

Between:
M/s.Sikhwal Metal

…Petitioner

and

State Tax Officer, Afzalgunj – Maharajgunj Circle, Charminar Division,
8th Floor, Gaganvihar Building, Nampally, Hyderabad – 500 001,
Telangana and 4 others

…Respondents

WRIT PETITION No.23906 of 2025
CNR No. HBHC010473072025

Between:
M/s.Anucon Engineering Projects Private Limited

…Petitioner

and

Assistant Commissioner (State Tax), Hydernagar – I Circle,
Hyderabad Rural Division, Hyderabad and 3 others

…Respondents

WRIT PETITION No.24014 of 2025
CNR No. HBHC010473182025

Between:
M/s.Sikhwal Metal

…Petitioner

and

State Tax Officer, Afzalgunj – Maharajgunj Circle, Charminar Division,
8th Floor, Gaganvihar Building, Nampally, Hyderabad – 500 001,
Telangana and 4 others

…Respondents

WRIT PETITION No.24069 of 2025
CNR No. HBHC010477742025

Between:
M/s. Inter City Transport Company

…Petitioner

and

The Assistant Commissioner (ST), Fatehnagar Circle,
Hyderabad Rural Division, Hyderabad, Telangana and 4 others

…Respondents

WRIT PETITION No.24196 of 2025
CNR No. HBHC010478352025

Between:
M/s. Inter City Transport Company

…Petitioner

and

The Assistant Commissioner (ST), Fatehnagar Circle,
Hyderabad Rural Division, Hyderabad, Telangana and 3 others

…Respondents

WRIT PETITION No.24218 of 2025
CNR No. HBHC010465722025

Between:
M/s. Soni Transport Solutions

…Petitioner

and

The Assistant Commissioner (State Taxes),
Fatehnagar Circle, Hyderabad Rural Division,
Hyderabad and 2 others

…Respondents

WRIT PETITION No.24230 of 2025
CNR No. HBHC010478372025

Between:
M/s. Inter City Transport Company

…Petitioner

and

The Assistant Commissioner (ST), Fatehnagar Circle,
Hyderabad Rural Division, Hyderabad, Telangana and 3 others

…Respondents

WRIT PETITION No.24349 of 2025
CNR No. HBHC010478392025

Between:
M/s.A K Traders

…Petitioner

and

Deputy Commissioner (State Tax)-IV, Enforcement Wing – 1,
Office of the Chief Commissioner of State Tax, 3rd Floor, MJ Road,
Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.24354 of 2025
CNR No. HBHC010478232025

Between:
M/s. Inter City Transport Company

…Petitioner

and

The Assistant Commissioner (ST), Fatehnagar Circle,
Hyderabad Rural Division, Hyderabad, Telangana and 4 others

…Respondents

WRIT PETITION No.24402 of 2025
CNR No. HBHC010481072025

Between:
Highbrow Production Services Pvt Ltd

…Petitioner

and

The Assistant Commissioner of State Tax, Madhapur Division,
Madhapur - 2 Circle, Nampally, Hyderabad–500 001 and 3 others

…Respondents

WRIT PETITION No.24420 of 2025
CNR No. HBHC010477972025

Between:
M/s. Inter City Transport Company

…Petitioner

and

The Assistant Commissioner (ST), Fatehnagar Circle,
Hyderabad Rural Division, Hyderabad, Telangana and 3 others

…Respondents

WRIT PETITION No.24513 of 2025
CNR No. HBHC010485772025

Between:
M/s. Gupta Enterprises

…Petitioner

and

The State Tax Officer, O/o Assistant Commissioner ST,
Charminar Circle, Charminar Division, 9th Floor,
Gaganvihar Building, Nampally, Hyderabad and 4 others

…Respondents

WRIT PETITION No.24632 of 2025
CNR No. HBHC010432122025

Between:
M/s. Siddivinayaka Distributors

…Petitioner

and

The Deputy Commissioner ST, Sangareddy STU Circle,
Nizamabad Division, H.No.4-8-85/10/B, Manjeera Pipe Line Road,
Sangareddy – 502001 and 4 others

…Respondents

WRIT PETITION No.24808 of 2025
CNR No. HBHC010492542025

Between:
M/s. 2E Smart Solutions LLP

…Petitioner

and

Assistant Commissioner (ST), Madhapur-8 Circle,
1st Floor, Gagan Vihar Building, Opp. Gandhi Bhavan,
Nampally, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.24812 of 2025
CNR No. HBHC010491132025

Between:
M/s. Harish Medical and General Stores

…Petitioner

and

The Appellate Joint Commissioner (ST), Secunderabad Division,
Nampally, Hyderabad and 4 others

…Respondents

WRIT PETITION No.24816 of 2025
CNR No. HBHC010261152025

Between:
M/s. Gayatri Silver Merchant

…Petitioner

and

The Assistant Commissioner ST, FAC, Nirmal Circle,
Adilabad Division, H.No.7-2-83/57-1, Near Post Office,
Indiranagar, Nirmal, Telangana – 504106 and 2 others

…Respondents

WRIT PETITION No.24818 of 2025
CNR No. HBHC010492442025

Between:
M/s. KP Constructions

…Petitioner

and

Assistant Commissioner (FAC), Wanaparthy Circle, Plot Nos.4,5,6 and 7,
Near 1st Railway Gate, Kurnool Road, Gadwal, Jogulamba Gadwal (D),
Telangana – 508207 and 3 others

…Respondents

WRIT PETITION No.24833 of 2025
CNR No. HBHC010265282025

Between:
M/s.Jaiveer Enterprises

…Petitioner

and

The Assistant Commissioner (ST), Vanasthalipuram-1 Circle,
Saroornagar Division, Hyderabad and 4 others

…Respondents

WRIT PETITION No.25208 of 2025
CNR No. HBHC010497492025

Between:
M/s.Sri Chakra Enterprises

…Petitioner

and

Assistant Commissioner (ST), Jeedimetla-II Circle,
Hyderabad Rural Range, Telangana and 2 others

…Respondents

WRIT PETITION No.25257 of 2025
CNR No. HBHC010499932025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner (ST), Malkajgiri-I Circle,
Saroor Nagar Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25271 of 2025
CNR No. HBHC010499512025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner (ST),Malkajgiri-I Circle,
Saroor Nagar Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25279 of 2025
CNR No. HBHC010504372025

Between:
Reva Medical Institute Private Limited

…Petitioner

and

The Assistant Commissioner of State Tax, Punjagutta Division,
Jubilee Hills 4 Circle, Telangana and 3 others.

…Respondents

WRIT PETITION No.25317 of 2025
CNR No. HBHC010499312025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner (ST), Malkajgiri-I Circle,
Saroor Nagar Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25337 of 2025
CNR No. HBHC010499482025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner (ST), Malkajgiri N-I Circle,
Malkajgiri Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25339 of 2025
CNR No. HBHC010499732025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner (ST), Malkajgiri -I Circle,
Saroor Nagar Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25340 of 2025
CNR No. HBHC010499972025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner of State Tax, Malkajgiri - I Circle,
Saroor Nagar Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25361 of 2025
CNR No. HBHC010497922025

Between:
M/s. T.F.Technologies

…Petitioner

and

Union of India, rep. by its Secretary, Ministry of Finance,
Department of Revenue, North Block, New Delhi – 110 001 and 5 others.

…Respondents

WRIT PETITION No.25382 of 2025
CNR No. HBHC010505712025

Between:
M/s. Polar Auto & Engineering Industries Private Limited

…Petitioner

and

The State Tax Officer (ST), Sangareddy – II Circle,
Nizamabad Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25384 of 2025
CNR No. HBHC010506132025

Between:
M/s. Polar Auto & Engineering Industries Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Sangareddy – II Circle, Nizamabad Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25385 of 2025
CNR No. HBHC010505512025

Between:
M/s.Bhavani Traders

…Petitioner

and

Assistant Commissioner (ST), Vengal Rao Nagar-I Circle, Panjagutta Division, Telangana and 4 others.

…Respondents

WRIT PETITION No.25387 of 2025
CNR No. HBHC010506562025

Between:
M/s. Polar Auto & Engineering Industries Private Limited

…Petitioner

and

The State Tax Officer (ST), Sangareddy – II Circle, Nizamabad Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.25395 of 2025
CNR No. HBHC010504402025

Between:
Reva Medical Institute Private Limited

…Petitioner

and

The Assistant Commissioner of State Tax, Punjagutta Division, Jubilee Hills 4 Circle, Telangana and 3 others.

…Respondents

WRIT PETITION No.25406 of 2025
CNR No. HBHC010506682025

Between:
M/s. Chemic Life Sciences Private Limited

…Petitioner

and

The State of Telangana, Rep. by its Principal Secretary, Commercial Taxes, Secretariat, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.25413 of 2025
CNR No. HBHC010499462025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner of State Tax, Malkajgiri - I Circle,
Saroor Nagar,Telangana and 3 others.

…Respondents

WRIT PETITION No.25496 of 2025
CNR No. HBHC010509002025

Between:
M/s.Mahadev Marketing

…Petitioner

and

The Assistant Commissioner (ST), Abids Circle,
Abids Division, and 2 others.

…Respondents

WRIT PETITION No.25529 of 2025
CNR No. HBHC010508412025

Between:
M/s.Sri Banbhori Impex

…Petitioner

and

The State of Telangana, Department of Revenue (CT),
rep. by its Principal Secretary, Secretariat,
Hyderabad, Telangana and another

…Respondents

WRIT PETITION No.25562 of 2025
CNR No. HBHC010508972025

Between:
Barret Commodity Traders Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Keesara-1, Malkajgiri Division,
Medchal-Malkajgiri District, Telangana and 2 others

…Respondents

WRIT PETITION No.25671 of 2025
CNR No. HBHC010505342025

Between:
M/s.PCS Computers

…Petitioner

and

The Assistant Commissioner (ST), Saroornagar – II,
Saroornagar Division, Nampally, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.25710 of 2025
CNR No. HBHC010513572025

Between:
M/s.Balaji Automobiles

…Petitioner

and

The Appellate Joint Commissioner (ST),
Secunderabad Division, Hyderabad and 4 others.

…Respondents

WRIT PETITION No.25726 of 2025
CNR No. HBHC010505782025

Between:
M/s.Bhavani Traders

…Petitioner

and

Assistant Commissioner (ST), Vengal Rao Nagar-I Circle,
Panjagutta Division, Telangana and 4 others.

…Respondents

WRIT PETITION No.26012 of 2025
CNR No. HBHC010505332025

Between:
M/s.PCS Computers

…Petitioner

and

The Assistant Commissioner (ST), Saroornagar – II,
Saroornagar Division, Nampally, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.26046 of 2025
CNR No. HBHC010497072025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner (ST), Malkajgiri-I Circle,
Saroor Nagar Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.26085 of 2025
CNR No. HBHC010513162025

Between:
Sravanthi Fertilizer

…Petitioner

and

The State Tax Officer (State Tax), Office of the Assistant Commissioner (ST),
Wanaparthy, Nalgonda Division, Plot Nos.4,5,6 and 7,
Near 1st Railway Gate, Kurnool Road, Gadwal – 508207,
Jogulamba Gadwal (D) and 3 others

…Respondents

WRIT PETITION No.26210 of 2025
CNR No. HBHC010500352025

Between:
M/s. Sri Padmavathi Agencies

…Petitioner

and

The Assistant Commissioner (ST)(FAC), Wanaparthy @ Gadwal Circle, Nalgonda Division, Telangana and 3 others

…Respondents

WRIT PETITION No.26229 of 2025
CNR No. HBHC010497472025

Between:
M/s.Sri Chakra Enterprises

…Petitioner

and

Assistant Commissioner (ST), Jeedimetla-II Circle, Hyderabad Rural Range, Telangana and 2 others

…Respondents

WRIT PETITION No.26236 of 2025
CNR No. HBHC010499882025

Between:
M/s.Care Food Products

…Petitioner

and

The Assistant Commissioner (ST), Malkajgiri-I Circle, Saroor Nagar Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.26248 of 2025
CNR No. HBHC010523852025

Between:
M/s.GBP Enterprises

…Petitioner

and

The Assistant Commissioner (ST), Vanasthalipuram Circle 1, Saroor Nagar Division, Hyderabad, Telangana and 4 others.

…Respondents

WRIT PETITION No.26280 of 2025
CNR No. HBHC010524222025

Between:
M/s.GBP Enterprises

…Petitioner

and

The Assistant Commissioner (ST), Vanasthalipuram Circle 1,
Saroor Nagar Division, Hyderabad, Telangana and 4 others.

…Respondents

WRIT PETITION No.26298 of 2025
CNR No. HBHC010521632025

Between:
M/s. S S Steels

…Petitioner

and

The Assistant Commissioner ST, Nacharam-1 Circle,
Malkajgiri Division, 12th Floor, South Wing, Gagan Vihar,
Nampally, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.26300 of 2025
CNR No. HBHC010521762025

Between:
M/s. S S Steels

…Petitioner

and

The State Tax Officer-1, Nacharam-1 Circle,
Malkajgiri Division,12th Floor, South Wing, Gagan Vihar,
Nampally, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.26475 of 2025
CNR No. HBHC010527932025

Between:
M/s.Eprheromone IPM Solutions

…Petitioner

and

The State Tax Officer-1, Malkajgiri-2 Circle, Malkajgiri Division,
M-4 Block, Manoranjan Complex, Nampally, Hyderabad – 500 001
and 5 others.

…Respondents

WRIT PETITION No.26536 of 2025
CNR No. HBHC010497142025

Between:
Prakash Sirvi

…Petitioner

and

Assistant Commissioner (ST), Nacharam-2 Circle,
Malkajgiri Division, 5th Floor, East Wing, Gagan Vihar,
Nampally, Hyderabad – 500 001 and 3 others.

…Respondents

WRIT PETITION No.26553 of 2025
CNR No. HBHC010529322025

Between:
M/s.Eprheromone IPM Solutions

…Petitioner

and

The State Tax Officer-1, Malkajgiri-2 Circle,
Malkajgiri Division, M-4 Block, Manoranjan Complex,
Nampally, Hyderabad – 500 001 and 4 others.

…Respondents

WRIT PETITION No.26566 of 2025
CNR No. HBHC010529352025

Between:
M/s.Eprheromone IPM Solutions

…Petitioner

and

The Assistant Commissioner (ST), Malkajgiri-II Circle,
Malkajgiri Division, M-4 Block, Manoranjan Complex,
Nampally, Hyderabad – 500 001 and 4 others.

…Respondents

WRIT PETITION No.26570 of 2025
CNR No. HBHC010530042025

Between:
M/s. Harshitha Granites and Minerals

…Petitioner

and

Assistant Commissioner (State Tax),
Warangal Urban III, Warangal and 2 others.

…Respondents

WRIT PETITION No.26617 of 2025
CNR No. HBHC010521862025

Between:
M/s. S S Steels

…Petitioner

and

The State Tax Officer-1, Nacharam-1 Circle,
Malkajgiri Division,12th Floor, South Wing, Gagan Vihar,
Nampally, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.26641 of 2025
CNR No. HBHC010530602025

Between:
M/s. Siva Sai Ganesh Enterprises

…Petitioner

and

The Assistant Commissioner (ENFT), Enforcement,
HOD, Hyderabad and 4 others

…Respondents

WRIT PETITION No.26643 of 2025
CNR No. HBHC010497562025

Between:
M/s.Sri Chakra Enterprises

…Petitioner

and

Assistant Commissioner (ST), Jeedimetla-II Circle,
Hyderabad Rural Range, Telangana and 2 others

…Respondents

WRIT PETITION No.26659 of 2025
CNR No. HBHC010530052025

Between:
M/s. Harshitha Granites and Minerals

…Petitioner

and

Assistant Commissioner (State Tax),
Warangal Urban III, Warangal and 2 others.

…Respondents

WRIT PETITION No.26759 of 2025
CNR No. HBHC010525582025

Between:
M/s. Premier Ethanols Pvt Ltd

…Petitioner

and

Assistant Commissioner (ST), Gandhinagar Circle,
Secunderabad Division, Telangana and 3 others.

…Respondents

WRIT PETITION No.26822 of 2025
CNR No. HBHC010530792025

Between:
M/s.Srinivasa Corporation

…Petitioner

and

Appellate Joint Commissioner of State Tax, Secunderabad Division,
5th Floor, CT Complex, Nampally, Hyderabad and 5 others.

…Respondents

WRIT PETITION No.26887 of 2025
CNR No. HBHC010409112025

Between:
M/s. Paramount Pharmachem LLP

…Petitioner

and

State Tax Officer, Hydernagar – 2 Circle, Hyderabad (Rural) Division, Hyderabad, Telangana and 2 others.

…Respondents

WRIT PETITION No.27122 of 2025
CNR No. HBHC010540742025

Between:

M/s.Vasireddy Sreeharsha

…Petitioner

and

The Assistant Commissioner (ST), Khammam-II Circle, Warangal Division, No.10-6-179/6, Near Sri PV Narsimha Rao Park, Burhanpuram, Khammam, Khammam District, Telangana – 507 001 and 3 others.

…Respondents

WRIT PETITION No.27165 of 2025
CNR No. HBHC010541522025

Between:

Jayanthi Nagam

…Petitioner

and

The Assistant Commissioner (State Tax), Hydernagar – 1 Circle, Hyderabad Rural Division, 3rd Floor, Gaganvihar, Nampally, Hyderabad, and 2 others

…Respondents

WRIT PETITION No.27204 of 2025
CNR No. HBHC010542642025

Between:

M/s.Sri Mukambica Projects Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Malkajgiri-II Circle, Malkajgiri Division, Hyderabad, Telangana and 4 others.

…Respondents

WRIT PETITION No.27214 of 2025
CNR No. HBHC010540852025

Between:

M/s.Sri Balaji Medical Fancy and General Stores

…Petitioner

and

The Assistant Commissioner (ST), Khammam-II Circle, Warangal Division, No.10-6-179/6, Near Sri PV Narsimha Rao Park, Burhanpuram, Khammam, Khammam District, Telangana – 507 001 and 3 others.

…Respondents

WRIT PETITION No.27232 of 2025
CNR No. HBHC010541512025

Between:
Jayanthi Nagam

…Petitioner

and

The Assistant Commissioner (State Tax), Hydernagar – 1 Circle, Hyderabad Rural Division, 3rd Floor, Gaganvihar, Nampally, Hyderabad, and 2 others

…Respondents

WRIT PETITION No.27249 of 2025
CNR No. HBHC010540792025

Between:
M/s.Vasireddy Sreeharsha

…Petitioner

and

The Assistant Commissioner (ST), Khammam-II Circle, Warangal Division, No.10-6-179/6, Near Sri PV Narsimha Rao Park, Burhanpuram, Khammam, Khammam District, Telangana – 507 001 and 3 others.

…Respondents

WRIT PETITION No.27304 of 2025
CNR No. HBHC010543222025

Between:
M/s.MVD Enterprises

…Petitioner

and

Assistant Commissioner (ST), Vidyanagar Circle, Secunderabad Division, Telangana and 2 others.

…Respondents

WRIT PETITION No.27317 of 2025
CNR No. HBHC010543132025

Between:
SSV Sri Power Technologies and Services

…Petitioner

and

The Assistant Commissioner (ST), Saroornagar, Hyderabad – 500 001 and 2 others

…Respondents

WRIT PETITION No.27323 of 2025
CNR No. HBHC010544092025

Between:
M/s. Systems Group

…Petitioner

and

The Deputy Commissioner (State Tax) (STU-II), Panjagutta Division, Hyderabad and 5 others.

…Respondents

WRIT PETITION No.27349 of 2025
CNR No. HBHC010541122025

Between:
M/s.Supertech Solutions

…Petitioner

and

The Assistant Commissioner, Vengalraonagar Circle,
Panjagutta Division, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.27360 of 2025
CNR No. HBHC010544002025

Between:
M/s. Systems Group

…Petitioner

and

The Deputy Commissioner (State Tax) (STU-II),
Panjagutta Division, Hyderabad and 6 others.

…Respondents

WRIT PETITION No.27678 of 2025
CNR No. HBHC010545422025

Between:
M/s. Systems Group

…Petitioner

and

The Assistant Commissioner of State Tax, Jubilee Hills – I Circle,
Panjagutta Division, Hyderabad and 6 others.

…Respondents

WRIT PETITION No.27683 of 2025
CNR No. HBHC010543442025

Between:
M/s.Professional Waterproofing AP

…Petitioner

and

Assistant Commissioner (ST), Jeedimetla – I Circle,
Hyderabad Rural Division, Hyderabad and 2 others.

…Respondents

WRIT PETITION No.27736 of 2025
CNR No. HBHC010551982025

Between:
M/s.New Sai Tirumala Automobiles

…Petitioner

and

The Appellate Joint Commissioner (ST), Secunderabad Division, 5th Floor,
CT Complex, Nampally, Hyderabad, Telangana and 2 others.

…Respondents

WRIT PETITION No.27770 of 2025
CNR No. HBHC010540192025

Between:
Sri Raghavendra Auto Agencies

…Petitioner

and

The Assistant Commissioner (State Taxes), Vanasthalipuram – I Circle, Saroornagar Division, Nampally, Hyderabad and 2 others

…Respondents

WRIT PETITION No.28065 of 2025
CNR No. HBHC010559082025

Between:
M/s.Enzen Global Solutions Pvt Ltd

…Petitioner

and

Appellate Joint Commissioner (ST), Punjagutta Division, 5th Floor, CT Complex, Nampally, Hyderabad – 500 001 and 3 others.

…Respondents

WRIT PETITION No.28304 of 2025
CNR No. HBHC010564222025

Between:
M/s.Supermix Infra Concrete

…Petitioner

and

Assistant Commissioner (ST), Vanasthalipuram – I Circle, Saroornagar Division, Telangana and another.

…Respondents

WRIT PETITION No.28513 of 2025
CNR No. HBHC010567392025

Between:
M/s.Unique Infra Engineers Pvt Ltd

…Petitioner

and

The Assistant Commissioner ST, Hydernagar – III Circle, Hyderabad Rural Division, 5th Floor, South Wing, Gagan Vihar Building, Opp. Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.28618 of 2025
CNR No. HBHC010567362025

Between:
M/s.Divya Marketing

…Petitioner

and

The Deputy State Tax Officer, O/o The Joint Commissioner (ST), Charminar Division, Gagan Vihar Building, Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.28644 of 2025
CNR No. HBHC010566312025

Between:
M/s.Dhev Enterprises

…Petitioner

and

Assistant Commissioner (ST), Keesara – I Circle,
Malkajgiri Division, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.28761 of 2025
CNR No. HBHC010570662025

Between:
M/s.Balaji Metals

…Petitioner

and

Assistant Commissioner (ST), Srinagar Colony II Circle,
Panjagutta Division, Hyderabad, Telangana and 3 others.

…Respondents

WRIT PETITION No.28775 of 2025
CNR No. HBHC010563762025

Between:
M/s.Supermix Infra Concrete

…Petitioner

and

Assistant Commissioner (ST), Vanasthalipuram – I Circle,
Saroornagar Division, Telangana and another.

…Respondents

WRIT PETITION No.28801 of 2025
CNR No. HBHC010567332025

Between:
M/s.Divya Marketing

…Petitioner

and

The Deputy State Tax Officer, O/o The Joint Commissioner (ST),
Charminar Division, Gagan Vihar Building, Nampally,
Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.28846 of 2025
CNR No. HBHC010567382025

Between:
M/s.Unique Infra Engineers Pvt Ltd

…Petitioner

and

The Assistant Commissioner ST, Hydernagar – III Circle,
Hyderabad Rural Division, 5th Floor, South Wing, Gagan Vihar Building,
Opp. Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.28906 of 2025
CNR No. HBHC010571452025

Between:
M/s.Morbido Merchandise Private Limited

…Petitioner

and

Office of the State Tax Officer-II (FAC), MG Road-SD Road Circle, Begumpet Division, Hyderabad and another

…Respondents

WRIT PETITION No.28954 of 2025
CNR No. HBHC010574362025

Between:
M/s.Bhavana Earth Movers

…Petitioner

and

Assistant Commissioner (ST), Fatehnagar Circle, Hyderabad Rural Division, Hyderabad and 2 others

…Respondents

WRIT PETITION No.29146 of 2025
CNR No. HBHC010577582025

Between:
M/s.AAI Mathaji Hardware Electricals Paints and Sanitary

…Petitioner

and

The Assistant Commissioner (ST), Vanasthalipuram – I Circle, Saroornagar Division, M4 Block, Manoranjan Complex, MJ Road, Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.29313 of 2025
CNR No. HBHC010581022025

Between:
M/s.Sai Venkata Print and Pack

…Petitioner

and

The Assistant Commissioner (ST), Jeedimetla – 1 Circle, Hyderabad Rural Division, Hyderabad, Telangana and 2 others

…Respondents

WRIT PETITION No.29504 of 2025
CNR No. HBHC010586492025

Between:
M/s.Amara Labs Private Limited

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Secretariat, Hyderabad and another

…Respondents

WRIT PETITION No.29507 of 2025
CNR No. HBHC010586402025

Between:
M/s.Amara Labs Private Limited

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Secretariat, Hyderabad and another

…Respondents

WRIT PETITION No.29688 of 2025
CNR No. HBHC010589332025

Between:
M/s.Janapriya Township Pvt Ltd

…Petitioner

and

Deputy Commissioner (ST), STU-2, Abids Division, Hyderabad, Telangana and another

…Respondents

WRIT PETITION No.29692 of 2025
CNR No. HBHC010584742025

Between:
M/s.Esha Agri Seeds Private Limited

…Petitioner

and

Assistant Commissioner (ST), Vanashalipuram – I Circle, Saroornagar Division, Telangana and 2 others.

…Respondents

WRIT PETITION No.29696 of 2025
CNR No. HBHC010585792025

Between:
M/s.Mohan Choudary Seancha

…Petitioner

and

The Assistant Commissioner (ST), Vanashalipuram – II Circle, Saroornagar Division, Exhibition Gate Road, Nampally, Hyderabad – 500 001 and 3 others.

…Respondents

WRIT PETITION No.29908 of 2025
CNR No. HBHC010589352025

Between:
M/s.Janapriya Township Pvt Ltd

…Petitioner

and

Deputy Commissioner (ST), STU-2, Abids Division,
Hyderabad, Telangana and another

…Respondents

WRIT PETITION No.29926 of 2025
CNR No. HBHC010593892025

Between:

M/s.Kosher Pharmaceutical Private Limited

…Petitioner

and

The Assistant Commissioner State Tax,
Madhapur-IV Circle, Hyderabad and 3 others

…Respondents

WRIT PETITION No.29932 of 2025
CNR No. HBHC010593692025

Between:

M/s.Kosher Pharmaceutical Private Limited

…Petitioner

and

The Assistant Commissioner State Tax,
Madhapur-IV Circle, Hyderabad and 3 others

…Respondents

WRIT PETITION No.29935 of 2025
CNR No. HBHC010594392025

Between:

M/s.Kosher Pharmaceutical Private Limited

…Petitioner

and

The Assistant Commissioner State Tax,
Madhapur-IV Circle, Hyderabad and 3 others

…Respondents

WRIT PETITION No.29951 of 2025
CNR No. HBHC010593932025

Between:

M/s.Kosher Pharmaceutical Private Limited

…Petitioner

and

The Assistant Commissioner State Tax,
Madhapur-IV Circle, Hyderabad and 3 others

…Respondents

WRIT PETITION No.30090 of 2025
CNR No. HBHC010591662025

Between:

M/s.Sitarama Transport

…Petitioner

and

The Assistant Commissioner (ST) FAC, Vanasthalipuram-II Circle, Saroornagar Division, 5th Floor, Old Kakatiya Building Hotel, (Opp. A.P.Furniture), Nampally, Hyderabad 500001 and 5 others

…Respondents

WRIT PETITION No.30104 of 2025
CNR No. HBHC010596322025

Between:

M/s.Sai Durga Agri Mechanisation Private Limited

…Petitioner

and

The Deputy Commissioner (ST), Warangal STU2, Warangal, Telangana and 3 others

…Respondents

WRIT PETITION No.30158 of 2025
CNR No. HBHC010597952025

Between:

M/s.Saanvi Denters & Painters

…Petitioner

and

Assistant Commissioner (ST), Hydernagar-III Circle, Hyderabad Rural Division, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.30166 of 2025
CNR No. HBHC010597992025

Between:

M/s.Saanvi Denters & Painters

…Petitioner

and

Assistant Commissioner (ST), Hydernagar-III Circle, Hyderabad Rural Division, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.30184 of 2025
CNR No. **HBHC010585962025**

Between:

M/s.Sri Venkatesh Fibre Corporation

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary, Commercial Taxes, Secretariat, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.30222 of 2025
CNR No. HBHC010596972025

Between:

M/s.Suryamitra Infratech India Private Limited

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary, Commercial Taxes, Secretariat, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.30247 of 2025
CNR No. HBHC010591432025

Between:

M/s.Sitarama Transport

…Petitioner

and

The Assistant Commissioner (ST) FAC, Vanasthalipuram-II Circle, Saroornagar Division, 5th Floor, Old Kakatiya Building Hotel, (Opp. A.P.Furniture), Nampally, Hyderabad 500001 and 5 others

…Respondents

WRIT PETITION No.30382 of 2025
CNR No. HBHC010602152025

Between:

M/s.Sri Venkateshwara Fertilisers

…Petitioner

and

The Assistant Commissioner (ST), Sangareddy-II Circle, Nizamabad Division, H.No.4-8-85/10/B, Manjeera Pipe Line Road, Sanga Reddy, Sanga Reddy District, Telangana – 502001 and 2 others.

…Respondents

WRIT PETITION No.30481 of 2025
CNR No. HBHC010604202025

Between:

M/s.Invision

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary, Commercial Taxes, Secretariat, Hyderabad and 2 others.

…Respondents

WRIT PETITION No.30571 of 2025
CNR No. HBHC010606062025

Between:

M/s.Sri Durga Motors

…Petitioner

and

Assistant Commissioner (State Tax), Ferozguda, Hyderabad Rural Division, Hyderabad and another

…Respondents

WRIT PETITION No.30843 of 2025
CNR No. HBHC010610742025

Between:

M/s.EDOC Life Sciences Private Limited

…Petitioner

and

Assistant Commissioner (ST), Vidyanagar Circle,
9th Mayurkushal Complex, Near Gunfoundry, Abids,
Hyderabad – 500 001 and another.

…Respondents

WRIT PETITION No.30846 of 2025
CNR No. HBHC010611452025

Between:
Shree Bhagwathi Timber Corporation

…Petitioner

and

The Assistant Commissioner (GST)(ST), Rajendranagar-II Circle,
Saroor Nagar Division, Telangana and 3 others

…Respondents

WRIT PETITION No.30847 of 2025
CNR No. HBHC010609262025

Between:
Pentagon Logistics Pvt Ltd

…Petitioner

and

The Appellate Joint Commissioner of State Tax, Secunderabad Division,
5th Floor, C.T.Complex, Nampally, Hyderabad and 3 others.

…Respondents

WRIT PETITION No.30928 of 2025
CNR No. HBHC010613102025

Between:
M/s.SA Industries

…Petitioner

and

Assistant Commissioner (ST), Hydernagar-III Circle,
Hyderabad Rural Division, and 2 others.

…Respondents

WRIT PETITION No.30935 of 2025
CNR No. HBHC010613162025

Between:
M/s.SA Industries

…Petitioner

and

Assistant Commissioner (ST), Hydernagar-III Circle,
Hyderabad Rural Division, and 2 others.

…Respondents

WRIT PETITION No.30948 of 2025
CNR No. HBHC010613212025

Between:
M/s.SA Industries

…Petitioner

and

Assistant Commissioner (ST), Hydernagar-III Circle,
Hyderabad Rural Division, and 2 others.

…Respondents

WRIT PETITION No.31032 of 2025
CNR No. HBHC010611412025

Between:

M/s.M.A.Iron Traders

…Petitioner

and

The Appellate Joint Commissioner (ST),
Secunderabad Division, Hyderabad and 2 others

…Respondents

WRIT PETITION No.31383 of 2025
CNR No. HBHC010622162025

Between:

M/s.Shanmugha Enterprises

…Petitioner

and

The Assistant Commissioner (ST), Jeedimetla-II Circle, Hyderabad Rural Division, 7th Floor, East Wing, Gaganvihar Building, Opp.Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.31406 of 2025
CNR No. HBHC010622142025

Between:

M/s.Sangam Furnitures

…Petitioner

and

The Assistant Commissioner (ST), Vanasthalipuram-I Circle,
Saroornagar Division, North Wing, 7th Floor, Gaganvihar Complex,
Opp.Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.31408 of 2025
CNR No. HBHC010622102025

Between:

M/s.Shanmugha Enterprises

…Petitioner

and

The Assistant Commissioner (ST), Jeedimetla-II Circle, Hyderabad Rural Division, 7th Floor, East Wing, Gaganvihar Building, Opp.Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.31410 of 2025
CNR No. HBHC010622892025

Between:

M/s.Sangam Furnitures

…Petitioner

and

The Assistant Commissioner (ST), Vanasthalipuram-I Circle,
Saroornagar Division, North Wing, 7th Floor, Gaganvihar Complex,
Opp: Gandhibhavan, Nampally, Hyderabad – 500 001, and 4 others

…Respondents

WRIT PETITION No.31419 of 2025
CNR No. HBHC010622412025

Between:

M/s.Bhavana Earth Movers

…Petitioner

and

The Assistant Commissioner (ST), Fatehnagar Circle,
Hyderabad Rural Division, Hyderabad and 2 others

…Respondents

WRIT PETITION No.31428 of 2025
CNR No. HBHC010620682025

Between:

M/s.Raj Industries

…Petitioner

and

The Assistant Commissioner, Nacharam-II Circle, Malkajgiri Division,
5th Floor, East Wing, 'Gagan Vihar Complex', Opp: Gandhi Bhavan,
M.J.Road, Nampally, Hyderabad, Telangana – 500001 and 2 others

…Respondents

WRIT PETITION No.31432 of 2025
CNR No. HBHC010622652025

Between:

M/s.Sangam Furnitures

…Petitioner

and

The Assistant Commissioner (ST), Vanasthalipuram-I Circle,
Saroornagar Division, North Wing, 7th Floor, Gaganvihar Complex,
Opp:Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 4 others

…Respondents

WRIT PETITION No.31504 of 2025
CNR No. HBHC010623962025

Between:

M/s.RTS Group of Construction

…Petitioner

and

The State of Telangana, Rep. by its Principal Secretary,
Commercial Taxes, Secretariat, Hyderabad and 2 others

…Respondents

WRIT PETITION No.31880 of 2025
CNR No. HBHC010622612025

Between:

M/s.Invilogic Software Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Madhapur-II Circle, Madhapur Division, 4th Floor, Gagan Vihar Building, Opposite Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.31904 of 2025
CNR No. HBHC010622812025

Between:

M/s.Invilogic Software Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Madhapur-II Circle, Madhapur Division, 4th Floor, Gagan Vihar Building, Opposite Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.31909 of 2025
CNR No. HBHC010622912025

Between:

M/s.Invilogic Software Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Madhapur-II Circle, Madhapur Division, 4th Floor, Gagan Vihar Building, Opposite Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.31911 of 2025
CNR No. HBHC010622032025

Between:

M/s.Invilogic Software Private Limited

…Petitioner

and

The Assistant Commissioner (ST), Madhapur-II Circle, Madhapur Division, 4th Floor, Gagan Vihar Building, Opposite Gandhi Bhavan, Nampally, Hyderabad – 500 001 and 3 others

…Respondents

WRIT PETITION No.32387 of 2025
CNR No. HBHC010643022025

Between:

M/s.Syndy Pharma

…Petitioner

and

The Assistant Commissioner (ST), Nacharam 2 Circle, Malkajgiri Division, Nampally, Hyderabad and 2 others

…Respondents

WRIT PETITION No.32498 of 2025
CNR No. HBHC010644882025

Between:

Raghuram Reddy Paduru

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary,
Commercial Taxes, Secretariat, Hyderabad and another

…Respondents

WRIT PETITION No.32535 of 2025
CNR No. HBHC010645052025

Between:

M/s.Jaireh Industries

…Petitioner

and

The Assistant Commissioner (ST), Keesara-I Circle,
Saroor Nagar, Malkajgiri Division, Hyderabad and 2 others.

…Respondents

WRIT PETITION No.32660 of 2025
CNR No. HBHC010649082025

Between:

M/s Swastik Enterprises

…Petitioner

and

The State Tax Office, Warangal, Warangal Urban-1, O/o Assistant
Commissioner (ST), Warangal, Telangana – 506002 and another

…Respondents

WRIT PETITION No.33099 of 2025
CNR No. HBHC010656352025

Between:

M/s.Rayalaseema Steels Re-Rolling Mills Private Limited

…Petitioner

and

Assistant Commissioner (ST), STU-2 Charminar,
Charminar Division, Hyderabad and 2 others

…Respondents

WRIT PETITION No.33147 of 2025
CNR No. HBHC010657702025

Between:

M/s.DRP-Gunaa Team Works

…Petitioner

and

Deputy Commissioner (ST)-5, Enforcement Wing-2, O/o Commissioner of
Commercial Taxes, Nampally, Hyderabad, Telangana and 2 others

…Respondents

WRIT PETITION No.33495 of 2025
CNR No. HBHC010664872025

Between:
Chinna Raj Gajapathi @ M/s.CR.Gajapathi

…Petitioner

and

The Commissioner of Commercial Taxes, Commercial Taxes Department, Government of Telangana, Hyderabad and another

…Respondents

WRIT PETITION No.33749 of 2025
CNR No. HBHC010669832025

Between:
Nihar Constructions

…Petitioner

and

The Assistant Commissioner of State Tax, Mehdipatnam 1 Circle, Charminar Division, Gaganvihar Building, MJ Road, Nampally, Hyderabad, Telangana – 500 001 and 3 others

…Respondents

WRIT PETITION No.33768 of 2025
CNR No. HBHC010669272025

Between:
M/s.Venkataramana Lorry Transport and Transport Contractor

…Petitioner

and

The State of Telangana, rep. by its Principal Secretary, Commercial Taxes, Secretariat, Hyderabad and 2 others.

…Respondents

WRIT PETITION No.34129 of 2025
CNR No. HBHC010678622025

Between:
M/s.Technochem Engineering Corporation

…Petitioner

and

The Assistant Commissioner (ST), Hyderabad Rural DC Office, Hyderabad Rural Division, Hyderabad, Telangana and 2 others

…Respondents

WRIT PETITION No.34134 of 2025
CNR No. HBHC010677692025

Between:
M/s.Sree Techno Packages

…Petitioner

and

The Assistant/Deputy Commissioner (ST), Hyderabad Rural Division, IDA Gandhinagar Circle, 2nd Floor, North Wing, Gaganvihar Building, Opp.Gandhi Bhavan, Nampally, Hyderabad -500 001 and 4 others

…Respondents

COMMON ORDER

(PER THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH)

These writ petitions have been referred to the Full Bench by order dated 12.06.2026 passed by the learned Division Bench of this Court for an authoritative pronouncement in view of the decision in **Bigleap Technologies and Solutions Private Limited vs. State of Telangana**[1] on the issue of unsigned orders/show cause notices. In view of the fact that involves a substantial and novel question of law and also statutory interpretation that has far reaching systemic consequences, it requires to be heard by a larger forum.

2. The issue which needs to be answered is whether the impugned documents such as show cause notices or adjudication orders are unsigned documents within the meaning of the Central Goods and Services Tax Act, 2017 (for brevity, 'CGST Act')/Telangana Goods and Services Tax Act, 2017 (for brevity, 'TGST Act')/Integrated Goods and Services Tax Act, 2017 (for brevity, 'IGST Act') read with the Information Technology Act, 2000 (for brevity, the IT Act), and as such, are nullity in the eye of law.

3. Learned counsel for the parties have made extensive arguments during the proceedings on this reference. They have also referred to the provisions of the CGST Act and the Central Goods and Services Tax

[1] [2025] 142 GSTR 608 (Telangana)

Rules, 2017 (for brevity, 'CGST Rules') which are in *pari materia* with the provisions of the TGST Act and the Telangana Goods and Services Tax Rules, 2017, which are relevant for understanding the present legal issue. They have also referred to the provisions of the Information Technology Act, 2000 as amended and the Information Technology (Certifying Authorities) Rules, 2000 and the Digital Signature (End Entity) Rules, 2015 in support of their submissions. Learned counsel for both the parties have relied upon a number of judgments to buttress their submissions.

4. Sri Karan Talwar, learned counsel for the petitioner in W.P.No.20653 of 2025, advanced extensive arguments, leading this batch of writ petitions on behalf of all the petitioners. Sri A.V.A.Siva Kartikeya, Nodal Counsel; Sri Muktinutalapati Ramachandra Murthy, Sri P.Venkat Prasad, Sri M.Naga Deepak, Sri K.P.Amarnath Reddy, Ms. Y.Siri Reddy, Sri Goondla Venkateswarlu, Sri P.Srikanth Rao, Sri Shaik Jeelani Basha, Sri V.Aneesh, Sri G.R.S.Akhileswar and Sri V.Veeresham, learned counsel for the petitioners, have made additional points in their respective writ petitions.

5. Sri A.Sudarshan Reddy, learned Advocate General assisted by Sri Swaroop Oorilla, learned Special Government Pleader and Sri K.Sai Akarsh, learned Assistant Government Pleader for the State Tax has made extensive submissions on behalf of the State.

Sri B.Narasimha Sharma, learned Additional Solicitor General of India has made submissions on behalf of the Goods and Services Tax Network (GSTN).

Sri Dominic Fernandes, learned Senior Standing Counsel for the Central Board of Indirect Taxes and Customs (CBIC), assisted by Ms. B.N.Pravalika Goud, Ms. T.Shivani Reddy and Sri B.Praneeth made submissions on behalf of the GSTN.

6. GST Network, which was impleaded as a party at the instance of the Court when the proceedings were pending before the learned Division Bench, has filed counter affidavit and the additional counter affidavit to bring on record their stand on the working of the GST Network.

7. Sri Y.Anil Kumar, Joint Commissioner, State Tax Department and Sri Pintulal Choudhary, Chartered Accountant, State Tax Department have demonstrated the working of the GSTN System before the learned Division Bench.

8. Sri Harsh Agarwal, Vice President, Architecture, GSTN, has made live demonstration to explain the working of the GST system and the manner and procedure by which the notices/orders under Chapter XVIII – demands and recovery of the CGST Rules are electronically authenticated and uploaded on the common portal. Sri Rajeev J.Tripathi, Vice President, Legal, GSTN also appeared in virtual mode.

9. The submissions made by learned counsel for both parties are being referred to hereinafter.

Submissions of the learned counsel for the petitioners:

A. The impugned show cause notice and assessment order being unsigned are *non est* in law and thereby liable to be set aside:

10. Sri Karan Talwar, learned counsel for the petitioner in W.P.No.20653 of 2025, has led the arguments on behalf of the petitioners in this reference. He has questioned the reference made to the Full Bench by the order dated 12.06.2026 passed by the Division Bench of this Court. It has been submitted that the referral order does not show reasons for making this reference to the Full Bench. It does not specifically point to any divergent opinion of Coordinate Benches necessitating a reference to the Full Bench. Secondly, in view of the judgment rendered by the Coordinate Bench of this Court in **Bigleap Technologies** (supra), there was no need to refer the matter to the Full Bench. He has drawn the attention of this court to the discussion made at paras 25 to 49 in the judgment of **Bigleap Technologies** (supra).

11. On the merits of the case, he has made the following submissions:

- The impugned show cause notices and orders are invalid as the actual body of the notices/orders attached to Form GST DRC-01

and DRC-07 do not contain any physical or digital signature. Absence of signature renders such notices/orders *non-est* in the eye of law.

- That the issue stands settled by the Division Bench judgments of the Telangana High Court in **M/s. Bigleap Technologies** (supra) and **M/s. Silver Oak Villas LLP vs. Assistant Commissioner (ST)**[2], wherein it was held that unsigned notices/orders are legally unsustainable. That the Department can always initiate fresh proceedings by issuing duly signed notices/orders. Therefore, no prejudice would be caused to the Revenue.
- That authentication by signature is a mandatory legal requirement and cannot be treated as an "impossible act". The Department's reliance on the decision in **Binani Zinc Limited vs. Kerala State Electricity Board**[3] (para 35) is stated to be misplaced because signing a notice/order is a simple statutory requirement which the authorities are duty bound to comply with.
- That the respondents have not argued that the judgment in **M/s. Bigleap Technologies** (supra) is *per incuriam* or *sub silentio*. Since no appeal/review has been filed against **M/s. Silver Oak Villas LLP** (supra) and no stay has been granted in the SLP

[2] [2025] 137 GSTR 620 (Telangana)
[3] (2009) 11 SCC 244

against **M/s. Bigleap Technologies** (supra), the said judgments continue to bind the authorities and must be followed.

- The State GST Authorities contend that Rule 26(3) of the CGST Rules applies only to registration matters under Chapter III. Therefore, signatures are not mandatory for assessment notices/orders. The petitioners submit that this contention was specifically rejected in **M/s. Bigleap Technologies** (supra), which held that unsigned notices/orders are invalid independently of Rule 26(3) of the CGST Rules.
- The respondents further argued that the notices/orders are authenticated because they are uploaded through the GST portal using officer login credentials embedded with digital signatures. The petitioners submit that this argument has also been rejected in **M/s. Bigleap Technologies** (supra). That the GSTN Advisory itself recognizes digital signature affixation as an additional mandatory requirement.
- Mere login through a DSC-enabled portal does not amount to legal authentication. No statutory provision, notification, or Standard Operating Procedure (SoP) has been produced to establish that embedded login credentials are equivalent to affixing a digital signature on the actual document.
- The petitioners rely upon Sections 3, 3A and 5 of the Information Technology Act, 2000 and Rules 4 and 5 of the Information

Technology (Certifying Authorities) Rules, 2000 (hereinafter referred to as 'the Certifying Authorities Rules') to contend that a valid digital signature must be affixed to the electronic record itself so that its authenticity and integrity can be independently verified.

- Even by using methods prescribed under Second Schedule, authentication by means of digital signature shall comply with Rules 3 to 12 of the Digital Signature (End Entity) Rules, 2015, (hereinafter referred to as 'the End Entity Rules') insofar they relate to creation, storage and verification of digital signature.
- That under the statutory scheme governing digital signatures, the electronic record must carry the digital signature along with the Digital Signature Certificate and details such as date and time of signing. Without such affixation, the assessee cannot verify whether the document was genuinely signed or altered subsequently.
- Reliance is also placed on Rule 4(4) of the End Entity Rules, which mandates that contextual information like date and time must form part of the digital signature. Hence, absence of visible signature and timestamp violates the statutory framework governing electronic authentication.
- That the contention that authenticity can be verified by utilizing RFN is without any statutory basis to deem it to be form of authentication. Further, even upon feeding RFN details, it does not

show up the name and designation of the officer or the time at which the login was done, or any details at all with reference to affixation of digital signature.

- The petitioners further rely on Section 73 of the Bharatiya Sakshya Adhiniyam, 2023 to contend that verification of a digital signature is possible only when the signature is actually affixed to the electronic record.
- That GSTN itself admitted in its counter affidavit that the functionality for affixing DSC on notices/orders was introduced only subsequently and rolled out for adjudicating authorities on 17.01.2025. Therefore, notices/orders issued prior thereto without signatures are liable to be set aside. GSTN has also admitted that affixation of PAN-based DSC on all notices/orders is mandatory. According to the petitioners, this admission itself disproves the State GST Authorities contention that mere portal login is sufficient authentication.
- That the plea of "technical glitches" is vague and unsupported by any technical reports or documentation. It is argued that the authorities were aware of the requirement and could have either upgraded their software or physically signed the notices/orders.
- That in several cases the authorities had in fact issued physically signed or digitally signed notices/orders. Hence, the selective

absence of signatures in other cases remains unexplained and arbitrary.

- That continued issuance of unsigned notices/orders even after the judgment dated 14.03.2024 in **M/s. Silver Oak Villas LLP** (supra) amounts to violation of judicial discipline and deliberate disregard of binding precedent.
- The contention that authenticity can be verified through RFN is also challenged on the ground that RFN has no statutory recognition as a mode of authentication and does not disclose the officer's identity, designation or time of signing.
- The petitioners distinguish the Delhi High Court judgment in **M/s. Swarn Cosmetics (India) vs. Union of India and Others**[4] by contending that it did not consider the binding provisions of the Information Technology Act or earlier High Court judgments dealing with unsigned notices/orders.
- That the impugned notices and orders are liable to be set aside. It is submitted that there is no loss or prejudice to the Revenue since they are given liberty to carry out the assessment once again in issuing the show cause notice and orders.
- In view of the judgments of the Supreme Court in **M/s. M.M. Rubber and Company Limited vs. The Deputy Director**[5] and

[4] WP (C) No.16532 of 2025, CM Appl.67713/2025 & CM Appl.67714/2025, dated 31.10.2025
[5] 1992 Supp 1 SCC 471

Kilasho Devi Burman vs. Commissioner of Income Tax, W.B[6], such notices/orders issued without signatures are held to be invalid, the same will not get immunity in the teeth of sub-sections (1) and (2) of Section 160 of the CGST Act.

- That unsigned notices/orders are not valid notices/orders as it is well settled that in such a situation the conditions precedent to the exercise of jurisdiction have not been satisfied.

(a) An assessee cannot be expected to comply with show cause notice/order, as it is not authenticated by way of a signature. The signature column was left blank. The assessee does not know whether it is genuine or not since the law as also the practice is that signature must be there on the communication;

(b) The signature shows it is the jurisdictional officer and not some other officer, who has issued/passed the notice/order;

(c) Affixation of signature is an indicia that the proper officer has applied his/her mind to the show cause notice/order.

(d) The date on which the signature is affixed also shows whether the notice/order is passed within the limitation period or not.

(e) Till notice/order is signed, it can be withdrawn by the proper officer. If a reply is given to an unsigned show cause notice, the departmental officer can withdraw the show cause notice, saying it is unsigned.

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[6] (1996) 7 SCC 613

B. DRC-01 and DRC-07 are not mere summaries and must also be signed:

- The issue that DRC-01 and DRC-07 are not mere summaries and must also be signed is concluded in favour of the assessees in **Bigleap Technologies** (supra). Rule 142 (1) and (5) of CGST Rules mandates that a summary in Form DRC-01/DRC-07 must accompany the notice/order. The said Form itself mandates a signature column. Hence, the submission of the respondents that there is no mandate for signature in the Act/Rules is incorrect. When a signature is not required in Forms, such as Form GST DRC-01B etc., the intention of the law makers is clearly spelt out therein, apart from not having an earmarked column for the signature. It is further submitted that Rule 142(5) of the CGST Act provides that the DRC-07 must "specify the amount of tax, interest and penalty". The order and the DRC-07 constitute an integrated whole, since it is the DRC-07, that is mandated to quantify the exact amount of tax, interest and penalty payable. It is submitted that DRC-07 forms the basis for creation of liability in the Electronic Liability Ledger under Section 49(7). It is only after a demand is reflected in the Electronic Liability Ledger that the payments made can be appropriated towards demand raised. Further, all appeals filed on the GST portal require mentioning of

the DRC-07 reference number. Appropriation of pre-deposit towards appeals can also be done only once the DRC-07 is properly generated. He relied on Rule 142(5) to show the necessity of DRC-07 in the context of creation and payment of liabilities as also filing of appeals.

- That 31st Agenda of the GST Council, dated 22.12.2018, describes how DRC-07 is issued for interest liability. Relevant paragraph is extracted as under:

> **12. Amendment to sub-rule (5) of Rule 142**
> 12.1 While self-assessed tax is posted in the Liability Register on filing of return, interest liability which has not been declared in the return or paid by the registered person is not posted to the ledger. Whereas, sub-section (12) of Section 75 of the CGST Act provides for recovery of interest due on the unpaid self-assessed tax, if any. Further, in cases where the taxpayer makes payment of due tax and interest as per an adjudication order, further interest is also liable to be paid for the period from the date of order till the date of actual payment. In order to post the interest liability in the Liability Register, an order is required to be issued.

- 53rd GSTC Agenda, dated 22.06.2024, describes process flow after order is passed and DRC-07 is uploaded. The relevant current mechanism/process flow is as below:

> (i) when an adjudication order or an appeal is issued and a summary is uploaded in the system vide FORM GST DRC-07 or FORM GST APL-04, as the case may be, demand is created and a debit entry is posted in the Electronic Liability Ledger Part II (ELL-II) of the taxpayer.

- Dispensing with the requirement of signature would make the prescription in the DRC-07 otiose. It computes the liability for an assessee, and unless authenticated, no party can be expected to rely on it.

C. Service of Notice/Order on portal:

- That the impugned notices/orders have only been uploaded on the GST common portal and have not been served in any other mode. The contention of the respondents that uploading on the portal constitutes sufficient service is incorrect. There is no statutory provision obligating assessees to continuously verify several links on the common portal to ascertain if there are any notices/orders/communications.
- That the phrase "tendered" cannot at all apply to making available on the portal", since the phrase has a definite connotation in law of offering personally to an addressee whether the addressee accepts or rejects. It is also submitted that "giving" and "tendering" have been used interchangeably in Section 169(1)(a) of the CGST Act.
- That the decision of the Madras High Court in **Pandidorai Sethupathi Raja vs. Superintendent of Central Tax**[7] relied on by the respondent State GST Authorities, wherein it is held that uploading on the GST portal amounts to tendering in terms of Section 169(2) of the CGST Act is *per incuriam* for not considering the decisions of the Hon'ble Supreme Court on the meaning of the word 'tendering' in the context of service.

[7] (2022) 1 Centax 289

- That the position becomes even more clear when contrasted with Section 153 of the Customs Act, 1962, where in Section 153(2), it provides that the date of uploading would be deemed to be the date of service.
- As the notices/orders uploaded online would be online communications, they would constitute "electronic record(s)" and in this regard Section 13(2) of the IT Act would be relevant.
- That determination of the time of receipt of an electronic record is important. Sub-section (2) lays down the condition for the time of receipt of an electronic record for (a) a designated computer resource and (b) a non-designated computer resource.
- Clause (a) of the aforesaid sub-section (2) states a situation where the addressee has already designated a computer resource for the purpose of receiving electronic records, the receipt occurs at the time when the electronic record enters the designated computer resource. When the originator sends the electronic record to a non-designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee. It presumes that the originator has a prior knowledge of the addressee's designated computer system.

- The respondents (State GST) rely on the Single Bench decision in **Poomika Infra Developers vs. State Tax Officer**[8] for the proposition that because an assessee has been provided a username and password on the common portal, the common portal would constitute a "designated computer resource" for the taxable person as well. It was therefore held that the date on which the order is uploaded in the portal, is the date the communication is received in terms of Section 13(2)(i) of the IT Act. The common portal has been treated as a designated computer resource for Department as well as taxable person inasmuch as the taxable person is given an unique login ID and password to enable them to have access to the portal. He has further submitted that the Hon'ble High Court has not considered the dictionary/lexical meaning of the word "designated" or the background material behind Section 13(2) of the IT Act. The interpretation taken is contrary to the plain meaning of Section 13(2) of the IT Act.
- That it can be seen from the Preamble to the IT Act that it is based on the UNCITRAL Model Law on Electronic Commerce.
- That Section 13(2) of the IT Act is based on Article 15 of the said UN Model Law on Electronic Commerce. The only difference

[8] (2025) 29 Centax 394 (Mad)

between Section 13(2) and Article 15(2) is that the latter refers to 'information system' as opposed to a 'computer resource'.

- Learned counsel has placed reliance on Section 144B of the Income Tax Act and submitted that no such parallel provisions have been enacted in CGST Act or the CGST Rules. It is submitted that the period of limitation would therefore commence only when the notices/orders were actually retrieved from the GST Portal as opposed to the date of upload.
- In order to substantiate his submission on the point that making a document available on common portal does not amount to tendering of the document, learned counsel has referred to the decision of the Division Bench of the Allahabad High Court in **M/s. Bambino Agro Industries Limited vs. State of Uttar Pradesh**[9]**,** wherein the provisions of Section 13(2) of the Information Technology Act have been dealt with at paras 92 to 96, 103 and 104.

D. There is no delay in approaching this Hon'ble Court and the decision in *Assistant Commissioner (CT), LTU, Kakinada vs. Glaxo Smith Kline Consumer Health Care Limited [(2020) 19 SCC 681]* is not a bar to the relied prayed for:

- That the impugned notices/orders were only uploaded on the GST Portal. No other mode of service was adopted. In some cases, the

[9] [2025] 181 taxmann.com 888 : 2025 (12) TMI 1598 – Allahabad High Court

petitioners having come to know about the uploading from other sources have approached this Hon'ble Court directly. In some other cases, the petitioners have approached the appellate authority first, who has rejected the first appeal on the ground of delay and have thereafter approached this Hon'ble Court. However, the petitioners challenged the impugned show cause notices/orders since they are unsigned and *non est* vitiating the entire proceedings as without jurisdiction. The principle of merger does not apply since the first appellate order is not on merits and was never admitted and rejected merely on the ground of delay. Thus, the delay can be condoned. In any event, a writ of certiorari can be issued against the impugned notices/orders even if the appellate remedy were not exercised, where there is violation of principles of natural justice or the order is without jurisdiction.

- That a notice has been straightaway issued without first following the procedure under Section 61 of the CGST Act and Rule 99 of the CGST Rules involving issuance of Form ASMT-10 notice. This submission is not made where there was independent material, based on information obtained or audit/investigation done by the department officials, prior to issuance of a show cause notice under Section 73/74 of the CGST Act.

- He has placed reliance on the decision of the Rajasthan High Court in **Goverdhandham Estate Private Limited vs. Union of India**[10] (paras 23 to 25), wherein it was held that *the jurisdiction under Section 73 could be invoked only after complying with the mandate of Section 61 and not otherwise.*
- That the mandatory procedure under Rule 142(1) of the CGST Act has not been followed and Sl.No.6(i) of the Notification No.79/2020-CT, dated 15.10.2020 is liable to be struck down as unconstitutional. In support of his submission, he has placed reliance on the Division Bench Judgment of this Court in **New Morning Star Travels vs. Deputy Commissioner**[11] (paras 15 to 17).

12. Sri Karan Talwar, learned counsel for the petitioner in W.P.No.20653 of 2025 has submitted that the vires of Notification No.79/2020 making the issuance of Form DRC-01A has also been challenged as unconstitutional. He has made elaborate submissions on the aforesaid points and prayed that if these arguments fail, this Court may balance the equities by remanding the matters to the proper officer on suitable terms as may be deemed fit and proper by this Court.

13. Sri Muktinutalapati Ramachandra Murthy, learned counsel for the petitioner in W.P.No.26822 of 2025, apart from the above

[10] 2024 (1) TMI 1434 – Rajasthan High Court : 2025 (95) G.S.T.L. 264 (Raj)
[11] (2023) 12 Centax 198 (AP)

submissions has pointed out that the impugned order does not quote the Document Identification Number (DIN). He has referred to the circulars dated 23.12.2019 and 05.11.2019 (P1 and P2) issued by CBIC and the circular dated 04.11.2019 (P3) issued by the Government of Telangana which adopts the circulars of CBIC for the purpose of implementation of the TGST Act. According to the petitioner, the circulars are binding on the Revenue as per Section 168 of the CGST Act. If the document or order does not contain a DIN, it cannot be relied upon. He submits that the CBIC issued a circular on 09.06.2025 only wherein it has been stated that wherever RFN is shown on the document available on the common portal, DIN is not required. However, the circular could operate prospectively. Therefore, the orders issued prior to that ought to have reflected the DIN without which it cannot be relied upon.

14. Learned counsel Sri P.Venkat Prasad appearing for the petitioner in W.P.No.22326 of 2025 and other connected cases, submitted a brief note by referring to the counter affidavit earlier filed by the Commissioner of Central Taxes and Customs, Central Excise & Service Tax, Medchal GST Commissionerate, Hyderabad in W.P.No.21072 of 2024, and the latter counter affidavit filed by the Deputy Commissioner of Central Taxes and Customs, Central Excise & Service Tax, Medchal GST Commissionerate, Hyderabad in W.P.No.10295 of 2025. He submits that the averments advanced by the GSTN in its counter affidavit are manifestly inconsistent with the earlier statements made in

the prior counter affidavit. Such contradictory pleadings materially impair the credibility of the respondents' case and render the GSTN's present contentions inherently unreliable. It does not lie on the part of the Revenue to take a contrary stand in the present batch of cases against the judgment rendered in **Bigleap Technologies** (supra) on the same issue of unsigned show cause notices/orders. He refers to **Birla Corporation Limited vs. Commissioner of Central Excise**[12] and **Commissioner of Central Excise, Hyderabad vs. Novapan Industries Limited**[13]. He has referred to the facts of W.P.No.22326 of 2025 and made twofold submissions. One, that the procedure prescribed under Section 65 of the CGST Act has not been followed before initiating proceedings under Section 73/74 of the CGST Act. He refers to **Adani Power Limited vs. Union of India**[14] (paras 23 to 25). Secondly, he has placed reliance upon Circular No.31/05/2018-GST dated 09.02.2018 which requires a designated officer only to initiate proceedings above the value of Rs.2.00 crores i.e., Additional Commissioner or Joint Commissioner of Central Excise, since the Government of Telangana has followed the circular of the CBIC as per its own circular dated 04.11.2019. The impugned proceedings would be hit by lack of jurisdiction on the part of the proper officer.

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[12] 2005 (186) E.L.T. 266 (S.C.)
[13] 2007 (209) E.L.T. 161 (S.C.)
[14] (2026) 38 Centax 90 (S.C.)

15. Sri M.Naga Deepak, learned counsel for the petitioner in W.P.No.26393 of 2024 and other connected cases, has submitted additional written submissions. He has, *inter alia*, made the following points. That reference of this matter to the Full Bench was neither necessary nor proper in the eye of law (see **Suo Motu vs. Gujarat High Court Advocates Association**[15] (paras 9 and 10)). He submits that the counter affidavit of the GSTN which refers to the backend JSON file system which cannot be a substitute to furnish a digitally signed document to the taxpayer. According to him, in certain instances such as in DRC-07, dated 16.06.2025, the respondents have admitted that the document was uploaded by the clerk which amounts to not only misuse of the authority of the officer, but reflects the infirmity in the working of the GSTN system. He relies upon **Keshav Mills Company Limited vs. CIT**[16]. Learned counsel also submits that the Department having acquiesced with the decision rendered in **Bigleap Technologies** (supra) cannot be allowed to take a contrary stand in the present batch of cases.

16. Learned counsel Sri K.P.Amarnath Reddy, appearing for the petitioner in W.P.No.19170 of 2025 has submitted that the Assistant Commissioner in some cases has issued multiple notices without application of mind simply upon the forwarding of the e-mail by the Commercial Taxes Commissioner and Joint Commissioner and further

[15] AIR 2015 Gujarat 1
[16] AIR 1965 SC 1636

to the Assistant Commissioner of the format prepared by the Indian Institute of Technology – Madras. However, this assertion is not borne from the record.

17. Learned counsel Ms.Y.Siri Reddy, learned counsel for the petitioners in W.P.No.20397 of 2025 and other connected cases, has taken a plea that the show cause notice was not properly served, as it was uploaded on the additional notices tab. She relied upon a decision in **M/s.Ramanattu Motor Corporation vs. State of Kerala**[17], where such order uploaded in the additional notices tab was set aside and the matter was remanded. According to the learned counsel, all these matters relate to mostly the tax period 2017-18 to 2020-21 and are related to small time taxpayers who do not have the proper device or support of a qualified Chartered Accountant to carry out the compliances required under the GST regime insofar as the filing of returns or even in adjudication proceedings are concerned.

18. Learned counsel Sri Goondla Venkateswarlu appearing for the petitioner in W.P.No.22806 of 2025 and connected cases has reiterated the submissions made by the other counsels on the points of unsigned and lack of effective service of notice. He further submitted that under Section 81 of the Information Technology Act, there is no overriding effect of the provisions of the Information Technology Act over the provisions of the CGST Act. None of the documents in the writ petitions

[17] 2025 (2) TMI 1091 – Kerala High Court : (2025) 28 Centax 232 (Ker)

reflect digital signature. He has also adopted the submissions of learned counsel Sri Karan Talwar on the application of the relevant rules in the manner prescribed which have not been followed by the GSTN. As such the documents not containing the digital signature cannot be treated as valid documents for the purposes of levying the demand upon the petitioners. He has also taken the plea of absence of DIN in these documents in violation of the circular dated 04.11.2019 issued by the Government of Telangana. According to him, the earlier decisions rendered without noticing these circulars need to be revisited. Additionally, it is submitted that in W.P.No.24349 of 2025, the penalty under Section 122 of the CGST Act has not been imposed by a proper officer as per the circular dated 27.10.2025 issued by the CBIC. Moreover, proper time has not been given to respond to the show cause notice.

19. Based on these submissions, learned counsel for the petitioners have prayed that the reference may be answered in favour of the legal position upheld by this Court in the case of **Bigleap Technologies** (supra) on the question of unsigned documents i.e., show cause notices or orders. This Full Bench may be pleased not to hold otherwise.

Submissions of Sri A.Sudarshan Reddy, the learned Advocate General for the State:

20. Sri A.Sudarshan Reddy, learned Advocate General appearing for the State, has, *inter alia*, made the following submissions:

- A reading of the several provisions of the CGST Act in conjunction to the Information Technology Act would show that digital signature is not required on the documents such as show cause notice or adjudication orders covered under Chapter XVIII of CGST Rules.
- Section 2(26) of the CGST Act defines 'common portal'. The Central Government, under Section 146 of the CGST Act, may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns etc., and for carrying out such other functions and for such purposes as may be prescribed.
- He has also referred to the definition of 'document' in Section 2(41), the 'proper officer' under Section 2(91) and such other definition clauses.
- That in none of the pleadings, the petitioners have made any allegation that the proper officer has not issued the show cause notices/orders. Therefore, in the absence of pleadings, such a plea should not be entertained in the eye of law. For example, in W.P.No.20397 of 2025, the name and designation of the proper officer is reflected both in the show cause notice issued under Section 73 and also in the order-in-original. He submits that the petitioners have not shown any prejudice on this count as all the

show cause notices/orders referred to the RFN or reference number and name and designation of the officers. All these documents have been downloaded from the common portal.

- The contention of some of the writ petitioners on non-application of mind by issuing multiple notices/orders and uploading on the same day is a ground which can be taken in an appeal.
- That Section 25 of Chapter VI of the CGST Act provides the procedure for registration. In contrast, the issuance of show cause notices and orders in an adjudication proceedings are carried out in Chapter XVIII of the CGST Rules which use the expression 'electronically' uploaded through the common portal.
- The Legislature has conceived of communication of the show cause notices/orders in the adjudication proceedings governed under Chapter XVIII of the CGST Rules electronically through the common portal.
- That the reliance placed upon the Forms on the part of the petitioners where the expression 'signature' is used in connection with the Forms prescribed under Chapter XVIII of the CGST Rules could not amount to supplanting the Rules, as Forms are only subservient to Rules. He relies upon **Vasudev**

Ramchandra Shelat vs. Pranlal Jayanand Thakar[18] and **CIT vs. Apar Industries Limited**[19] for this proposition.

- He has adverted to the next contention of the petitioners that the documents such as show cause notices/orders have not been properly served on the writ petitioners. In this regard he has referred to Section 169(1) of the CGST Act and submitted that making these documents available on the common portal amounts to service. Apart from that, e-mail and text message is sent to the taxpayer when the document is uploaded on the common portal.

- Learned Advocate General has referred to Sections 2(g), 2(p), 2q, 2(ta), 2(zg), 3, 3A, 34 and 35 of the IT Act. He has placed strong reliance on the decision of the Division Bench of Gujarat High Court rendered in **Radhe Enterprise vs. Assistant Commissioner of State Tax, Unit 67**[20] on the plea of unsigned wherein several decisions rendered by different courts have been referred to including that of this Telangana High Court. The Division Bench has discarded the plea raised by the petitioners that the documents were unsigned. He has also referred to the decision in **M/s. Vishwa Enterprise vs. State of Gujarat**[21] (paras 7 and 8) and **M/s. Swarn**

[18] (1975) 45 Comp Cas 43
[19] 2010 SCC OnLine Bom 516
[20] R/Special Leave Application No.2699 of 2025, dated 20.06.2025
[21] R/Special Civil Application No.8125 of 2024, dated 20.03.2025

Cosmetics (India) (supra) (paras 4, 7, 10 and 11). Relevant paragraphs of **M/s. Swarn Cosmetics (India)** (supra) are as under:

> "10. Further, upon direction of the Court, Mr. Sumit K. Batra, ld. Counsel for the Department has handed over a short note, explaining the process followed by the proper officers while issuing any order or show cause notice. The said process, as explained on behalf of the Department is as follows:
>
> i. All orders and notices issued by tax authorities are uploaded electronically to the common portal and authenticated using a Digital Key/Signature which contains the credentials of the proper officer including his name, designation and jurisdiction.
>
> ii. As per the mandate of Rule 26(3) of the CGST Rules, 2017, all notices, certificates, and orders are to be issued electronically. Such service of notices, certificates and orders is made available to the taxpayer by uploading the same on the GST portal.
>
> iii. A proper officer can log in to the GST portal by using his/her Digital Key/Signature followed by a system generated OTP which is sent by the GST portal to the registered mobile number of the proper officer.
>
> iv. It is only after such authentication that the proper officer permits the system to generate the document (e.g., Show Cause Notices in FORM GST DRC-01, Orders in FORM GST DRC-07) and the same is stored with the proper officer's digital signature in the system.
>
> Hence, the note filed on behalf of the Department clearly states that even though the PDF documents downloaded from the GST portal may not show a physical signature impression, but it is generated only after a thorough authentication of the proper officer.
>
> 11. Thus, this Court is of the view that the argument raised by the Petitioner with respect to the impugned order and SCN being unsigned is untenable. Thus, insofar as the issue of signatures on the impugned order and impugned SCN is concerned, since the SCNs and orders are now uploaded through the GST portal only through the digital key of the concerned officer, as also because the orders and SCNs bear the name of the officer and the designation of the officer, the authenticity and genuinity of the order cannot be disputed, unless there is a misuse of the digital key."

- Learned Advocate General has questioned the stand of the petitioners while referring to proceedings where the proper officer has dropped the demand. The orders-in-original there also only refer to the name, designation and the digital signature of the

proper officer. Those orders have not been questioned by the petitioners on the plea of unsigned.

- He has questioned the maintainability of the writ petitions in the light of the ratio rendered in **Glaxo Smith Kline Consumer Health Care Limited** (supra) (paras 14, 18, 19, 22, 23), **Laxmi Construction vs. State Tax Officer, CT & GST, Circle, Barbil**[22] (paras 6 and 9) and **Poomika Infra Developers** (supra) (para 5.1 to 5.10) on the same issue wherein the principle i.e., *dura lex sed lex* rendered in **Raghunath Rai Bareja vs. Punjab National Bank**[23] also has been relied upon.
- That a purposive interpretation has to be accorded to the provisions of the CGST Act to make it workable.
- According to him, the petitioners have not been able to show any prejudice on the count of the documents being allegedly unsigned for this Court to entertain the plea.
- He, therefore, submits that this Court may authoritatively lay down the correct position in law, as there have been conflicting judgments on the question of unsigned by different smaller Benches of the jurisdictional High Courts.

[22] (2024) 18 Centax 490 (Ori.)
[23] (2007) 2 SCC 230

Live demonstration by GSTN:

- On the directions of this Court, a live demonstration of the working of the GST Network has been made by Sri Harsh Agarwal, Vice President, Architecture, GSTN. He has also referred to the stand of the GSTN contained in its additional counter affidavit filed on 25.02.2026 on the working of GST Network. Sri Harsh Agarwal during the course of the demonstration of the GST Network common portal submitted that the process of issuance of notices and orders by the proper officer is undertaken only after the proper officer gets onboarded on the system by using Digital Signature Certificate issued by the certifying authority. The use of Digital Signature Certificate ensures integrity and authenticity of the document by use of public and private key. It creates a hash function by the method of asymmetric cryptography which is tamper proof and immutable. The proper officer applies his digital signature using the hash value by his private key and thereby issues the show cause notices/orders in accordance with the provisions of Sections 3A and 13 of the Information Technology Act. He has also referred to Section 119 of the Bharatiya Sakshya Adhiniyam, 2023, to submit that there is a presumption of regularity of the official acts done by the proper officer while issuing notices/orders through the common portal.

Submissions of Sri B.Narasimha Sharma, learned Additional Solicitor General of India, appearing for GSTN:

21. Sri B.Narasimha Sharma, learned Additional Solicitor General of India, appearing for GSTN, supported the working of the GST regime through the common portal operated by GSTN. He, *inter alia*, submitted as under:

- That the notices/orders are under Section 73/74 of the CGST Act are served in the prescribed form by making it available on the common portal in terms of Section 169(1)(d) of the CGST Act.
- The issue involved in the present batch of matters before the Full Bench of this Court is not whether the document is signed or not, it is that the notice/order does not show the signature in physical form.
- That Rule 26(3) of the CGST Rules also prescribes issuance of document electronically with digital signature or through e-signature or verified by any other mode of sign or verification as notified by the board. It relates to Chapter III-Registration and not Chapter XVIII of the CGST Rules.
- The decision in **M/s. Silver Oak Villas LLP** (supra) relies upon Rule 26(3) of the CGST Rules, which is in relation to Chapter III under the heading 'Registration', whereas the decision in **Bigleap Technologies** (supra) does not approve of the view taken in **M/s. Silver Oak Villas LLP** (supra) on the application of Rule

26(3) of the CGST Rules to the issuance of show cause notices/orders under Chapter XVIII – Demands and Recovery in an adjudication proceedings.

- As per the definition clause of the Information Technology Act, the digital signature is included in the electronic signature. The word 'electronically' is used in the Information Technology Act in Section 2(p) and 2(ta). The GST Network complies with the requirement of Sections 3 and 3A read with the Second Schedule of the Information Technology Act in the matter of authentication of electronic records for affixation of digital signature.
- That there is a legal presumption of regularity of official acts or the judicial proceedings under Section 114(e) of the Indian Evidence Act, 1872 or Section 119(e) of the Bharatiya Sakshya Adhiniyam, 2023. Moreover, no prejudice has been caused to the taxpayer who can avail the remedies provided under the statute. Therefore, a purposive construction has to be applied to the CGST Act in conjunction with the provisions of the Information Technology Act while dealing with this challenge.
- He has referred to the decision in **M/s. Sahithi Marketers vs. the Superintendent of Central Tax, Karimnagar (Urban) Range**[24], wherein this court held that even if DRC-07 did not contain any signature, no prejudice is caused to the petitioner.

[24] W.P.No.4005 of 2025, dated 20.02.2025

Similar is the view rendered by the High Court of Andhra Pradesh at Amaravati in **Sahiti Agencies vs. the Assistant Commissioner of Central Tax and Central Excise**[25] and **M/s. Pedda Masthan Enterprises vs. the Assistant Commissioner ST, Chittoor III Circle, Chittoor**[26]. He has also referred to the decision of the Gujarat High Court in **Radhe Enterprise** (supra) (paras 33 to 35) and **M/s.Swarn Cosmetics (India)** (supra) relied upon by the learned Advocate General.

- Sections 4 and 5 of the Information Technology Act under Chapter III provide that if the information is authenticated by means of electronic signature affixed in such manner as is prescribed, it has a legal recognition of a valid signature on the document. Section 5 of the Information Technology Act, therefore, provides legal recognition of documents authenticated through electronic means which satisfies the requirements of signature notwithstanding anything contained in any such law. Since the GST regime works on an online mechanism through the common portal, Section 5 of the IT Act provides legal recognition to such documents generated and served electronically through the common portal by the Revenue.

[25] W.P.No.14874 of 2025, dated 26.09.2025
[26] W.P.No.1363 of 2026, dated 31.01.2026

- That the entire working of the GSTN is explained in the additional affidavit of the GSTN. Therefore, this Court may proceed to answer the issue by upholding the working of the GSTN specifically in the context of the issue involved in this reference on unsigned documents alleged by the petitioners and hold that these documents have been electronically authenticated in conformity with the requirement of law. Therefore, the decision rendered by the learned Division Bench in **Bigleap Technologies** (supra) and other decisions on this point by this Court and other jurisdictional Courts be held as not laying the correct position of law.

Submissions of Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC on behalf of GSTN:

22. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, has addressed this Court on behalf of the GSTN.

- He has vehemently argued that the reference to the Full Bench was necessary on this issue.
- He has pointed out to the conflicting Division Bench judgments of this Court in **M/s. Silver Oak Villas LLP** (supra) (para 9), **M/s. Sahithi Marketers** (supra) and **Bigleap Technologies** (supra) (para 28).

- That the decisions in **M/s. Sahithi Marketers** (supra) and **Bigleap Technologies** (supra) were by the same Bench, but conflicting points of view have been taken on the question of unsigned. He submits that whenever this Court has the occasion to doubt the decision of the Coordinate Bench, the right course is to refer the matter to the Full Bench instead of taking a conflicting point of view by a coram of the same Bench.
- In support of this proposition, he placed reliance upon a decision passed in **Usha Kumar vs. State of Bihar**[27]. He has read the referral order and pointed out that it contains sufficient reasons.
- The learned Division Bench of this Court has, after due deliberations and after hearing the parties at length, felt it necessary to refer the matter in view of the conflicting decisions cited before it by the Coordinate Benches of this Court for an authoritative pronouncements on the issue involved.
- The present batch of cases are on the issue whether the show cause notices and orders in adjudication proceedings govern Chapter XVIII – Demands and Recovery of the CGST Rules and made available on the common portal operated by the GST Network by the proper officer after onboarding it by using Digital Signature Certificate can be treated as an unsigned document to declare them as null and void. It is submitted that in none of the

[27] (1998) 2 SCC 44

earlier decisions rendered by this Court, GSTN was made a party, though its presence was necessary. The entire working of the GST regime is maintained and operated by the GSTN. He submits that none of the previous Benches had the benefit of demonstration of the working of the common portal by the GSTN authorities on the question of unsigned documents. He submits that the judgment in **Bigleap Technologies** (supra) has treated the advisory of GSTN as not having any statutory backing. However, none of these notices or orders can be rendered invalid if in substance they are electronically authenticated by the proper officer by onboarding the system by using Digital Signature Certificate issued by the certifying authority and by use of its private and public key.

- He has made additional submissions on merits by referring to Section 146 of the CGST Act which provides for working of the GST regime through the common portal.
- He also refers to Section 160 of the CGST Act which provides that no assessment, re-assessment, adjudication and other proceedings shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein if, in substance, they are in conformity with or according to the intents, purposes and requirements of the CGST Act or any existing law.

- Sub-section (2) provides that the service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.
- That RFN is a valid authentication mechanism for communications on or through the portal. This position has been clarified by the GSTN through the Circular No.249/06/2025-GST, dated 09.06.2025.
- RFN is a distinct number to a document which can be duly verified by the taxpayer through the procedure prescribed on the common portal. This has been adequately shown in the demonstration performed by the GSTN through the proceedings of this court.
- The demonstration has also shown that in case a notice or order is required to be sent by post, the proper officer has to physically sign it.
- He has rebutted the contention of learned counsel Sri P.Venkat Prasad relied upon in the earlier affidavit filed in the case of

Water Tech Engineers vs. Assistant Commissioner of CGST[28] by submitting that the said affidavit was not by the GSTN, but by their backend office i.e., Automation of Central Excise and Service Tax (ACES). As such, the petitioners cannot draw any mileage by trying to point out a contradiction in the stand filed in the affidavit in **Water Tech Engineers** (supra) with the stand of GSTN filed in the present proceedings.

23. Learned Senior Standing Counsel for CBIC also submitted a compilation containing the Forms which require a signature as compared to a digital signature.

Reply submissions of learned counsel for the petitioners:

24. Learned counsel Sri P.Srikanth Rao appearing for the petitioner in W.P.No.20528 of 2025, in reply, has submitted that merely making available the documents on the common portal as per Section 169(1)(d) of the CGST Act does not amount to service through the common portal. Therefore, it should not amount to service upon the company as it was not required to constantly keep a watch on the portal.

25. Sri Karan Talwar, learned counsel for the petitioner in W.P.No.20653 of 2025 and connected cases, has drawn the attention of this Court to the Agenda for 15th GST Council Meeting, dated 03.06.2017, at paras 9.1 to 9.3 wherein the recommendation of GST

[28] (2025) 32 Centax 130 (Telangana)

council regarding common portal is made. He submits that the word "common" has been used, as the portal is common to all such tax regimes i.e., CGST, TGST and IGST, being operable through the portal. He has also referred to the Report of the Comptroller and Auditor General of India under the Information Technology Act, which has recommended the department to ensure digital signature functionality to ensure proper working of the GST regime.

- That as per the respondents, after 07.01.2025, the systems are not showing the digital signature.
- The tabular chart containing relevant particulars of present writ petitions supplied by the respondents especially at serial Nos.7 and 13 are of the year 2025, but they are not showing digital signature. Therefore, the GSTN's version that the system is foolproof and digital signature compliant after 06.01.2025 is not correct. Even the demonstration by the TGST did not show physical signature or digital signature in the show cause notice/order though required as per the statutory Form.
- That the GSTN has not produced the JSON file to prove that the physical document received at the taxpayer's end has the backend file maintained in the common portal.
- Learned counsel submits that if a question of jurisdiction is involved, prejudice is not required to be proved by the petitioners. He submits that whether there is a conflict between

the Rules and Forms, the Supreme Court in **CIT (Ag) v. Keshab Chandra Mandal**[29], at paras 21 to 27 held that signature of assessee was mandatory.

- That the judgments of Gujarat and Bombay High Courts cited by the learned Additional Solicitor General of India are *per curiam* as they do not refer to the Supreme Court judgments or the Information Technology Act. The decision of the **M/s. Silver Oak Villas LLP** (supra) rendered by the learned Division Bench of this Court though is in relation to Rule 26(3) of the CGST Rules but it reiterates that the orders must be signed. The decision in **M/s. Sahithi Marketers** (supra) on the other hand only dealt with the Form i.e., DRC-07.

26. Sri M.Naga Deepak, learned counsel appearing for the petitioner in W.P.No.26393 of 2025 and other connected matters has in the course of his submissions tried to make a point that in some of the cases the plea that the portal reflects the document in respect of which e-mail has been sent to the taxpayer does not match. Learned counsel submits that the respondents state that the signature is in the JSON, but it is not visible in the document. He submits that after logging into the portal and downloading the order, the PDF will not allow even to edit.

[29] 1950 SCC 205

This is the nature of the authentication, the Information Technology Act mandates.

27. Sri Shaik Jeelani Basha learned counsel appearing for the petitioner in W.P.No.20473 of 2025 and other connected cases has taken the plea of absence of DIN and also multiple orders having been issued for the same tax period. He submits that if certain acts are forbidden by law, it cannot be done indirectly. In support of his submission, he relies upon **Noida Entrepreneurs Association vs. Noida**[30] (para 25). He has also rebutted the plea of delay and laches on the part of the petitioners on the ground that the documents are unsigned.

28. Sri A.V.A.Siva Kartikeya, learned counsel submits that the GSTAT office which has been constituted now is rejecting the registration of appeals on the ground that the orders are unsigned. The department does not give reasons as to why some orders are shown as signed and others are unsigned.

29. Sri V.Aneesh, learned counsel appearing for the petitioner in W.P.No.28906 of 2025 submits that the discrepancy in the procedure in relation to audit proceedings under Section 65 of the CGST Act before initiation of proceedings under Section 73/74 of the CGST Act has not been answered, though there are judgments by this Court on the point.

30. Ms. Y.Siri Reddy, learned counsel who is also appearing in the lead matter, submits that the digital signature should contain the

[30] (2011) 6 SCC 508

signature, name, time and date, which evidently is not visible when downloaded at the taxpayer's end.

31. Sri G.R.S.Akhileswar, learned counsel appearing for the petitioner in W.P.No.27317 of 2025 has relied upon the decision of the Madras High Court in **N Star Foods and Beverages vs. Commercial Tax Officer, Pongalur Assessment Circle**[31], and submits that the proper officer should issue notices by other modes also, as otherwise it would be an empty formality.

32. Sri V.Veeresham, learned counsel appearing for the petitioner in W.P.No.23730 of 2025 and other connected matters, in support of the submission that "no prejudice" is no answer to a nullity, has relied on the decision of the Hon'ble Supreme Court in **M.M.Rubber and Company** (supra), **Kiran Singh vs. Chaman Paswan**[32], **Dharampal Satyapal Ltd. vs. DCCE**[33], **Baru Ram vs. Prasanni**[34], **Commissioner of Income Tax, Mumbai vs. Anjum M.H.Ghaswala**[35] and **Chandra Kishore Jha vs. Mahavir Prasad**[36]. According to him, Rule 142 of the CGST Rules under Chapter XVIII mandates a signature, which has not been followed in these cases.

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[31] 2025 Supreme (Online) (Mad) 49709
[32] AIR 1954 SC 340
[33] (2015) 8 SCC 519
[34] AIR 1959 SC 93
[35] (2002) 1 SCC 633
[36] (1999) 8 SCC 266

Discussion and Analysis:

33. The maintainability of the reference has been questioned by learned counsel for the petitioners on the ground that the referral order does not frame the questions required to be answered. It does not indicate any conflict of decisions rendered by coordinate benches which require the matter to be referred to the Full Bench. In this regard, it is also submitted that the Hon'ble Chief Justice does not authorize making a reference in his administrative capacity as held by the Gujarat High Court in **Suo Motu vs. Gujarat High Court Advocates Association** (supra) (para 9).

34. This plea has been strongly rebutted by learned Advocate General and also the learned Senior Standing Counsel for the CBIC. It has been pointed out that there are three conflicting decisions by three Coordinate Benches of this Court i.e., **Silver Oak Villas LLP** (supra), **M/s.Sahithi Marketers** (supra) and **Bigleap Technologies** (supra). In **Bigleap Technologies** (supra), a Division Bench of this Court held that the contrary view taken on the issue of DRC-07 having no signature without considering Chapter XVIII – Demands and Recovery of the CGST Rules and the prescribed Form is *per incuriam*.

35. The learned Division Bench in **Bigleap Technologies** (supra) accepted the submission of the State that unsigned document will not be

hit by Rule 26(3) of the CGST Rules, under Chapter III, which deals with Registration.

36. In the above backdrop, learned Division Bench, before which these judgments were cited, deemed it fit to refer the matter to the Full Bench for an authoritative pronouncement on the subject after recording that the matters were heard at length and reserved for orders. The referral order specifically indicates that there was due deliberation after the matters were heard at length.

37. The referral order refers to the decision of the learned Coordinate Bench of this Court in **Bigleap Technologies** (supra) which indicates that the Coordinate Division Benches have taken conflicting view on the issue of unsigned. Moreover, the previous Coordinate Division Benches of this Court did not have the benefit of the Live Demonstration of the working of the GSTN portal by technical experts of the GSTN, who elaborately explained the process from the stage of onboarding of officers on the common portal till the issuance of orders. Before the Coordinate Division Bench in **Bigleap Technologies** (supra), an advisory of the GSTN was only produced by the GST Department, which the Court found to be at best an internal communication between departmental authorities.

38. Upon hearing learned counsel for the parties, this Court finds that in view of conflict in the decisions rendered by different Coordinate Benches of this Court, the matter has been referred to the Full Bench for

an authoritative pronouncement. Instead of doubting the correctness of the judgments rendered by co-equal Benches of this Court, such as in **Silver Oak Villas LLP** (supra), **M/s.Sahithi Marketers** (supra) and **Bigleap Technologies** (supra), the learned Division Bench thought it proper to refer the matter to the Full Bench. In the case of **Bigleap Technologies** (supra), the learned Division Bench, on the applicability of Rule 26(3), had taken a view contrary to what was held in **Silver Oak Villas LLP** (supra) and held it to be *per incuriam*.

39. In such a situation, the proper course for the learned Division Bench was to refer the matter to the Full Bench, instead of taking a conflicting point of view by coram of the same strength as held in the case of **Usha Kumar** (supra). The relevant para of the said decision is extracted as under:

> **"3.** In the impugned judgment of a Division Bench of the Patna High Court (Hon'ble Aftab Alam and A.N. Trivedi, JJ.) dated 1-5-1995, the Division Bench has taken a view which is different from the view taken by the two earlier Division Benches of the same High Court. The judgment itself sets out that normally the matter should have been referred to a larger Bench; but this may further delay the matter and hence the Division Bench was proceeding with its judgment. This course which is taken by the Division Bench has created obvious difficulties. Judicial discipline requires that if two Division Benches of the same High Court take different views, the matter should be referred to a larger Bench. One Division Bench cannot ignore or refuse to follow the decision of an earlier Division Bench of the same Court and proceed to give its decision contrary to the decision given by the earlier Division Bench. If it is inclined to take a different view, a request should be made to the Chief Justice to refer the same to a Full Bench. Even the purpose of saving time has not been served in the present case. The decision has merely generated these appeals which are filed in view of the conflicting views taken by two Division Benches. The State has also come in appeal before us. All the parties are agreed that the appropriate course would be to refer the matter to the Full Bench of the Patna High Court. All these appeals are, therefore, remanded to the High Court of Patna. The Chief Justice of that High Court may constitute a Full Bench for deciding all issues which were raised before the Division Bench in the impugned judgment. Although the departure from the earlier decisions of the Division Bench may not be on all issues raised before the Court, since

> the appeals are being remanded to the High Court, it is desirable that the Full Bench, in considering all these matters, deals with all the issues which were raised and considered by the Division Bench in the impugned judgment."

Therefore, we are of the opinion that there is no infirmity in the referral order.

Analysis on Merits:

40. Be it indicated at the outset that the present batch of writ petitions essentially relate to the adjudication proceedings under Sections 73 and 74 under Chapter XV - Demands and Recovery of the CGST Act and under Chapter XVIII - Demands and Recovery under the CGST Rules, which prescribe the procedure and Forms for issuance of notice and order of demands pursuant to adjudication proceedings. In the interpretative process of relevant provisions, reference has also been made to Rule 26 under Chapter III – Registration, of the CGST Rules. Reference to the relevant provisions of the IT Act is also necessary since the GST regime functions in the digital manner through a common platform across the country.

41. The CGST Act, the TGST Act and the IGST Act were enacted pursuant to the amendment in the Constitution by the Constitution (One Hundred and First Amendment) Act, 2016, whereby Articles 246A and 279A were brought into Constitution. It introduced the concept of cooperative federalism in creating a unified tax regime of supply of goods or services or both at each stage of supply chain ranging from

manufacture or import to the retail level. Pursuant thereto, the GST Acts both at the Centre and the States were brought into force with effect from 01.07.2017. Several existing taxes, such as Central Excise Tax, Service Tax, Central Sales Tax, similarly State Government taxes like Value Added Tax, Luxury Tax, Purchase Tax etc., which had a cascading effect with no provision for set off and resulted in a plethora of non-tariff barriers like octroi, entry tax, check posts etc., which hinder free flow of trade throughout the country and entails high compliance cost for taxpayers were subsumed in the GST regime which proposes a single tax on supply of goods or services or both at each stage of supply chain ranging from manufacture or import to the retail level. It intended to broaden the tax base as well as improve tax compliance. It also provided for anti-profiteering clause to ensure that business passes on the benefits of reduced tax incidence on goods or services or both to the consumers. The CGST Act also provided for smooth transition of existing taxpayers to new Goods and Services Tax regime. The tax system on goods and services was facing certain difficulties, which have been explained in the Statement of Objects and Reasons to the CGST Act, as under:

(i) There is cascading of taxes as taxes levied by the Central Government are not available as set off against the taxes being levied by the State Governments;

(ii) Certain taxes levied by the State Governments are not allowed as set off for payment of other taxes being levied by them;

(iii) The variety of Value Added Tax Laws in the country with disparate tax rates and dissimilar tax practices divides the country into separate economic spheres; and

(iv) The creation of tariff and non-tariff barriers such as octroi, entry tax, check posts etc., hinder the free flow of trade throughout the country. Besides that, the large number of taxes create high compliance cost for the taxpayers in the form of number of returns, payments etc.

42. Therefore, it proposed that the tax being levied by the Central Government or the State Governments on the supply of goods or services were to be converged into goods and services tax which is proposed to be a dual levy where the Central Government will levy and collect taxes in the form of central goods and services tax and the State Government will levy and collect tax in the form of state goods and services tax on intra-State supply of goods or services or both. In view of the above reasons, the Central legislation, namely the Central Goods and Services Tax Act, 2017 was introduced conferring power upon the Central Government for levying goods and services tax on the supply of goods or services or both which takes place between States to simplify and harmonise the indirect tax regime in the country. It was expected to reduce cost of production and inflation in the economy thereby making the Indian trade and industry more competitive, domestically as well as internationally. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an in-built mechanism in the design of goods and services tax that would incentivize tax compliance by taxpayers. It was intended to broaden the tax base, and result in better tax compliance based on a robust information technology infrastructure.

43. The Statement of Objects and Reasons of the CGST Act, provides an insight into the introduction of a unified tax regime throughout the country in respect of goods and services:

> (a) to levy tax on all intra-State supplies of goods or services or both except supply of alcoholic liquor for human consumption at a rate to be notified, not exceeding twenty per cent as recommended by the Goods and Services Tax Council (the Council);
> (b) to broad base the input tax credit by making it available in respect of taxes paid on any supply of goods or services or both used or intended to be used in the course or furtherance of business;
> (c) to impose obligation on electronic commerce operators to collect tax at source, at such rate not exceeding one per cent of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals;
> (d) to provide for self-assessment of the taxes payable by the registered person;
> (e) to provide for conduct of audit of registered persons in order to verify compliance with the provisions of the Act;
> (f) to provide for recovery of arrears of tax using various modes including detaining and sale of goods, movable and immovable property of defaulting taxable person;
> (g) to provide for powers of inspection, search, seizure and arrest to the officers;
> (h) to establish the Goods and Services Tax Appellate Tribunal by the Central Government for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority;
> (i) to make provision for penalties for contravention of the provisions of the proposed Legislation;
> (j) to provide for an anti-profiteering clause in order to ensure that business passes on the benefit of reduced tax incidence on goods or services or both to the consumers; and
> (k) to provide for elaborate transitional provisions for smooth transition of existing taxpayers to goods and services tax regime.

44. Similar other State legislations were enacted across the country by the State Legislatures. The Union Territories Goods and Services Tax Act, 2017 and the IGST were enacted by the Parliament. All these Acts were rolled out and brought into effect from 01.07.2017. It is, therefore, pertinent to understand the working of the GST regime by reading the relevant provisions of the CGST Act and the Information Technology Act in order to answer the legal issue involved in the present reference.

45. For convenience sake, the relevant provisions of the CGST Act as are *in pari materia* to the TGST Act, which have been relied upon by the learned counsel for the parties, are being extracted as under:

> **Section 26. Deemed registration**.— (1) The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of Section 25.
>
> (2) Notwithstanding anything contained in sub-section (10) of Section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

> **Section 73. Determination of tax pertaining to the period up to Financial Year 2023-24, not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts**.— (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under Section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.
>
> (2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.
>
> (3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.
>
> (4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
>
> (5) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under Section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.
>
> (6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under Section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.

Section 74. Determination of tax pertaining to the period up to Financial Year 2023-24, not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.— (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under Section 50 and a penalty equivalent to the tax specified in the notice.

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of Section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under Section 50 and a penalty equivalent to fifteen per cent of such tax on the basis of his own ascertainment of such tax or the tax as

ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under Section 50 and a penalty equivalent to twenty-five per cent of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under Section 50 and a penalty equivalent to fifty per cent of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.

Explanation 1.—For the purposes of Section 73 and this section,—

(*i*) the expression "all proceedings in respect of the said notice" shall not include proceedings under Section 132;

(*ii*) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under Section 73 or Section 74, the proceedings against all the persons liable to pay penalty under Sections 122 and 125 are deemed to be concluded.

Section 146. Common Portal.—The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

Section 160. Assessment proceedings, etc., not to be invalid on certain grounds.— (1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

(2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Section 169. Service of notice in certain circumstances.—(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—

(*a*) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(*b*) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(*c*) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(*d*) by making it available on the common portal; or

(*e*) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(*f*) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Common Portal:

46. As per Section 146 of the CGST Act, the Government on the recommendation of the Council, has notified the Common Goods and Services Electronic Portal for facilitating registration, payment of tax,

furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

47. In exercise of the powers conferred by Section 146 of the CGST Act read with Section 20 of the IGST Act, the Central Government, vide Notification No.4/2017 – Central Tax, dated 19.06.2017, notified 'www.gst.gov.in' as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax and electronic way bill. Subsequently, in supersession of the said notification, i.e., Notification No.4/2017 – Central Tax, dated 19.06.2017, the Central Government, vide Notification No.9/2018 – Central Tax, dated 23.01.2018 notified 'www.gst.gov.in' as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax and 'www.ewaybillgst.gov.in' as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill. For the purpose of the said notification, 'www.gst.gov.in' means the website managed by the Goods and Services Tax Network and 'www.ewaybillgst.gov.in' means the website managed by the National Informatics Centre, Ministry of Electronics and Information Technology, Government of India.

48. The common portal functions as the electronic portal for facilitating the working of the GST regime including the assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings in conformity with the relevant the provisions of the CGST Act and the Rules framed thereunder.

49. Section 169 provides for the method of service of notice of decisions, orders, summons, notice or other communication under the Act or the Rules, by any one of the methods enumerated under sub-clauses (a) to (f) of sub-section (1) thereof. Sub-clause (d) of Section 169(1) provides that any such decision, order, summons, notice or communication under the Act or the Rules, shall be served by making it available on the common portal.

50. The controversy herein is whether the show cause notice and the communication of the assessment order are digitally signed in the manner prescribed under the Act and the Rules framed thereunder. An argument has also been raised that the requirement of signature is mandatory in the Forms framed under the relevant Rules, which has not been complied with. Therefore, the show cause notices or the assessment orders or summary of the orders are nullity in the eye of law. This issue, therefore, is required to be dealt with in the light of the relevant provisions of the CGST Act and the CGST Rules read with the provisions of the Information Technology Act, 2000.

51. The Information Technology Act, 2000 provides for legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as 'electronic commerce', which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, 1860, the Indian Evidence Act, 1872 and the Banker's Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto. It was enacted in the background of the resolution of the General Assembly of the United Nations dated 30.01.1997 which adopted the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law (UNCITRAL). Therefore, it was considered necessary to give effect to the said resolution and to promote efficient delivery of Government services by means of reliable electronic records. With such a rapid growth in electronic commerce, it became imperative for governments to regulate online behaviour. The Information Technology Act was enacted to provide a comprehensive enactment to govern online commerce. The preamble of the Information Technology Act gives a glimpse of the objects for which it is enacted.

(i) Legal recognition of e-commerce through functional equivalence;
(ii) Uniformity of the law applicable to the e-commerce;
(iii) Promote electronic filing and efficient government services;

(iv) Amending statutes incidentally connected with the Acts such as Indian Penal Code, 1860, Indian Evidence Act, 1872, the Banker's Books Evidence Act, 1891, the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto.

52. The Information Technology Act is divided into 13 Chapters. Chapter I relates to Preliminary provisions, i.e., short title, extent, commencement and application and the definitions of various terms used throughout the Act. Chapter II – Authentification of electronic records and Electronic Signature ((Sections 3 and 3A). Chapter III - Electronic Governance (Sections 4 to 10A) provides Statutory Recognition of Digital Signatures and Electronic Records as well as framework for use of electronic records and digital signatures in government and its agencies. With the insertion of Section 10A, contracts concluded through electronic means are also recognized as valid and enforceable contracts. Chapter IV (Sections 11 to 13) deals with Attribution, Acknowledgement and Dispatch of Electronic Records, which are extremely important when general contractual principles are applied to electronic transactions. Chapter V relates to Secure Electronic Records and Secure Electronic Signatures (Sections 14 to 16) which provides for procedure for keeping electronic signatures secure and the power to set such procedures upon the Central Government taking into account the factors such as nature of the transaction, level of sophistication of the parties with reference to their technological capacity and the cost of alternative procedures. Chapter VI

provides for Regulation of Certifying Authorities (Sections 17 to 34) laying down the appointment, functions, powers and obligations of Certifying Authorities which are vested with such authority while issuing Digital Signature Certificates. Chapter VII deals with Electronic Signature Certificates (Sections 35 to 39). Chapter VIII provides for Duties of Subscribers (Sections 40 to 42), the issuing of a Digital Signature Certificate and the various duties of subscribers which include the generation of a key pair, the acceptance of the Digital Signature Certificate and the control of the private key. Chapter IX provides for Penalties, Compensation and Adjudication (Sections 43 to 47). Chapter X relates to Cyber Regulations Appellate Tribunal (Sections 48 to 64) and Chapter XI relates to Offences (Sections 65 to 78) and penal imprisonment for such contraventions. Chapter XII, introduced with effect from 27.10.2009 by the Information Technology (Amendment) Act, 2008, substitutes old Section 79 and provides for exemption to Intermediaries from Liability in certain cases. Chapter XIIA provides for Examiner of Electronic Evidence (Section 79A) appointed by the Central Government for an expert opinion on electronic form evidence i.e., relating to information stored or transmitted in electronic form. Chapter XIII contains Miscellaneous Provisions (Sections 80 to 94). The four Schedules contain various amendments that are necessitated in other statutes. For the purpose of this reference, Second Schedule which

makes amendments to the Indian Evidence Act, 1872 by introducing to admit the electronic records as evidence is relevant.

53. The Information Technology (Amendment) Act, 2008 made substantial changes to the earlier enactments. Section 2 of the Amendment Act has substituted the words "*digital signature"* for the words *"electronic signature"* in 18 Sections, including the relevant sub-sections as well. Further, Section 3A has been inserted in the Information Technology Act which enumerates the requirements to be fulfilled by any form of electronic signatures to be considered reliable and sanctioned by the Central Government. Sections 15 and 16 prescribe conditions for securing electronic signatures as well as providing the Central Government the power to prescribe security procedures and practices for them by making Rules.

54. The relevant provisions of the Information Technology Act, 2000 as are applicable to understand the working of the GST regime are being extracted hereunder:

> ***2(a)*** "access" with its grammatical variations and cognate expressions means gaining entry into, instructing or communicating with the logical, arithmetical, or memory function resources of a computer, computer system or computer network;
>
> **(*d*)** "affixing electronic signature" with its grammatical variations and cognate expressions means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of electronic signature;
>
> **(*f*)** "asymmetric crypto system" means a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature;
>
> ***(g)*** "Certifying Authority" means a person who has been granted a licence to issue a electronic signature Certificate under Section 24;
>
> ***(k)*** "computer resource" means computer, computer system, computer network, data, computer data-base or software;

(*p*) "digital signature" means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of Section 3;

(*q*) "Digital Signature Certificate" means a Digital Signature Certificate issued under sub-section (4) of Section 35;

(t) "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

(*ta*) "electronic signature" means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature;

(tb) "Electronic Signature Certificate" means an Electronic Signature Certificate issued under Section 35 and includes Digital Signature Certificate;

(x) "key pair", in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;

(y) "law" includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President or a Governor, as the case may be, Regulations made by the President under Article 240, Acts enacted as President's Act under sub-clause (a) of clause (1) of Article 357 of the Constitution and includes rules, regulations, bye-laws and orders issued or made thereunder;

(zb) "prescribed" means prescribed by rules made under this Act;

(zc) "private key" means the key of a key pair used to create a digital signature;

(zd) "public key" means the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate;

(ze) "secure system" means computer hardware, software, and procedure that-

(a) are reasonably secure from unauthorised access and misuse;
(b) provide a reasonable level of reliability and correct operation;
(c) are reasonably suited to performing the intended functions; and
(d) adhere to generally accepted security procedures;

(zg) "subscriber" means a person in whose name the Electronic Signature Certificate is issued;

(*zh*) "verify" in relation to a digital signature, electronic record or public key, with its grammatical variations and cognate expressions means to determine whether—

(*a*) the initial electronic record was affixed with the digital signature by the use of private key corresponding to the public key of the subscriber;

(*b*) the initial electronic record is retained intact or has been altered since such electronic record was so affixed with the digital signature.

3. Authentication of electronic records.—(1) Subject to the provisions of this section, any subscriber may authenticate an electronic record by affixing his digital signature.

(2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record.

Explanation.—For the purposes of this sub-section, "hash function" means an algorithm mapping or translation of one sequence of bits into another, generally smaller, set known as "hash result" such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input making it computationally infeasible—

(*a*) to derive or reconstruct the original electronic record from the hash result produced by the algorithm;

(*b*) that two electronic records can produce the same hash result using the algorithm.

(3) Any person by the use of a public key of the subscriber can verify the electronic record.

(4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

3A. Electronic Signature.—(1) Notwithstanding anything contained in Section 3, but subject to the provisions of sub-section (2), a subscriber may authenticate any electronic record by such electronic signature or electronic authentication technique which—

(*a*) is considered reliable; and

(*b*) may be specified in the Second Schedule.

(2) For the purposes of this section any electronic signature or electronic authentication technique shall be considered reliable if—

(*a*) the signature creation data or the authentication data are, within the context in which they are used, linked to the signatory or, as the case may be, the authenticator and to no other person;

(*b*) the signature creation data or the authentication data were, at the time of signing, under the control of the signatory or, as the case may be, the authenticator and of no other person;

(*c*) any alteration to the electronic signature made after affixing such signature is detectable;

(*d*) any alteration to the information made after its authentication by electronic signature is detectable; and

(*e*) it fulfils such other conditions which may be prescribed.

(3) The Central Government may prescribe the procedure for the purpose of ascertaining whether electronic signature is that of the person by whom it is purported to have been affixed or authenticated.

(4) The Central Government may, by notification in the Official Gazette, add to or omit any electronic signature or electronic authentication technique and the procedure for affixing such signature from the Second Schedule:

Provided that no electronic signature or authentication technique shall be specified in the Second Schedule unless such signature or technique is reliable.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.

4. Legal recognition of electronic records.—Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is—

(*a*) rendered or made available in an electronic form; and

(*b*) accessible so as to be usable for a subsequent reference.

5. Legal recognition of electronic signature.—Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of electronic signature affixed in such manner as may be prescribed by the Central Government.

Explanation.—For the purposes of this section, "signed", with its grammatical variations and cognate expressions, shall, with reference to a person, means affixing of his handwritten signature or any mark on any document and the expression "signature" shall be construed accordingly.

13. Time and place of despatch and receipt of electronic record:- (1) Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:—

(*a*) if the addressee has designated a computer resource for the purpose of receiving electronic records,—

(*i*) receipt occurs at the time when the electronic record enters the designated computer resource; or

(*ii*) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(*b*) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resources of the addressee.

(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be despatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

(4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

(5) For the purposes of this section,—

(*a*) if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;

(*b*) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;

(*c*) "usual place of residence", in relation to a body corporate, means the place where it is registered.

17. Appointment of Controller and other officers.— (1) The Central Government may, by notification in the Official Gazette, appoint a Controller of Certifying Authorities for the purposes of this Act and may also by the same or subsequent notification appoint such number of Deputy Controllers, Assistant Controllers, other officers and employees as it deems fit.

(2) The Controller shall discharge his functions under this Act subject to the general control and directions of the Central Government.

(3) The Deputy Controllers and Assistant Controllers shall perform the functions assigned to them by the Controller under the general superintendence and control of the Controller.

(4) The qualifications, experience and terms and conditions of service of Controller, Deputy Controllers, Assistant Controllers, other officers and employees shall be such as may be prescribed by the Central Government.

(5) The Head Office and Branch Office of the office of the Controller shall be at such places as the Central Government may specify, and these may be established at such places as the Central Government may think fit.

(6) There shall be a seal of the Office of the Controller.

18. Functions of Controller.— The Controller may perform all or any of the following functions, namely:–

(a) exercising supervision over the activities of the Certifying Authorities;

(b) certifying public keys of the Certifying Authorities;
(c) laying down the standards to be maintained by the Certifying Authorities;
(d) specifying the qualifications and experience which employees of the Certifying Authority should possess;
(e) specifying the conditions subject to which the Certifying Authorities shall conduct their business;
(f) specifying the contents of written, printed or visual materials and advertisements that may be distributed or used in respect of Electronic Signature Certificate and the public key;
(g) specifying the form and content of a Electronic Signature Certificate and the key;
(h) specifying the form and manner in which accounts shall be maintained by the Certifying Authorities;
(i) specifying the terms and conditions subject to which auditors may be appointed and the remuneration to be paid to them;
(j) facilitating the establishment of any electronic system by a Certifying Authority either solely or jointly with other Certifying Authorities and regulation of such systems;
(k) specifying the manner in which the Certifying Authorities shall conduct their dealings with the subscribers;
(l) resolving any conflict of interests between the Certifying Authorities and the subscribers;
(m) laying down the duties of the Certifying Authorities;
(n) maintaining a data base containing the disclosure record of every Certifying Authority containing such particulars as may be specified by regulations, which shall be accessible to public.

30. Certifying Authority to follow certain procedures.—Every Certifying Authority shall,—

(a) make use of hardware, software and procedures that are secure from intrusion and misuse;
(b) provide a reasonable level of reliability in its services which are reasonably suited to the performance of intended functions;
(c) adhere to security procedures to ensure that the secrecy and privacy of the electronic signatures are assured;
(ca) be the repository of all Electronic Signature Certificates issued under this Act;
(cb) publish information regarding its practices, Electronic Signature Certificates and current status of such certificate; and
(d) observe such other standards as may be specified by regulations.

35. Certifying Authority to issue Electronic Signature Certificate.— (1) Any person may make an application to the Certifying Authority for the issue of a Electronic Signature Certificate in such form as may be prescribed by the Central Government.

(2) Every such application shall be accompanied by such fee not exceeding twenty-five thousand rupees as may be prescribed by the Central Government, to be paid to the Certifying Authority:

Provided that while prescribing fees under sub-section (2) different fees may be prescribed for different classes of applicants.

(3) Every such application shall be accompanied by a certification practice statement or where there is no such statement, a statement containing such particulars, as may be specified by regulations.

(4) On receipt of an application under sub-section (1), the Certifying Authority may, after consideration of the certification practice statement or the other statement under sub-section (3) and after making such enquiries as it may

deem fit, grant the Electronic Signature Certificate or for reasons to be recorded in writing, reject the application.

Provided that no application shall be rejected unless the applicant has been given a reasonable opportunity of showing cause against the proposed rejection.

55. As per Section 2(1)(a) "***access***" aims to include all nomenclatures of "*access*" including *"grammatical variations and cognate expressions"* and it does not merely mean to gain entry. It includes "*instructing or communicating*" with respect to "*the logical, arithmetical, or memory function resources of a computer, computer system or computer network*". The term 'access' finds mention in Section 2(1)(ze)(a), the definition for a 'secure system'.

56. Section 2(1)(d) defines '*affixing electronic signature'* which is analogous to signing paper with ink or leaving a fingerprint. The purpose it serves is to indicate to the reader, that the document is from the proper party and has not been tampered with. It shall, for all purposes in law, complement and substitute for any required seal, stamp, countersign or other distinctive mark. It will have the same effect as putting the required signature to acts or documents written. This Section which now reads as '*affixing electronic signature'* has been amended where, all references to *'digital signatures' was substituted by 'electronic signatures'.*

57. The term '*appropriate government'* in Section 2(1)(e) also finds mention in Section 70, where the *'appropriate government may declare*

a computer, computer system or computer network to be a protected system.'

58. *'Asymmetric crypto system*' in Section 2(1)(f) means '*a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature.'*

59. The '*Certifying Authority'* as defined in Section 2(1)(g), is a body, either public or private, that seeks to fill the need for trusted third party services in electronic commerce by issuing electronic signature certificate that attest to some fact about the subject of the certificate. The certificate which is issued by the certifying authority is a computer based record as to the connection between the private key and the corresponding public key. Subscribers can then disseminate the certificates to third parties who may wish to communicate with the subscriber. The certifying authority authenticates digital signatures by registering key pairs to individuals. When approached, the certifying authority verifies the integrity of the key pair and links the signature back to the registered owner.

60. Section 2(1)(p) defines *"digital signature"* as a "*means of authentication*", as specified in Section 3. Though this definition remained untouched, Section 2(1)(ta) and (tb) have been introduced which define 'electronic signature' and 'Electronic Signature Certificate' by the Information Technology (Amendment) Act, 2008. Electronic signature means authentication of any electronic record by a

subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature. Therefore, the concomitant is that the insertion of definition 'Electronic Signature Certificate' issued under Section 35 includes Digital Signature Certificate.

61. Section 2(1)(za) defines '*originator'* as a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary. Doubts as to whether an electronic message is attributable to the 'originator' are dealt with in Chapter IV of the Information Technology Act.

62. The private key is defined under Section 2(1)(zc) as the key of a key pair which is used to create a digital signature. Public key is defined under Section 2(1)(zd) as the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate.

63. Chapter II provides for Digital Signature and Electronic Signature. Section 3 provides for authentication of electronic records. Cryptography is often referred to as the art and science of keeping messages secure. Encryption means the '*the reversible transformation of data from the original to a difficult-to-interpret format as a mechanism for protecting its confidentiality, integrity and sometimes its authenticity*'. Encryption uses a cryptographic algorithm and a key recipient uses a key to decode the message back into its original form. Section 3(2) states that the authentication of the electronic record shall

be effected by the use of asymmetric crypto system and hash function. It therefore becomes necessary to understand the technical background of these functions. The process of 'asymmetric cryptography' commences when the source, using a 'private key' encrypts the message and signature with a password and sends it to the recipient. The resulting encryption is the digital signature or hash result, which is unique to each document and thus, produces a new hash result or signature with each transmission. After receiving the document, the recipient runs a program and de-crypts the sender's document and signature by using the 'public key', which is publicly available online to the encrypting private key. The program then compares the private key with the public key to determine if the document sent has been altered since its original transmission. If unaltered, the two keys will match and the recipient can be reasonably confident that the subscriber actually executed the document.

64. Section 3(3) states that by the use of a public key the subscriber can verify the electronic record. Therefore, the message can be sent through standard channels by anyone who has the public key, but can only be read by the intended recipient, the holder of the private key. Section 3(4) states that the private key and the public key are unique to the subscriber and constitute a functioning key pair.

65. The question now arises as to how electronic signature provides trustworthy proof we need. The answer to this apprehension is

Certification Authority, which is a trusted third party that acts as a repository of public keys and authenticates the relationship between a particular public key and its supplier.

66. The authentication of the electronic record shall be effected by the use of asymmetric crypto system. Hash function is further explained under the Certifying Authorities Rules, which provides that to sign an electronic record or any other item of information, the signer shall first apply the hash function in the signer's software, the hash function shall compute a hash result of standard length which is unique for all practical purposes to the electronic record. The signer's software transforms the hash result into a digital signature using signer's private key and the resulting digital signature shall be unique to both electronic record and private key used to create it. The digital signature shall be attached to its electronic record and stored or transmitted with its electronic record. The aforementioned process shows that the first step in creating a digital signature is to create a mathematical summary of the document to be signed and known as 'hash function', which is an algorithm that creates an ic representation of the original message in the form of a standard length hash value. The hash value is much smaller than the original message, but is unique to that message. The next step in creating a digital signature requires the signer of the message, to transform the message's unique hash value and original electronic message into an electronic value by using a private key. The resulting electronic value is

unique to the signer, because it is created as a combination of the original message's unique hash value and the signer's unique private key. Thus, a digital signature can be summarized as the electronically signed hash value of the signer's message created by the signer's private key and electronically attached to the message. Once the message is electronically signed by the signer, it is transmitted to the recipient along with the signer's public key. Thus, there are three components of a digital signature (a) the sender's public key; (b) the hash value of the message; and (c) the authorizing certificate.

67. The process for authentication is prescribed under Rule 5 of the Certifying Authority Rules. The first step in verifying a digital signature requires the recipient to apply to the received message, the same hash function used to create the original message's hash value. If the two hash values match identically, then message authentication is accomplished and the recipient is assured that the message has not been altered from its original form. The second step in verifying a digital signature requires the recipient of the message to determine whether the original message was digitally signed by the signer's private key. The recipient will know that the original message was signed by the signer's private key because the signer's public key, transmitted to the recipient along with the original message, will only verify a digital signature created by the signer's private key. Therefore, the digital signature is

considered valid only if both the hash function and private key are verified by the recipient.

68. Certifying Authorities provide the information and surety that the person signing with the private key is who he purports to be and that no one other than the holder of the private key has written the message. In other words, this security service assures the recipient that only the sender could have created the message. Furthermore, it assures him of the authenticity of the sender's message. Integrity means that the contents of the sender's message arrive at the recipient just as they were sent. By using the private and public keys, there is security that the message has not been changed or altered, in any way from the time the holder of the private key applied his signature and sent the message. This security service assures that the message is concealed and secure and has not been altered. Confidentiality gives surety that only the sender and receiver can understand the message. Ideally, if an outside party, a third party, intercepted the message, this security service would prevent the intruder from understanding it. Confidentiality can only be provided with "electronic signatures" and not "digital signatures". Encryption technology allows electronic signatures to provide this service. That is, encryption mathematically scrambles the communication so that only the sender and recipient can unscramble and understand the original message. The other security service provided by electronic signatures is non-repudiation. Just as with written signatures,

this service provides that the sender is willing to be bound to the document and therefore, the transaction or contract. It is logical to say that it is even harder for a signer of an electronic signature to repudiate his or her willingness to be bound to the document. It is unlikely that anyone other than the signatory could have signed and sent the digitally signed document. The physical security of encryption means that the document must have been signed with the sender's/signatory's private key. Essentially, the security service that non-repudiation assures is that the sender of the message cannot deny sending the message to the person who received it.

69. Section 3A – Electronic signature was introduced by Information Technology (Amendment) Act, 2008. The Legislature with a view to maintain balance between the competing interests of security and neutrality inserted Section 3A which provides legal recognition of other forms of electronic signatures on the satisfaction of certain pre-requisites.

70. Section 3A(1) prescribes two basic conditions to be fulfilled, for an electronic signature or electronic authentication technique at par with the authentication effected through a digital signature. The first of which contained under Section 3A(1)(a) is with respect to the reliability of the electronic signature. The specifics of the reliability to qualify as a valid electronic signature are further set out under Section 3A(2)(a) of the

Act. The Section contains certain characteristics which should be present in such a technology. These characteristics are:-

Firstly, that the signature to be produced should be unique and should be linked to the signatory;

Secondly, there is a requirement of confidentiality, secrecy and sole control of the signatory over the signature;

Thirdly, any changes to the electronic signature after such a signature is affixed should be detectable;

Fourthly, after affixing such a signature to the data, if there are changes in the data, then such changes should be detectable;

The fifth and the final requirement is a residuary clause which states that, it should fulfil such other conditions which may be prescribed. Up till now, there have been no Rules which have been framed under Section 3A of the Act.

71. Section 4 relates to legal recognition of electronic records. The purpose behind enacting various electronic commerce statutes can briefly be stated as creating legal recognition for electronic records, electronic signatures and electronic contracts and ensuring that the medium in which a record, signature, or contract is created, presented or retained does not affect its legal significance. Section 4 sets forth the fundamental premise of the IT Act, namely that the medium in which a record, signature or contract is created, presented or retained does not affect its legal significance and functional equivalence, because the

substantive law governing the underlying transaction may require non-electronic records or signatures. Thus the Section achieves its purpose by simply overriding the substantive law on these requirements. The Section contains two prerequisites before legal recognition may be impaired to electronic records, which are that the electronic record should be:

(a) rendered or made available in an electronic form; and

(b) accessible so as to be usable for a subsequent reference.

72. The first requirement is fulfilled when the electronic record is within the meaning of section 2(1)(r) of the Act. The second requirement is satisfied when the record is catalogued or made available. The rationale behind the second requirement is that electronic data is intangible and by its very nature transient, thus it is expedient to require it to be available for future reference. Electronic record has been held to be documentary evidence under Section 3 of the Indian Evidence Act, 1872. Sections 65A and 65B were introduced in the Indian Evidence Act, vide Act No.21 of 2000, with effect from 17.10.2000, to deal with the admissibility as evidence of electronic records. The contents of electronic record are to be proved in accordance with the provisions of Section 65B. Sections 62 and 63 of the Bharatiya Sakshya Adhiniyam, 2023 (BSA) are *in pari materia* with Sections 65A and 65B of the former Indian Evidence Act, 1872.

73. Section 5 of the IT Act prescribes legal recognition of electronic signatures. Before the Section was amended by Amendment Act, 2008, the earlier version of the section promoted a highly regulatory and prescriptive standard, granting functional equivalence only to digital signatures. Section 5 now by recognizing electronic signatures in place of digital signatures make a marked difference in its approach by adopting technology neutrality. This is also accompanied by the explanation to the section which couches the term, "signed" and "signature", in a plenary context, including its grammatical and cognate variations. The prerequisites which must be satisfied for the application of the section are – (a) a law should require that information, matter or document shall be signed or bear the signature of a person; (b) an electronic signature is affixed in place of such signature; and (c) the electronic signature is affixed in a manner prescribed by the central government. Thus, if the Bureau decides to affix a digital signature to its order, the mere factum that the statute from which it derives its power does not expressly provide for affixing a digital will not impart, any defect to its order.

74. Section 6 relates to use of electronic records and electronic signatures in Government and its agencies. Section 6(2) provides for the appropriate government to frame rules for the prescription of (a) the manner and format in which such electronic records shall be filed, created or issued; (b) the manner or method of payment of any fee or

charges for filing, creation or issue any electronic record under clause (a). The Central Government pursuant to this has framed the Information Technology (Use of Electronic Records and Digital Signatures) Rules, 2004.

75. It is relevant to refer to Second Schedule attached to the IT Act and also the relevant provisions of the Certifying Authorities Rules and the End Entity Rules and are extracted as under:

THE SECOND SCHEDULE
[See sub-section (1) of Section 3A]
ELECTRONIC SIGNATURE OR ELECTRONIC AUTHENTICATION TECHNIQUE AND PROCEDURE

Sl. No.	Description	Procedure
(1)	(2)	(3)
1.	e-authentication technique using Aadhaar or other e-KYC services	Authentication of an electronic record by e-authentication Technique which shall be done by— (*a*) the applicable use of e-authentication, hash, and asymmetric crypto system techniques, leading to issuance of Digital Signature Certificate by Certifying Authority (*b*) a trusted third party service by subscriber's key pair-generation, storing of key pairs and creation of digital signature provided that the trusted third party shall be offered by the certifying authority. The trusted third party shall send application form and certificate signing request to the Certifying Authority for issuing a Digital Signature Certificate to the subscriber. (*c*) Issuance of Digital Signature Certificate by Certifying Authority shall be based on e-authentication, particulars specified in Form C of Schedule IV of the Information Technology (Certifying Authorities) Rules, 2000, digitally signed verified information from Aadhaar or other e-KYC services and electronic consent of Digital Signature Certificate applicant. (*d*) The manner and requirements for e-authentication shall be as issued by the Controller from time-to-time. (*e*) The security procedure for creating the subscriber's key pair and other e-KYC services] shall be in accordance with the e-authentication guidelines issued by the Controller. (*f*) The standards referred to in Rule 6 of the

		Information Technology (Certifying Authorities) Rules, 2000 shall be complied with, in so far as they relate to the certification function of public key of Digital Signature Certificate applicant. (*g*) The manner in which the information is authenticated by means of digital signature shall comply with the manner and standards specified in Rules 3 to 12 of the Digital Signature (End entity) Rules, 2015 in so far as they relate to the creation, storage, and verification of Digital Signature.
2.	e-authentication technique and procedure for creating and accessing subscriber's signature key facilitated by trusted third party	Authentication of an electronic record by e-authentication technique which shall be done by— (*a*) the applicable use of e-authentication, hash and asymmetric crypto system techniques leading to issuance of Digital Signature Certificate by Certifying Authority, provided that Certifying Authority shall ensure the subscriber identity verification, secure storage of the keys by trusted third party and subscriber's sole authentication control to the signature key. (*b*) Identity verification of Digital Signature Certificate applicant shall be in accordance with the Identity Verification Guidelines issued by Controller from time-to-time. (*c*) The requirement to operate as trusted third party shall be specified under e-authentication guidelines issued by the Controller. (*d*) a trusted third party shall i) facilitate Identity verification of Digital Signature Certificate applicant; ii) establish secure storage for subscriber to have sole control for creation and subsequent usage of subscriber's signature key by sole authentication of subscriber; iii) facilitate key pair-generation, secure storage of subscriber's signature key and facilitate signature creation functions; iv) facilitate the submission of DSC application form and certificate signing request to the Certifying Authority for issuing a Digital Signature Certificate to the DSC applicant, and v) facilitate revocation of Digital Signature Certificate and destruction of subscriber's signature key. (*e*) Issuance of Digital Signature Certificate shall be based on verification of credentials of Digital Signature Certificate applicant by Certifying Authority as per the provisions of the Information Technology Act and Rules made thereunder. (*f*) The manner and requirements for authentication and storage of keys shall be as issued by the Controller from time-to-time under e-authentication guidelines (*g*) The security procedure for creating the subscriber's key pair shall be in accordance with the e-authentication guidelines issued by the Controller.

		(*h*) The standards referred to in Rule 6 of the Information Technology (Certifying Authorities) Rules, 2000 shall be complied with, in so far as they relate to the certification function of public key of Digital Signature Certificate applicant.
		(*i*) The manner in which information is authenticated by means of digital signature shall comply with the manner and standards specified in Rules 3 to 12 of Digital Signature (End entity) Rules, 2015 in so far as they relate to the creation, storage and verification of Digital Signature.

The Information Technology (Certifying Authorities) Rules, 2000:

3. The manner in which information be authenticated by means of Digital Signature.—A Digital Signature shall,—

(*a*) be created and verified by cryptography that concerns itself with transforming electronic record into seemingly unintelligible forms and back again;

(*b*) use what is known as "Public Key Cryptography", which employs an algorithm using two different but mathematical related "keys" - one for creating a Digital Signature or transforming data into a seemingly unintelligible form, and another key for verifying a Digital Signature or returning the electronic record to original form, the process termed as hash function shall be used in both creating and verifying a Digital Signature.

Explanation.—Computer equipment and software utilizing two such keys are often termed as "asymmetric cryptography".

4. Creation of Digital Signature.—To sign an electronic record or any other item of information, the signer shall first apply the hash function in the signer's software; the hash function shall compute a hash result of standard length which is unique (for all practical purposes) to the electronic record; the signer's software transforming the hash result into a Digital Signature using signer's private key; the resulting Digital Signature shall be unique to both electronic record and private key used to create it; the Digital Signature and the digital signature certificate attached to its electronic record shall be stored or transmitted along with its electronic record.

5. Verification of Digital Signature.—The verification of a Digital Signature shall be accomplished by computing a new hash result of the original electronic record by means of the hash function used to create a Digital Signature and by using the public key and the new hash result, the verifier shall check—

(*i*) if the Digital Signature was created using the corresponding private key; and

(*ii*) if the newly computed hash result matches the original result which was transformed into Digital Signature during the signing process. The verification software will confirm the Digital Signature as verified if:—

(*a*) the signer's private key was used to digitally sign the electronic record, which is known to be the case if the signer's public key was used to verify the signature because the signer's public key will verify only a Digital Signature created with the signer's private key; and

(*b*) the electronic record was unaltered, which is known to be the case if the hash result computed by the verifier is identical to the hash result extracted from the Digital Signature during the verification process.

5-A. Verification of Digital Signature Certificate.—(*a*) The self-signed certificate generated by the Controller, which begins the trust chain for the public key infrastructure, shall be used to verify the authenticity of the public key certificate of the licensed certifying authorities;

(*b*) the public key certificate of the licensed certifying authorities shall be used to verify the authenticity of the digital signature certificate issued to the subscribers;

(*c*) the certificate revocation list maintained by the licensed certifying authorities shall be checked to confirm whether the certificate is valid or whether it has been revoked under Section 38 of the Act;

(*d*) while verifying the validity of a digital signature the corresponding digital signature certificates should chain up through the public key certificate of the issuing certifying authority to the self-signed certificate of the Controller and if any of the certificates in the trust chain is not trusted the signature will not be verified.

The Digital Signature (End Entity) Rules, 2015:

3. Manner of authentication of information by means of digital signature.—A digital signature shall,—

(*a*) be created and verified by cryptography which concerns with transforming electronic record into seemingly unintelligible forms;

(*b*) use Public Key Cryptography, which employs an algorithm using two different but mathematical related keys; one key (called the private key) for creating a digital signature and another key (called the public key) for verifying a digital signature;

(*c*) use an hash function for creating and verifying a digital signature which required to make digital signature generation and verification efficient.

4. Creation of digital signature.—(1) The signatory shall, while signing an electronic record or any other item of information, first apply an hash function in the signatory's hardware or software.

(2) The hash function shall produce a hash result.

(3) The signatory's hardware or software shall then transform the hash result into a digital signature using signatory's private key and signature algorithm.

(4) The contextual information like date and time, shall be then made part of the digital signature.

(5) The counter signatures or parallel signatures or both may also be applied to electronic record.

(6) The following information may also be a part of signature,—

(*a*) the signatory's public key signature certificate(s);

(*b*) the public key certificate(s) of the licensed Certifying Authorities which used to verify the authenticity of the digital signature certificate issued to the signatory;

(*c*) the self signed certificate generated by the Controller used to verify the authenticity of the public key certificate of the licensed Certifying Authorities;

(*d*) the certificate revocation list(s) maintained by the licensed Certifying Authorities, and the controller which is used to check whether the digital signature certificate has been revoked under Section 38 of the Act;

(*e*) online certificate status protocol responder certificates and online certificate status protocol responses that may be used in lieu of certificate revocation list.

(7) To create long term valid digital signature,—

(*a*) a timestamp shall be applied initially to the signed data including the certificates and revocation information;

(*b*) ensure that initial time stamp shall cover all the data and signature(s);

(*c*) a nested time stamp option shall be used to ensure signature validity past the time stamping service provider's (tssp) key or algorithm expiry where the nesting of time stamps implies that a subsequent time stamp shall be applied to the prior time stamp;

(*d*) signature(s) and time stamps may be embedded in the data itself or stored separately as standalone.

5. Verification of digital signature.—(1) The verification of a digital signature shall be accomplished by computing a new hash result of the original electronic record by means of the hash function used to create a digital signature and by using the public key and the new hash result, the verifier shall check—

(*a*) if the digital signature was created using the corresponding private key and shall be applicable for parallel and counter signatures applied on the electronic record, if present;

(*b*) the time when the digital signature was created.

(2) To verify counter signature, the signature on electronic record and thereafter signature on previous signature serially shall be verified.

(3) To verify parallel signature, signature on electronic record shall be verified independently.

(4) To verify long term signature, the initial timestamp and all subsequent time stamp applied on the each prior timestamp shall be verified.

6. Verification of Digital Signature Certificate.—(1) The self signed certificate generated by the Controller, which begins the trust chain for the public key infrastructure, shall be used to verify the authenticity of the public key certificate of the licensed Certifying Authorities.

(2) The public key certificate of the licensed Certifying Authorities shall be used to verify the authenticity of the digital signature certificate issued to the subscribers.

(3) The certificate revocation list maintained by the licensed Certifying Authorities shall be checked to confirm whether the certificate of the licensed Certifying Authorities is valid or whether it has been revoked under Section 38 the Act.

(4) While verifying the validity of a digital signature the corresponding digital signature certificate shall chain up through the public key certificate of the issuing Certifying Authority to the self signed certificate of the Controller and if any of the certificates in the trust chain is not trusted the signature shall not be verified.

(5) The Digital Signature Certificate shall be verified with respect to time of signature created.

(6) The chain of certificates shall be verified in accordance with the standards specified in Rule 7.

(7) If the certificate validity is less than one hour, the checking of revocation list shall not be required.

76. Having referred to the manner of authentication of electronic records as prescribed under the IT Act, it is now pertinent to refer to the method and the procedure prescribed under Chapter XVIII of the CGST Rules, which relates to Demands and Recovery. Rule 26 under Chapter III – Registration, often referred to by the parties and the decisions cited by them are also noticed hereinbelow. The relevant Rules are extracted hereinafter:

CHAPTER III
REGISTRATION

Rule 26. Method of authentication.- (1) All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under the provisions of these rules shall be so submitted electronically with digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf:

(2) Each document including the return furnished online shall be signed or verified through electronic verification code-

(a) in the case of an individual, by the individual himself or where he is absent from India, by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu Undivided Family, by a *Karta* and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;

(c) in the case of a company, by the chief executive officer or authorised signatory thereof;

(d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;

(e) in the case of a firm, by any partner thereof, not being a minor or authorised signatory thereof;

(f) in the case of any other association, by any member of the association or persons or authorised signatory thereof;

(g) in the case of a trust, by the trustee or any trustee or authorised signatory thereof; or

(h) in the case of any other person, by some person competent to act on his behalf, or by a person authorised in accordance with the provisions of section 48.

(3) All notices, certificates and orders under the provisions of this Chapter shall be issued electronically by the proper officer or any other officer authorised to issue such notices or certificates or orders, through digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf.

Chapter XVIII
DEMANDS AND RECOVERY

Rule 142. Notice and order for demand of amounts payable under the Act.— (1) The proper officer shall serve, along with the

(*a*) notice issued under Section 52 or Section 73 or Section 74 or Section 74A or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130, a summary thereof electronically in FORM GST DRC-01,

(*b*) statement under sub-section (3) of Section 73 or sub-section (3) of Section 74 or sub-section (3) of Section 74-A, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.

(1-A) The proper officer may, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74 or sub-section (1) of Section 74-A, as the case may be, communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01-A.

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of Section 73 or clause (*i*) of sub-section (8) of Section 74-A, as the case may be, or tax, interest and penalty in accordance with the provisions of sub-section (5) of Section 74 or clause (*i*) of sub-section (9) of Section 74-A], or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act, whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1-A), he shall inform the proper officer of such payment in FORM GST DRC-03 and an acknowledgement, in FORM GST DRC-04 shall be made available to the person through the common portal electronically.

(2A) Where the person referred to in sub-rule (1-A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in Part B of FORM GST DRC-01-A, and thereafter the proper officer may issue an intimation in Part-C of FORM GST DRC-01A, accepting the payment or the submissions or both, as the case may be, made by the said person.

(2B) Where an amount of tax, interest, penalty or any other amount payable by a person under Section 52 or Section 73 or Section 74 or Section 74-A or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130, has been paid by the said person through an intimation in FORM

GST DRC-03 under sub-rule (2), instead of crediting the said amount in the electronic liability register in FORM GST PMT-01 against the debit entry created for the said demand, the said person may file an application in FORM GST DRC-03A electronically on the common portal, and the amount so paid and intimated through FORM GST DRC-03 shall be credited in Electronic Liability Register in FORM GST PMT-01 against the debit entry created for the said demand, as if the said payment was made towards the said demand on the date of such intimation made through FORM GST DRC-03:

Provided that where an order in FORM GST DRC-05 has been issued in terms of sub-rule (3) concluding the proceedings, in respect of the payment of an amount in FORM GST DRC-03, an application in FORM GST DRC-03A cannot be filed by the said person in respect of the said payment.

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of Section 73 or under clause (*ii*) of sub-section (8) of Section 74-A, as the case may be, or tax, interest and penalty under sub-section (8) of Section 74 or under clause (*ii*) of sub-section (9) of Section 74-A, as the case may be, within the period specified therein, or where the person concerned makes payment of the amount referred to in sub-section (1) of Section 129 within seven days of the notice issued under sub-section (3) of that section but before the issuance of order under the said sub-section (3), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an intimation in FORM GST DRC-05 concluding the proceedings in respect of the said notice.

(4) The representation referred to in sub-section (9) of Section 73 or sub-section (9) of Section 74 or sub-section (6) of Section 74-A] or sub-section (3) of Section 76 or the reply to any notice issued under any section whose summary has been uploaded electronically in FORM GST DRC-01 under sub-rule (1) shall be furnished in FORM GST DRC-06.

(5) A summary of the order issued under Section 52 or Section 62 or Section 63 or Section 64 or Section 73 or Section 74 or Section 74-A or sub-section (12) of Section 75 or Section 75 or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned.

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Where a rectification of the order has been passed in accordance with the provisions of Section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in FORM GST DRC-08.

Rule 142A. Procedure for recovery of dues under existing laws. - (1) A summary of order issued under any of the existing laws creating demand of tax, interest, penalty, fee or any other dues which becomes recoverable consequent to proceedings launched under the existing law before, on or after the appointed day shall, unless recovered under that law, be recovered under the Act and may be uploaded in FORM GST DRC-07A electronically on the common portal for

recovery under the Act and the demand of the order shall be posted in Part II of Electronic Liability Register in FORM GST PMT-01.

(2) Where the demand of an order uploaded under sub-rule (1) is rectified or modified or quashed in any proceedings, including in appeal, review or revision, or the recovery is made under the existing laws, a summary thereof shall be uploaded on the common portal in FORM DRC-08A and Part II of Electronic Liability Register in FORM GST PMT-01 shall be updated accordingly.

Rule 142-B. Intimation of certain amounts liable to be recovered under Section 79 of the Act.—(1) Where, in accordance with Section 75 read with Rule 88-C, or otherwise, any amount of tax or interest has become recoverable under Section 79 and the same has remained unpaid, the proper officer shall intimate, electronically on the common portal, the details of the said amount in FORM GST DRC-01D, directing the person in default to pay the said amount, along with applicable interest, or, as the case may the amount of interest, within seven days of the date of the said intimation and the said amount shall be posted in Part-II of Electronic Liability Register in FORM GST PMT-01.

(2) The intimation referred to in sub-rule (1) shall be treated as the notice for recovery.

(3) Where any amount of tax or interest specified in the intimation referred to in sub-rule (1) remains unpaid on the expiry of the period specified in the said intimation, the proper officer shall proceed to recover the amount that remains unpaid in accordance with the provisions of Rule 143 or Rule 144 or Rule 145 or Rule 146 or Rule 147 or Rule 155 or Rule 156 or Rule 157 or Rule 160.

Rule 145. Recovery from a third person.— (1) The proper officer may serve upon a person referred to in clause (*c*) of sub-section (1) of Section 79 (hereafter referred to in this rule as "the third person"), a notice in Form GST DRC-13 directing him to deposit the amount specified in the notice.

(2) Where the third person makes the payment of the amount specified in the notice issued under sub-rule (1), the proper officer shall issue a certificate in Form GST DRC-14 to the third person clearly indicating the details of the liability so discharged.

Rule 151. Attachment of debts and shares, etc.—(1) A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in Form GST DRC-16 prohibiting—

(*a*) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;

(*b*) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(*c*) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable property, to the person in possession of the same.

(3) A debtor, prohibited under clause (*a*) of sub-rule (1), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.

Rule 152. Attachment of property in custody of courts or Public Officer.— Where the property to be attached is in the custody of any court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.

77. A careful reading of Rule 142, which provides for notice and order for demand of amounts payable under the Act, shows a discernible conspicuous distinct method of issuance of notice in the prescribed form or summary thereof **electronically uploaded** on common portal. Rule 142(1)(a) states that the proper officer shall serve along with the notice issued under different Sections along with summary thereof **electronically** in Form GST DRC-01, and as per 1(b) the statement and a summary thereof in Form GST DRC-02 specifying the details of the amount payable. Rule 2B specifies that where an amount of tax, interest, penalty or any other amount payable by a person has been paid by the said person through an intimation in Form GST DRC-03 under sub-rule (2), instead of crediting the said amount in the electronic liability register in Form GST PMT-01 against the debit entry created for the said demand, the said person may file an application in Form GST DRC-03A **electronically on the common portal,** and the amount so paid and intimated through Form DRC-03 shall be credited in Electronic

Liability Register in Form GST PMT-01 against the debit entry created for the said demand, as if the said payment was made towards the said demand on the date of such intimation made through Form GST DRC-03. Rule 142(4) states that the representation referred to in sub-section (9) of Section 73 or sub-section (9) of Section 74 or sub-section (6) of Section 74-A or sub-section (3) of Section 76 or the reply to any notice issued under any section whose summary has been **uploaded electronically** in FORM GST DRC-01 under sub-rule (1) shall be furnished in FORM GST DRC-06. Rule 142(5) states that a summary of the order issued under Section 52 or Section 62 or Section 63 or Section 64 or Section 73 or Section 74 or Section 74-A or sub-section (12) of Section 75 or Section 75 or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130 shall be **uploaded electronically** in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned. Rule 142A specifies that a summary of order issued under any of the existing laws creating demand of tax, interest, penalty, fee or any other dues which becomes recoverable consequent to proceedings launched under the existing law before, on or after the appointed day shall, unless recovered under that law, be recovered under the Act and may be uploaded in FORM GST DRC-07A **electronically on the common portal** for recovery under the Act. Rule 142B states that where, in accordance with Section 75 read with

Rule 88-C, or otherwise, any amount of tax or interest has become recoverable under Section 79 and the same has remained unpaid, the **proper officer shall intimate, electronically** on the common portal. As per Rule 145, the proper officer may serve upon a person referred to in clause (*c*) of sub-section (1) of Section 79 (hereafter referred to in this rule as "the third person"), a notice in Form GST DRC-13 directing him to deposit the amount specified in the notice. As per rule 152, where the property to be attached is in the custody of any court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.

78. The method and the procedure prescribed under Chapter XVIII of the Rules conspicuously does not refer to any digital signature to be affixed in the relevant forms. It is further discernible that the service of notice of a third person under Rule 145 in Form DRC 13 and other provisions, such as Rules 146 and 147 relating to recovery through execution of a decree etc., and recovery by sale of movable or immovable property do not speak of service of notice or issue of order electronically in the prescribed forms. Similar is the position under Rules 151, 152, 153, 155 and 156, Rule 158 refers to filing of an application for payment of tax and other amounts in instalments by a taxable person in Form GST DRC-20.

79. Reference has often been made to Rule 26 which occurs under Chapter III – Registration. The method of authentication under Rule 26(3) does refer to issuance of notices, certificates and orders under the provisions of this Chapter electronically by the proper officer or any other officer authorized through digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 or verified by any other mode of signature or verification as notified by the Board in this behalf. This rule also does not restrict the notice, certificate or order to be issued electronically through digital signature certificate. It can be through e-signature under the provisions of the IT Act or verified by any other mode of signature or verification as notified by the Board in this behalf. The Rule 26(3) is applicable to notices, certificates and orders under the provisions of this Chapter i.e., Registration and cannot be borrowed or applied to Chapter XVIII which relates to 'Demands and Recovery' and which prescribes the method and procedure for service of notices or orders or summary thereof electronically in the prescribed forms.

80. In order to make the distinction clear, it is also pertinent to refer to some of the other Rules which consciously prescribe other modes of signature or verification. A tabular chart hereinbelow would further elucidate the method by which these notices or orders or demands have to be served electronically.

Sl. No.	Rules	Rule	sub-rule	Relevant Extract
1.	**Central Goods and Services Tax Rules, 2017**	**3. Intimation for composition levy**	(1) and (3)	(1) Any person who has been granted registration on a provisional basis under clause (*b*) of sub-rule (1) of Rule 24 and who opts to pay tax under Section 10, shall electronically file an intimation in Form GST CMP-01, **duly signed or verified through electronic verification code,** on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, prior to the appointed day, but not later than thirty days after the said day, or such further period as may be extended by the Commissioner in this behalf: Xxx xxx (3) Any registered person who opts to pay tax under Section 10 shall electronically file an intimation in Form GST CMP-02, **duly signed or verified through electronic verification code**, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in Form GST ITC-03 in accordance with the provisions of sub-rule (4) of Rule 44 within a period of sixty days from the commencement of the relevant financial year: Provided that any registered person who opts to pay tax under Section 10 for the Financial Year 2020-21 shall electronically file an intimation in Form GST CMP-02, **duly signed or verified through electronic verification code**, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner on or before 30th day of June, 2020 and shall furnish the statement in Form GST ITC-03 in accordance with the provisions of sub-rule (4) of Rule 44 up to the 31st day of July, 2020.
		6. Validity of composition levy	(3)	(3) The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in Form GST CMP-04, **duly signed or verified through electronic verification code**, electronically on the common portal.
		8. Application for registration	(4)	(4) Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in Part B of Form GST REG-01, **duly signed or verified through electronic verification code**, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
		10. Issue of registration certificate	(4) and (5)	(4) Every certificate of registration shall be **duly signed or verified through electronic verification code** by the proper officer under the Act. (5) Where the registration has been granted under sub-rule (5) of Rule 9, the applicant shall be communicated the registration number, and the certificate of registration under sub-rule (1), **duly signed or verified through electronic verification code**, shall be made available to him on the common portal, within a period of three days after the expiry of the period specified in sub-rule (5) of Rule 9.
		12. Grant of registration to persons required to deduct tax at source or to collect tax at source	(1)	(1) Any person required to deduct tax in accordance with the provisions of Section 51 or a person required to collect tax at source in accordance with the provisions of Section 52 shall electronically submit an application, **duly signed or verified through electronic verification code**, in Form GST REG-07 for the grant of registration through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
		13. Grant of registration to non-resident taxable person	(1) and (4)	(1) A non-resident taxable person shall electronically submit an application, along with a self-attested copy of his valid passport, for registration, **duly signed or verified through electronic verification code**, in Form GST REG-09, at least five days prior to the commencement of business at the common portal either directly or through a Facilitation Centre notified by the Commissioner: xxx (4) The application for registration made by a non-resident taxable person shall be **duly signed or verified through electronic verification code** by his authorised signatory who shall be a person resident in India having a valid Permanent Account Number.
		14. Grant of registration to a person supplying online information and database access or retrieval services from a place outside India to non-taxable online recipient or to a person supplying online money gaming from a place outside India to a person in India	(1)	(1) Any person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient or any person supplying online money gaming from a place outside India to a person in India shall electronically submit an application for registration, **duly signed or verified through electronic verification code**, in Form GST REG-10, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
		14-A Option for taxpayers having monthly output tax liability below threshold limit	(5)	(5) The registered person who intends to withdraw from the option availed under sub-rule (1), shall file an application, in FORM GST REG-32, **duly signed or verified through electronic verification code** on the common portal, either directly or through a Facilitation Centre notified by the Commissioner: xxx
		17. Assignment of Unique Identity Number to certain special entities	(1)	(1) Every person required to be granted a Unique Identity Number in accordance with the provisions of sub-section (9) of Section 25 may submit an application electronically in Form GST REG-13, **duly signed or verified through electronic verification code**, in the manner specified in Rule 8 at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
		19. Amendment of registration	(1)	(1) Where there is any change in any of the particulars furnished in the application for registration in Form GST REG-01 or Form GST REG-07 or Form GST REG-09 or Form GST REG-10 or in the intimation furnished by the composition taxpayer in FORM GST CMP-02 or for Unique Identity Number in Form GST REG-13, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, the registered person shall, within a period of fifteen days of such change, submit an application, **duly signed or verified through electronic verification code**, electronically in FORM GST REG-14, along with the documents relating to such change at the common portal, either directly or through a Facilitation Centre notified by the Commissioner: xxx
		24. Migration of persons registered under the existing law	(2)(a)	(2)(*a*) Every person who has been granted a provisional registration under sub-rule (1) shall submit an application electronically in Form GST REG−26, **duly signed or verified through electronic verification code**, along with the information and documents specified in the said application, on the common portal either directly or through a Facilitation Centre notified by the Commissioner.
		26. Method of authentication	(1), (2) and (3)	(1) All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under the provisions of these rules shall be so submitted electronically **with digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000)** or verified by any other mode of signature or verification as notified by the Board in this behalf. (2) Each document including the return furnished online **shall be signed or verified through electronic verification code**— xxx (3) **All notices, certificates and orders under the provisions of this Chapter shall be issued electronically by the proper officer or any other officer authorised to issue such notices or certificates or orders, through digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf**.
		46. Tax invoice	(q) and proviso	(*q*) **signature or digital signature of the supplier or his authorised representative**; xxx **Provided also that the signature or digital signature of the supplier or his authorised representative shall not be**

				required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000):
		49. Bill of supply	(h) and proviso	(h) **signature or digital signature of the supplier or his authorised representative**: xxx Provided also that the **signature or digital signature of the supplier or his authorised representative** shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).
		50. Receipt voucher	(k)	(*k*) **signature or digital signature of the supplier or his authorised representative**: xxx
		51. Refund voucher	(k)	(*k*) **signature or digital signature of the supplier or his authorised representative**.
		52. Payment voucher	(j)	(*j*) **signature or digital signature of the supplier or his authorised representative**.
		53. Revised tax invoice and credit or debit notes	(1)(j) and (1A)(i)	(1) A revised tax invoice referred to in Section 31 shall contain the following particulars, namely— xxx (j) **signature or digital signature of the supplier or his authorised representative**. (1A) A credit or debit note referred to in Section 34 shall contain the following particulars, namely:— xxx (i) **signature or digital signature of the supplier or his authorised representative**.
		54. Tax invoice in special cases	(1)(f), (2) and (4)	(1) An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details— xxx (f) **signature or digital signature of the Input Service Distributor or his authorised representative**: xxx (2) Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month], whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under Rule 46: **Provided that the signature or digital signature of the supplier or his authorised representative shall not be** required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000). xxx (4) Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any Form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information as mentioned under Rule 46: **Provided that the signature or digital signature of the supplier or his authorised representative shall not be** required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000). xxx
		55. Transportation of goods without issue of invoice	(1)(ix)	(1) For the purposes of— xxx the consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely— xxx (*ix*) **signature**.
		56. Maintenance of accounts by registered persons	(15)	(15) The records under the provisions of this Chapter may be maintained in electronic Form and the record so maintained **shall be authenticated by means of a digital signature**.
		83. Provisions relating to a goods and services tax practitioner	(10)(b)	(10) The goods and services tax practitioner shall— xxx (*b*) **affix his digital signature on the statements prepared by him or electronically verify using his credentials**.
		106. Form and manner of appeal to the Appellate Authority for Advance Ruling	(3)(b)	(3) The appeal referred to in sub-rule (1) or sub-rule (2), the verification contained therein and all the relevant documents accompanying such appeal **shall be signed**,— xxx (*b*) **in the case of an applicant, in the manner specified in Rule 26**.
		108. Appeal to the Appellate Authority	(2)	(2) The grounds of appeal and the Form of verification as contained in Form GST APL-01 **shall be signed in the manner specified in Rule 26**.
		110. Appeal to the Appellate Tribunal	(3)	(3) The appeal and the memorandum of cross objections **shall be signed in the manner specified in rule 26**.
		111. Application to the Appellate Tribunal	(3)	(3) The appeal and the memorandum of cross objections **shall be signed in the manner specified in rule 26**.
		114. Appeal to the High Court	(2)	(2) **The grounds of appeal and the Form of verification as contained in Form GST APL-08 shall be signed in the manner specified in Rule 26**.
		117. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day.	(1)	(1) Every registered person entitled to take credit of input tax under Section 140 shall, within ninety days of the appointed day, submit a declaration electronically in Form GST TRAN-1, **duly signed, on the common portal** specifying therein, separately, the amount of input tax credit of eligible duties and taxes, as defined in Explanation 2 to Section 140, to which he is entitled under the provisions of the said section: xxx
		139. Inspection, search and seizure	(5)	(5) The officer seizing the goods, documents, books or things shall prepare an inventory of such goods or documents or books or things containing, inter alia, description, quantity or unit, make, mark or model, where applicable, and **get it signed by the person from whom such goods or documents or books or things are seized**.

81. Wherever the rule making authority has thought it necessary to apply Rule 26, it has consciously used '<u>prescribed the manner as</u>

specified in Rule 26'. Such as under Rule 106 – 'Form and manner of appeal to the Appellate Authority for Advance Ruling' requires verification of the appeal and the relevant documents in case of an application to be signed in the manner specified in Rule 26.

82. The petitioners have referred to the Forms prescribed under Chapter XVIII. The Forms i.e., GST DRC-01, DRC-01A, DRC-02, DRC-05, DRC-07, DRC-07A, DRC-08, DRC-08A, DRC-09, DRC-10, DRC-11, DRC-12, DRC-13, DRC-14, DRC-16, DRC-17, DRC-18, DRC-19, DRC-21, DRC-22, DRC-23, DRC-25, contain, at the bottom, the Signature, Name, Designation, whereas, Forms - GST DRC-01B, DRC-01C, DRC-03, DRC-03A, DRC-06, DRC-20 and DRC-22A contain Signature of Authorised Signatory. In GST DRC-15, at the bottom, it has 'Proper Officer/Specified Officer'.

83. The procedure prescribed under Chapter XVIII i.e., issuance of Notice or demand or summary thereof electronically on the common portal does not specifically require the digital signature to be inscribed on the document.

84. Whether, on this background in the statutory rules under Chapter XVIII, inscription of signature or digital signature as contained in the Forms have to be read as mandatory in the absence of which the notice or order would be invalid or nullity?

85. The operation of the GST regime through common portal as notified by the Government in terms of Section 146 for facilitating

registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed and its functioning, is governed by the provisions of the Information Technology Act, 2000 as have been referred to in detail in the foregoing part of this discussion.

86. It is trite to say that Forms do not override legislation. This has been succinctly explained in **Vasudev Ramchandra Shelat** (supra) and referred to in the judgment rendered by the learned Division Bench of the Bombay High Court in **Apar Industries** (supra), rendered by Dr. D.Y.Chandrachud, as His Lordships then was. It is apposite to extract the exposition of law relied therein as under (paras 37 and 38):

> **Forms do not override legislation:**
>
> 37. On behalf of the Revenue reliance was sought to be placed on the provisions of the form appended to the Income Tax Rules, as it obtained prior to the amendment to Section 234B. Schedule G which deals with the statement of taxes, inter alia, provided for the computation of interest under Section 234B after adjusting tax deducted/collected at source and advance tax from the tax payable. Under the form, the tax credit to be allowed under Section 115JAA was to be reckoned after computing the interest liability under Section 234B. The form has since been amended after the amendment brought about by the insertion of substituted Explanation 1 to Section 234B. As amended the form now requires credit under Section 115JAA to be taken into account prior to computing the interest leviable under Section 234B.
>
> 38. A form provided by a rule making authority which is a delegate of the legislature cannot override a statutory provision. Forms are subservient to legislation. Forms are intended to facilitate the implementation of legislation. Forms cannot supplant legislation. The principle of law was stated in felicitous language in the judgment of the Supreme Court in **Life Insurance Corporation of India vs. Escorts Limited**[37]. The court observed as follows (page 609 of 59 Comp Cas):
>
> > "Surely, the form cannot control the Act, the Rules or the directions. As one learned judge of the Madras High Court was fond of saying 'it is the dog that wags the tail and not the tail that wags the dog'. We may add what this Court had occasion to say in Vasudev Ramchandra Shelat vs. Pranlal Jayanand Thakar [1975] 45 Comp Cas 43, 54 (SC).

[37] [1986] 59 Comp Cas 548 : (1986) 1 SCC 264

> 'The subservience of substance of a transaction to some rigidly prescribed form required to be meticulously observed, savours of archaic and outmoded jurisprudence'."

87. The forms being the subservient to legislation cannot override the statutory provision. They are intended to facilitate the implementation of legislation and cannot supplant legislation. The subservience of substance of a transaction to some rigidly prescribed form required to be meticulously observed, reflects an archaic and outmoded jurisprudence, as observed in **Vasudev Ramchandra Shelat** (supra).

88. This being the legal position, the requirement of inscription of signature in the prescribed forms cannot override or supplant the Rules, under which they are prescribed.

89. This, therefore, now takes us to the method and procedure employed by the Goods and Services Tax Network (GSTN) through which the notices or orders or summary thereof under Chapter XVIII are served electronically through the common portal.

90. Be it indicated herein that GSTN is officially authorized to operate the common portal GST Network for effective functioning of the GST regime. Its presence is not only proper but also necessary to explain the functioning of the system as per the requirements of the IT Act. However, it was not a party in any of the decided cases, as per the stand of the GSTN officials, on the question of service of unsigned documents, i.e., notices or demands or summary thereof under Chapter XVIII of the CGST Rules. It is in course of the present proceedings,

recognizing the importance of role of GSTN, at the instance of the Court, they have been made parties.

91. GSTN has, for the first time, in such a matter undertaken a live demonstration of the working of the common portal as to how orders, demands, summary thereof etc., are electronically uploaded at the end of the proper officer and received and responded through the common portal by the taxpayer. The GSTN has explained the working of Digital Signature Certificate in GST System (including technical aspect of Digital Signature) *vis-a-vis* the issuance of Notices/Orders by the officer/Proper officer, as extracted hereunder:

> **"3(A) Working of Digital Signing Certificate in GST System vis-à-vis compliance of the relevant provisions of the IT Act 2000:**
>
> **I. Onboarding of the officer to the GST System:**
> 1.An officer is onboarded to the GST System, and provided access to required statutory functions, based upon administrative directions from the respective tax administration - State or CBIC through a mandatory streamlined and pre-defined validation procedure.
> 2.After successful validation, the GST System creates a unique user ID for the officer the user ID is combination of validated first and last name of the officer and a 2-digit number. These credentials of the officer are validated against the third-party government sources like CBDT before being accepted in the GST System.
> 3.The officer is subsequently required to create a password of their choice on the GST System.
>
> **II. Composition of Digital Signature Certificate (DSC):**
> 1. A Digital Signature Certificate ('DSC' herein) is an electronic certificate issued to an individual officer (referred as "subscriber" herein) by a licensed Certifying Authority (referred as 'CA' herein) under the Information Technology Act, 2000 and the rules framed thereunder. The Class-3 DSC is a component of a Public Key Infrastructure (PKI) trust model and binds a standard verified officer's identity (Name and PAN) to a cryptographic public key through the CA's digital signature. This is in accordance with Section 3 of the IT Act.
> 2. It is submitted that the above DSC is stored and used through a hardware cryptographic token (commonly referred to as a USB "dongle"). The token is a secure cryptographic device that holds:
> (a) The certificate (including the public key and identity attributes) and;
> (b) The corresponding private key in protected storage.
> The USB dongle is protected by PIN known only to the holder of this USB dongle.

It is important to mention that the private key is designed to be non-exportable from the token. The token is unlocked for signing operations by entering a PIN/Password known only to the DSC holder; without this PIN, the device will not perform signature operations.

3.It is further submitted that the DSC includes the below details required for verification by relying parties (GST System in this context):

a. subscriber's identity attributes (Name & PAN)
b. the subscriber's public key,
c. certificate serial number,
d. the issuing CA's identity,
e. the validity period (Not Before/Not After), and
f. the CA's digital signature over the certificate. The CA's signature allows any verifier to validate that the certificate has not been altered and was issued by that CA.

It is submitted that in the GST System context, the certificate is read from the USB dongle using client-side service called "emSigner". This service is capable of working with the USB dongle using standard cryptographic interfaces, enumerates available certificates present in the token, and exposes certificate metadata (including subject identity and PAN as encoded in the certificate) for selection and validation. The GST System is able to detect the certificate and perform the signature operation subsequently.

4. It is again submitted that every such digitally signed notice/order is created using the private key contained in the USB dongle and is verifiable using the public key contained in the signed record. Further the DSC is uniquely identifiable by its serial number and issuing Certifying Authority. Any signed transaction can therefore be traced to the specific certificate used, and the verification process can demonstrate whether the signature corresponds to the certificate and whether that certificate was valid (i.e., within its validity period and not revoked) at the relevant time.

5. It is submitted that Certificate status (valid/revoked/ suspended/expired) is determined using the Certifying Authority's revocation mechanisms. GST System allows a DSC to be used only if it has not been revoked at the time of signing by the officer, thereby mitigating risks arising from lost tokens, compromised keys, or administrative revocation.

III. Public / Private Keys

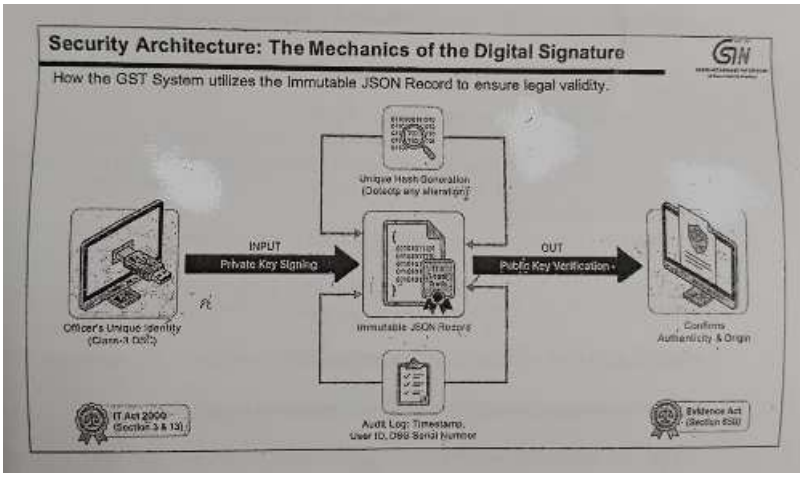
1. Each DSC is associated with a cryptographic key pair: a private key and a public key that are mathematically linked. The private key is held securely within the hardware token (USB dongle) and is intended to be used only by the subscriber (officer). The public key is embedded within the DSC and is intended to be shared for verification.

2. Further, in a digital signature operation implemented in the GST System, the officer's private key is used to sign and produce a digital signature value, including the public key, for the notice / order JSON. The private key is confined within the USB dongle. The public key from the digital signature value is used to verify the signature and confirm:

(a) integrity-whether the signed content was altered after signing, and

(b) authenticity-whether the signature corresponds to the private key paired with the public key in the certificate.

A detailed illustration containing/explaining the aforesaid process is as under:



IV. Registration of DSC

1. The officer is required to use a PAN based class-3 DSC to issue any notice/order in the GST System. For such purpose, the officer is first required to register a DSC that qualifies the below conditions:

(a) Issued by one of the valid Certifying Authorities (CA)
(b) Is based on the Name & PAN of the officer
(c) Is of class-3 category
(d) Is not revoked by the issuing authority at the time of registration

2. Accordingly, the officer is required to insert their DSC device (USB dongle) in their computer and enter PIN number known only to the DSC holder.
3. Post PIN validation the unique identity of the officer is validated with the credentials of the officer that is embedded in the USB Dongle.
4. The certificate is registered in the GST System against the officer's identity for future use in issuing notice / orders.
5. The GST System will only allow this registered certificate for this officer to issue notice/orders.

V. Login to the GST System - Authentication and Authorisation

As a pre-requisite for taking any action on the GST System, the officer/proper officer has to undergo authentication & authorisation process as described below:

(1) The authentication requires the officer to log in to the GST System by using either their physical class-3 PAN based digital signature (DSC), or password, and OTP with their unique user ID.

(2) After successful authentication of officer, the GST System also validates if the officer has been designated to discharge the statutory duty. It is submitted that it is only after successful 'authentication' and 'authorization', the officer/proper officer is enabled to issue notices/orders. More so, the officer/proper officer is required to complete the due diligence of the case and complete the details in the notified 'Form' of the required notice or order on the GST System. It is at the cost of repetition reiterated that no notice/ order can be issued without affixing the officers DSC credentials. The system will not permit such issuance of notice/order without DSC.

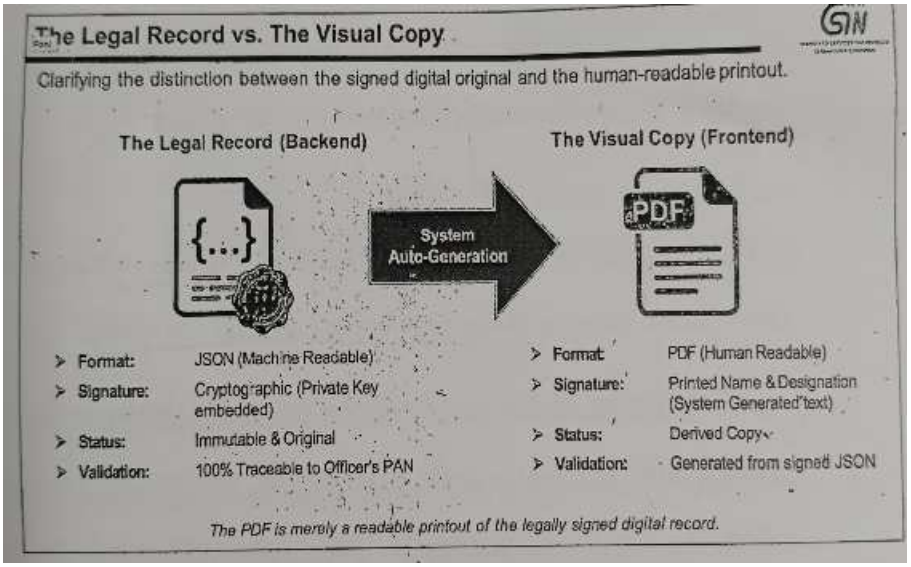
3(B). Process of Issuing Notices / Orders by the Proper Officers

1. It is submitted that the issuance of notices/ orders in the GST System by the officer/ proper officer consists of two step processes:

1. **Creation of Notices/Orders in the System:**
   (i) Once the details are completed, the officer must affix their DSC (used at the time of authentication) to finalise order issuance process in the system.
   (ii) The GST System creates an immutable digital record (JSON) of this order, creates a 'hash' and maps a unique order identifier with the DSC used by the officer. This serves as a non-repudiation mechanism as well as audit record for future references. This step completes the process of creating the notice or order in the backend system.

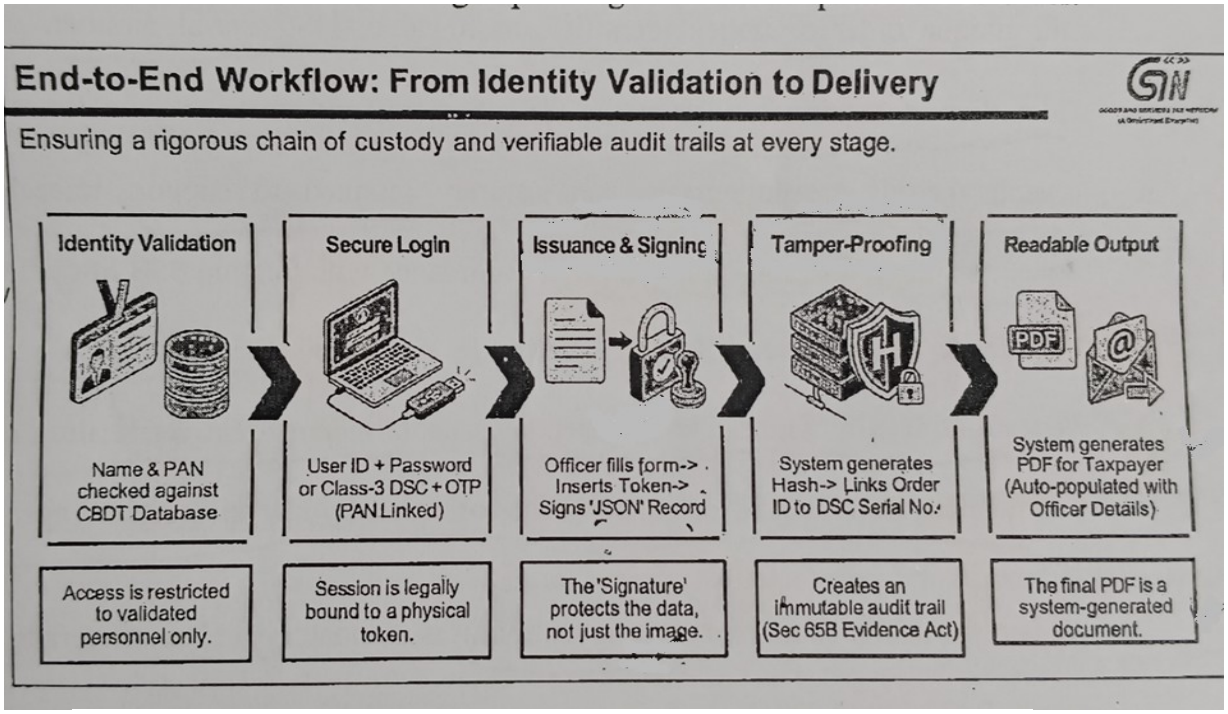
2. **Serving to taxpayer:**
   (i) The system creates a multi-channel alert for the taxpayer in form of email, SMS and a notification on the GST Common Portal.
   (ii) The system generates PDF from the digital record (JSON) of notice /order for reference of taxpayer, which the officer issued by affixing their DSC, for consumption/readability of the taxpayer.

A detailed illustration containing/explaining the aforesaid process is as under:



It is noteworthy that the PDF is generated by the system by replicating the digital notices/orders issued by the officer/proper officer as per the procedure detailed above. The traceability of the officer's digital signature (DSC) is maintained by the GST System. Furthermore, the system prints officer's name, designation and jurisdiction automatically on the PDF based on the issuing officer details. **Further, it is also important to note that a notices/order can only become available on the GST Portal if officer/proper officer issues the same by adhering to the above-mentioned process**. In other words, the availability of the notice/order on the GST System can be treated as authentic under the GST Law/rules made thereunder. Hence, it is stated that while all notices/orders issued by the proper officers on the GST System are duly signed using DSC, the PDF is generated by the system for readability of taxpayers.

A detailed illustration containing/explaining the aforesaid process is as under:



92. It is stated that when a notice or order is issued by the proper officer after affixing their DSC, the GST System generates a hash of the immutable digital record (JSON) using a secure hash algorithm. This mechanism ensures data integrity, tamper detection, and content immutability. The digital signature is applied to this hash value using the officer's private key, in accordance with the provisions of Section 3, 3-A and Section 13 of the IT Act.

93. The GSTN states that GST System maintains comprehensive audit records for all digitally signed notices and orders in their JSON format. These records include the unique order or notice identifier, hash value, DSC serial number, unique identifier of signing officer in the GST System, and creation date timestamp. Audit records are immutable

and securely retained to support, traceability, accountability, and non-repudiation. These electronic records constitute legally admissible evidence in accordance with Section 65B of the Indian Evidence Act, 1872 and Section 4 of the IT Act, and enable independent verification of the authenticity and integrity of issued notices or orders by law enforcement agencies.

94. In the above background explained by the GSTN of working of the GST system, it is to be seen whether as per requirements of the CGST Act, Chapter XV–Demands and Recovery relating to adjudication proceedings and the CGST Rules, 2017 under Chapter XVIII – Demands and Recovery, the procedure followed by the GSTN and the proper officers conform to the provisions of the IT Act. Whether the show cause notices or adjudication orders under this Chapter are electronically authenticated while uploading them on the common portal?

95. As per the elaborate discussion made in the previous paragraphs on the provisions of the IT Act, Section 3 of Chapter II of the IT Act provides for authentication of electronic records. As per Section 2(1)(p), the digital signature is a means of authentication as specified in Section 3. Whereas Section 2(1)(ta) and (tb) defines electronic signature and electronic signature certificate. Electronic signature means authentification of any electronic record by a subscriber by means of the electronic technique specified in Second Schedule and includes digital

signature. The electronic signature certificate issued under Section 35 includes digital signature certificate. Private key is defined under Section 2(1)(zc) as the key of a key pair used to create a digital signature and public key is defined in Section 2(1)(zd) as the key of a key pair used to verify a digital signature and listed in the digital signature certificate. Section 3(2) provides that the authentication of electronic record shall be effected by the use of asymmetric crypto system and hash function. The process of 'asymmetric cryptography' commences when the source using a 'private key' encrypts the message and signature with a password and sends it to the recipient. The resulting encryption is the digital signature or hash result, which is unique to each document and thus, produces a new hash result or signature with each transmission.

96. As per working of the GSTN, an officer onboards the GST system and is provided access to undertake statutory functions through a mandatory streamline and pre-defined validation procedure. After successful validation, the GST system creates a unique user ID for the officer which is a combination of first and last name of the officer and a 2-digit number. These credentials of the officer are validated against the third party government sources like CBDT before being accepted in the GST system. The Digital Signature Certificate (DSC) is an electronic certificate issued to an individual officer by a licensed Certifying Authority under the IT Act, 2000 and the Rules framed thereunder.

97. The DSC key used by the tax officers in the State of Telangana is procured from Telangana Technology Services (TGTS). It is the nodal agency for procurement of hardware, software, networking components and other IT goods and services on behalf of various government departments of the State. M/s.e-Mudra is the Certifying Authority and service provider for Digital Signature Certificates. The tax officers login into the Common Portal using their Digital Signature Certificate Key.

98. After login into the common portal, the proper officer updates necessary details like year, section, act wise tax amounts, due date to reply, grounds etc., to generate reference number for the said show cause notice/order. After uploading the attachment to the said show cause notice/order, he uses the command 'SIGN' for their DSC key by giving their private key, whereafter a message pops up in green colored font that the DSC has been properly attached and the notice reference number or order reference number has been generated. Notice or order are mailed to taxpayer and also made available on his dashboard.

99. The question is whether the electronic signature provides trustworthy proof. The Certification Authority acts as a repository of public keys and authenticates the relationship between a particular public key and its supplier. As per GSTN, the Class-3 is a component of a Public Key Infrastructure trust model and binds a standard verified officer's identity (Name and PAN) to a cryptographic public key through the Certifying Authority's digital signature. As per Section 3(2),

the authentication of electronic record shall be effected by the use of asymmetric crypto system. The Certifying Authorities Rules provides that to sign an electronic record or any other item of information, the signer shall first apply the hash function in the signer's software, the hash function shall compute a hash result of standard length which is unique for all practical purposes to the electronic record. The signer's software transforms the hash result into a digital signature using signer's private key and the resulting digital signature shall be unique to both electronic record and private key used to create it. The digital signature shall be attached to its electronic record and stored or transmitted with its electronic record. This process shows that the first step in creating a digital signature is to create a mathematical summary of the document to be signed and known as 'hash function', which is an algorithm that creates an ic representation of the original message in the form of a standard length hash value. The hash value is much smaller than the original message, but is unique to that message. The next step in creating a digital signature requires the signer of the message, to transform the message's unique hash value and original electronic message into, an electronic value by using a private key. The resulting electronic value is unique to the signer, because it is created as a combination of the original message's unique hash value and the signer's unique private key. Thus, a digital signature can be summarized as the electronically signed hash value of the signer's message created

by the signer's private key and electronically attached to the message. Once the message is electronically signed by the signer, it is transmitted to the recipient along with the signer's public key.

100. The process for authentication is prescribed under Rule 5 of the Certifying Authorities Rules, 2000. The first step in verifying a digital signature requires the recipient to apply to the received message, the same hash function used to create the original message's hash value. If the two hash values match identically, then message authentication is accomplished and the recipient is assured that the message has not been altered from its original form. The second step in verifying a digital signature requires the recipient of the message to determine whether the original message was digitally signed by the signer's private key. The recipient will know that the original message was signed by the signer's private key because the signer's public key, which was transmitted to the recipient along with the original message, will only verify a digital signature created by the signer's private key. Therefore, the digital signature is considered valid only if both the hash function and private key are verified by the recipient.

101. Certifying Authorities provide the information and surety that the person signing with the private key is he who purports to be and that no one other than the holder of the private key has written the message. It ensures integrity of the contents of the sender's message at the recipient end just as they were sent. By using the private and public keys, it is

assured that the message has not been changed or altered. Confidentiality gives surety that only the sender and receiver can understand the message. Confidentiality can only be provided with 'electronic signatures' and not with 'digital signatures'. Encryption technology allows electronic signatures to provide this service.

102. The Digital Signature Certificate is stored and used through a hardware cryptographic token, commonly referred to as a USB dongle, which holds (a) the certificate (including the public key and identity attributes) and (b) the corresponding private key in protected storage. The USB dongle is protected by PIN known only to the holder of the USB dongle. The private key is designed to be non-exportable from the token. The token is unlocked for signing operations by entering a PIN/Password known only to the DSC holder, without this PIN, the device will not perform signature operations. The DSC includes the details required for verification by relying parties – (a) subscriber's identity attributes (Name & PAN), (b) the subscriber's public key, (c) certificate serial number, (d) the issuing Certifying Authority's identity, (e) the validity period and (f) the CA's digital signature over the certificate.

103. Every such digitally signed notice/order is created using the private key contained in the USB dongle and is verifiable using the public key contained in the signed record. The DSC is uniquely identifiable by its serial number and issuing Certifying Authority. Any

signed transaction can therefore be traced to the specific certificate used. The verification process can demonstrate whether the signature corresponds to the certificate and whether that certificate was valid at the relevant time. The GST system allows a DSC to be used only if it has not been revoked at the time of signing by the officer. Each and every DSC is associated with a cryptographic key pair: a private key and a public key that are mathematically linked. The private key is held securely within the hardware token (USB dongle) and is intended to be used only by the subscriber or proper officer. The public key is embedded within the DSC and is intended to be shared for verification.

104. In the working of GST system, as noted above, the officer is required to use a PAN based Class-3 DSC to issue any notice/order through the common portal by first registering the DSC that qualifies the conditions that it is issued by a valid certificate, based on the Name and PAN of the officer, is of class-3 category and has not been revoked by the issuing authority at the time of registration. After insertion of the DSC device (USB dongle) in their computer and entering PIN number known only to the DSC holder, the identity of the officer is validated. The GST system allows this registered certificate for this officer to issue notice/order. After successful authentification of officer, the GST system validates if the officer has been designated to discharge the statutory duty. Only after successful authentification and authorization, the proper officer is enabled to issue notices/orders and complete the

details in the notified 'form' of the required notice or order on the GST system. As such, without affixing the DSC credentials of the officers as a pre-requisite for log in to the GST system, no notice or order can be issued. Once the details are completed, the officer affixes his DSC used at the time of authentification to finalise order issuance process in the system. The GST system creates an immutable digital record (JSON) of this order, creates a 'hash' and maps a unique order identifier with the DSC used by the officer. This serves as a non-repudiation mechanism as well as audit record for further references. This step completes the process of creating the notice or order in the backend system.

105. The Second Schedule under Sl. No.1 provides for procedure for electronic signature or electronic authentification technique, as referred to above. It provides that e-authentification using Aadhaar and other e-KYC services. Sl. No.2 provides for e-authentication technique. It is a procedure for creating and accessing subscriber's signature key facilitated by trusted third party, i.e., the certifying authority. The certifying authority shall issue Digital Signature Certificate based on verification of the credentials of Digital Signature Certificate applicant as per the provisions of the IT Act and the Rules made thereunder. The manner and requirement for authentification and storage of keys shall be as issued by the Controller from time to time under e-authentification guidelines, so should be the security procedure for creating the subscriber's key pair. The manner under clause (g) at Sl.No.1, in which

information is authenticated by means of digital signature should comply with the manner and standards specified in Rules 3 to 12 of the Digital Signature (End Entity) Rules, 2015 in so far as they relate to the creation, storage and verification of digital signature. It is, therefore, proper to refer to the relevant rules under the Digital Signature (End Entity) Rules, 2015.

106. Rule 3 provides for the manner of authentication of information by means of digital signature, which shall (a) be created and verified by cryptography which concerns with transforming electronic record into seemingly unintelligible forms; (b) use Public Key Cryptography, which employs an algorithm using two different but mathematical related keys; one key (called the private key) for creating a digital signature and another key (called the public key) for verifying a digital signature; (c) use an hash function for creating and verifying a digital signature which required to make digital signature generation and verification efficient.

107. As per Rule 4, the signatory shall, while signing an electronic record or any other item of information, first apply an hash function in the signatory's hardware or software. The hash function shall produce a hash result. The signatory's hardware or software shall then transform the hash result into a digital signature using signatory's private key and signature algorithm. The contextual information like date and time shall be then made part of the digital signature. Rule 5 provides for

verification mechanism for verification of digital signature. Rule 6 provides for verification of digital signature certificate. Rule 7 provides for digital signature standards applicable for different activities associated with signature functions, which include cryptographic hash function, encryption and digital signature etc. The technique and manner of authentification employed by the GSTN for onboarding of a proper officer by use of the digital signature certificate as explained in their additional counter affidavit and discussed above and examined in the light of the above provisions conform to the manner and the technique provided under the Second Schedule of the IT Act and the Digital Signature (End Entity) Rules, 2015.

108. The authentification is by creation of a hash value through a cryptographic system and use of digital signature certificate by the certifying authority. The manner of authentification of information is in accordance with Rules 3 and 4 of the End Entity Rules as explained above. The contention of the petitioner that the electronic authentification of the notices/orders does not conform to the technique and procedure prescribed under the Second Schedule of the IT Act and the End Entity Rules, therefore, does not merit acceptance.

109. Once the notice or order is created in the system, it is served to the taxpayer through a multi-channel alert in the form of email, SMS and a notification on the GST Common Portal. At this stage, the system generates PDF (Protected Document Format) from the digital record

(JSON) of notice/order for reference of taxpayer for consumption/ readability of the taxpayer. The issue raised herein is on the absence of visible digital signature on the PDF on such notice or order or summary of the notice or order issued in the prescribed Forms under Chapter XVIII of the CGST Rules. The proper officer has to fulfil the conditions prescribed under Section 3A(1) of the IT Act for an electronic authentification technique to be at par with authentification effected through a digital signature. The proper officer onboards the GST system after validation of its authenticity by using the DSC and entering the PIN/password known only to the DSC holder. Thereafter only, the officer is allowed to discharge the statutory duty and issue notices/ orders.

110. During the course of the submissions and based upon certain clarification dated 21.03.2024, digital signature on the pdf document available at the recipient end was being introduced to ensure taxpayer confidence. However, because of software issues in the State Tax Department, it appears that it could not be effectively implemented. It appears the GSTN has been working on this aspect of attending to the taxpayer's grievance in order to increase taxpayer's confidence in the working of the system. As held hereinabove, mere absence of a physical signature or digital signature on the show cause notices or orders covered under Chapter XVIII of the CGST Rules would not render it invalid or nullity in the eye of law, as they are electronically

authenticated in the manner and procedure prescribed under the IT Act and the Rules made thereunder and made available through the common portal.

111. During the course of the reply submissions, learned counsel for the petitioner, Sri Karan Talwar had also adverted to an Audit report, where the Office of the Comptroller and Auditor General of India had commented upon the functioning of the common portal and on the issue of digitally signed document. However, this Court has categorically held hereinabove that show cause notices or orders under Chapter XVIII of the CGST Rules, being electronically authenticated and made available on the common portal are in consonance with the provisions of the IT Act and the Rules. Therefore, the reliance placed on the Audit Report, would not denude the validity of such notices or orders properly authenticated in an electronic manner by the proper officers and uploaded on the common portal.

112. It is evident that the access to the common portal is permissible only to a proper officer having a DSC issued by the License Certifying Authority and protected by a PIN known only to the holder of the USB dongle. Similarly, a taxpayer who is registered under the CGST Act and is provided a user name and id can only access the system. The system is not an open platform available to be used by anyone else other than the

proper officer or subscriber in whose name the electronic signature certificate is issued, at one end and the taxpayer or the recipient at the other end.

113. The taxpayer registered under the CGST Act can only access the system through his user ID and password. Therefore, the authenticity of the electronic record transmitted to the taxpayer through its common portal cannot be doubted.

114. The verification of digital signature by the recipient as Rule 5 of the Certifying Authorities Rules by computing a new hash result of the original electronic record by means of the hash function used to create a digital signature by using the public key is not required in the working of the common portal under the GST system, where access is permissible only to a proper officer and to a registered taxpayer, who is provided a user id to access the system. The verification of digital signature in terms of Rule 5 of the Certifying Authorities Rules is intended to apply in cases such communication is made on open platform through electronic means and not in a case of this secure platform, such as common portal by the GSTN for working of the GST system in terms of the provisions of the Act and the Rules framed thereunder. The common portal is a digital public infrastructure maintained by the GSTN following all the security protocols. It is not a business to business digital infrastructure. Therefore, the procedure for verification at the recipient end as contended by the petitioners is not

required as only a registered taxpayer can access through its user id and password.

115. This electronic record is documentary evidence under Section 3 of the Indian Evidence Act, 1872 or BSA 2023. A presumption is attached to an electronic record or an electronic signature under Section 86 of the BSA, 2023 or Section 85B of the Indian Evidence Act, 1872. It provides that in any proceeding involving a secure electronic record, the Court shall presume unless contrary is proved that the secure electronic record has not been altered since the specific point of time to which the secure status relates. Similarly with the secure electronic signature, the Court shall presume unless the contrary is proved that the secure electronic signature is affixed by subscriber with the intention of signing or approving the electronic record. As per Section 87/85C of the BSA/Evidence Act, the court shall presume unless contrary is proved that the information listed in an Electronic Signature Certificate is correct. Further Section 90/88A of the aforesaid Acts accords recognition to electronic messages. It provides that the Court may presume that an electronic message forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission, but the Court shall not make any presumption as to the person by whom such message was sent. For the purposes of this section, the expressions ‘addressee’ and ‘originator’ shall have the same

meanings respectively assigned to them in clause (b) and (za) of sub-section (1) of Section 2 of the IT Act, 2000. Section 119 of the BSA/ Section 114 of Evidence Act, provides that the Court may presume the judicial and official acts have been regularly performed.

116. Therefore, in the light of the working of the GST system as explained above in the light of the provisions of the IT Act, 2000 and the manner of electronic authentication of notices/orders issued under Chapter XVIII of the CGST Rules do lead to the irresistible conclusion that the contention of the petitioners that these notices/orders are not digitally signed does not merit acceptance. Presence of digital signatures is not a requirement on the documents covered under Chapter XVIII of the CGST Rules. The State has taken a stand that in none of the pleadings of the writ petitions, the petitioners have made any allegation that proper officer has not issued the show cause notice/orders. Therefore, in the absence of pleadings such a plea cannot be entertained in the eye of law. The petitioners' plea that 'signature' in the forms prescribed under Chapter XVIII of the Rules is a mandatory requirement is not the correct understanding of the legal position.

117. Forms are subservient to the rules and cannot supplant the rules. The ratio rendered in **Vasudev Ramchandra Shelat** (supra), followed by the Bombay High Court in **Apar Industries** (supra), has been referred to in the foregoing part of this judgment.

118. The petitioners have failed to rebut the presumption attached to the electronic record created in discharge of official function by any pleading or proof to that effect. The case of the petitioners based upon the contention that the PDF format does not contain the visible digital signature of the proper officer is untenable in law. These notices/orders are served upon the taxpayer by way of electronic authentication through the Common Portal. The admission of the State Tax Authorities in some cases that the notices/orders did not bear the digital signature may be on account of the ignorance of the working of the GST system. Wherever the legislature and the rule making authority have deemed it proper for issuance of any such document or order in any other form, the same has been duly prescribed under different Chapters. A tabular chart of the Rules under different chapters and the documents/notices/orders to be issued thereunder have been furnished hereinbefore which goes to show as to how the rule making authority has consciously provided for different modes of authentification under different Chapters of the Rules. Therefore, when Chapter XVIII of the CGST Rules provides for issuance of notices/orders by electronic authentification through the Common Portal, the requirement of a visible digital signature cannot be read or imported into it. They cannot be treated as invalid or nullity in the eye of law as they do not contain a digital signature. In none of the earlier proceedings in the decided cases, the working of the GST system was explained and demonstrated as GSTN was not a party. For a proper

understanding of the working of the GST system the presence of GSTN was therefore felt absolutely necessary. The elaborate working of the GST system as explained above was not placed before the learned Division Benches which rendered the decisions earlier such as **Silver Oak Villas LLP** (supra), **Sahithi Marketers** (supra) and **Bigleap** (supra). The notices/orders issued under Chapter XVIII of the CGST Rules are required to be electronically authenticated in the manner prescribed. Absence of a digital signature on the pdf version in the Forms such as DRC-01, DRC-01A, DRC 07 as contended by the petitioners would not render them invalid or nullity in the eye of law. Therefore, the contention of the petitioners that DRC-01 and DRC-07 not being mere summaries must also be signed cannot be accepted, if they are electronically authenticated by the proper officer after onboarding the system by using digital signature certificate issued by the certifying authority.

119. Under the scheme of the CGST Act, the common portal is a designated computer resource for both department as well as taxable person. Section 2(1)(ze) defines secure system, which means computer hardware, software and procedure that (a) are reasonably secure from unauthorized access and misuse; (b) provide a reasonable level or reliability and correct operation; (c) reasonably suited to performing the intended functions and (d) adhere to generally accepted security procedures. The common portal notified under Section 146 of the CGST

Act fulfils all these ingredients and can be termed as a secure system which is secure from unauthorized access and misuse and provides reasonable level of reliability and correct operation and are performing the intended functions of the GST system. GSTN has in its affidavit also assured that it adheres to the accepted security procedures. The Information Technology (Security Procedure) Rules, 2004 provides for the mechanism by which electronic record shall be deemed to be a secure electronic record for the purposes of the Act if it has been authenticated by means of a secure digital signature. The manner and procedure for creation of the secure electronic record by use of a secure digital signature as shown by the GSTN through the live demonstration and the averments made in their counter affidavits appear to be in conformity with Security Procedure Rules, 2004.

120. The taxable person is given a unique login ID and password to enable them to have access to the portal. No person other than the taxable person, in whose name GST registration has been granted, can access the common portal. It is the exclusive platform for functioning of the GST regime operated by the GST Network notified by the Central Government on the recommendation of the GST Council.

<u>On service of Show Cause Notice/order</u>:

121. The petitioners have not assailed the provisions of Section 169 of the CGST Act which provides for service of notice in certain

circumstances. Section 169 provides for service of decision, order, summons, notice or other communication under the Act or the Rules thereunder by anyone method prescribed under sub-clauses (a) to (f) of sub-section (1) thereof, which are to be disjunctively read in view of the expression 'or' used after each of these clauses. Under Section 169(1)(d), uploading of the show cause notice or order under Chapter XVIII of the CGST Rules on the common portal, amounts to service of notice or order. The date on which the order is uploaded in the common portal is the date the communication is received in terms of Section 13(2)(i) of the IT Act. In terms of Section 13 of the IT Act, if the addressee, i.e., the taxable person had designated a computer resource for the purpose of receiving electronic records i.e., common portal, receipt occurs at the time when the electronic record enters the designated computer resource. It is not shown by the petitioners that any other computer resource is designated for service of the show cause notice/order other than the Common Portal. In case, the electronic record is sent to a computer resource other than the designated computer resource, receipt occurs when the electronic record is retrieved by the addressee. The contention of the petitioners that the term 'designated' used in Section 13(2) of the IT Act, as compared to 'information system' used in Article 15(2) of the UNICTRAL Model Law on Electronic Commerce, has the same meaning, does not merit acceptance. In support of this submission, the petitioners have referred to Section 144B of the

Income Tax Act to contend that no such parallel provisions exist in the CGST Act or the CGST Rules. Therefore, the period of limitation would commence only when the notices/orders were actually retrieved from the GST Portal as opposed to the date of upload. Such an argument does not fit in the statutory scheme and the architecture created under the CGST Act for service of notice or order through the common portal by means of electronic authentication and on being made available on the common portal. The legislature has consciously provided for the mode and manner of service of notice or order under the GST regime, which cannot be questioned by drawing analogy from the different statutory mechanism provided under other Act such as under Section 144B of the Income Tax Act or Section 153 of the Customs Act. In our opinion, the decision of the Allahabad High Court in **M/s.Bambino Agro Industries** (supra) that making of a document available on common portal does not amount to tendering of the document is not the correction interpretation of the statutory regime for service of notice in terms of Section 169(1)(d) of the CGST Act read with the provisions of Section 13(2) of the IT Act. The Legislature has consciously used the word 'service under sub-section (1)(d) by making such notices/orders available on the common portal, which is distinct from the expression 'tendering' used in the same sub-section (1)(a) or sub-section (2). Once it has been held that the show cause notice or order has been electronically authenticated and uploaded on the common portal it cannot be treated as invalid or nullity

in the eye of law. Such assessment, re-assessment or adjudication proceedings cannot be invalidated or deemed to be invalid by reason of the alleged defect or omission of the visible digital signature on the Forms prescribed. They, in substance, would be in conformity with the intent, purpose and requirement of CGST Act as provided under Section 160 of the CGST Act. Moreover, if such notice or communication has been acted upon by the person to whom it is issued or has not been called in question or the earlier proceedings, which have commenced and finalized pursuant thereto, it is not open for the taxable person or the petitioners to question the service of such notice or order of communication in terms of Section 160(2) of the CGST Act. It has been indicated in the foregoing paragraphs that under Chapter XVIII, Demands and Recovery of the CGST Rules, the Legislature has made conscious provision for service of notice or order through post where the proper officer has to physically sign it, such as under Rules 145, 146, 147, 151 to 156 of the CGST Rules. The reference to Rule 26 under Chapter III, Registration, to contend that such notice, certificate or order issued under Chapter XVIII, Demands and Recovery is required to be issued electronically through digital signature certificate is misconceived. The mode of authentication under Rule 26(3) refers to issuance of notice, summons or order under the provisions of that Chapter III, i.e., Registration, which is distinct and different from the Rules prescribed under Chapter XVIII, Demands and Recovery, which

require issuance of notice or order by means of electronic authentication through the common portal. There has been divergence of views on the applicability of Rule 26(3) of the CGST Rules on the notice or order issued under Chapter XVIII relating to demands and recovery between the learned Division Benches of this Court in **M/s.Silver Oak Villas LLP** (supra) and **M/s.Bigleap Technologies** (supra) (para 28). Such divergence of views by co-equal Benches of this Court, therefore, necessitated an authoritative pronouncement by a Larger Bench of this Court. The learned Division Bench, therefore, referred the matter to Larger Bench instead of taking any contrary view on the subject matter.

122. The working of the GST regime and the manner of issuance in service of notices or orders, in particular under Chapter XVIII, Demands and Recovery, has been extensively demonstrated by the GSTN during the proceedings of these cases. The live demonstration made by the GSTN indicating the step by step method of onboarding of the officer to the GST system through digital signature certificate and use of public and private keys for authentication and authorization while login to the GST system for issuance of notices or orders by the proper officer and service to taxable person through multi-channel alert in the form of email, SMS and a notification on the GST common portal leave no room of doubt that not only does the mechanism ensure data integrity, tamper detection and content immutability by use of asymmetric cryptographic method by creation of hash value but also shows that the notices or

orders could not be uploaded on the common portal by any unauthorized person other than the proper officer. There is a presumption of regularity of such official acts and creation of electronic records attached under the Indian Evidence Act, 1872 and the Bharatiya Sakshya Adhiniyam, 2023. These electronic records constitute legally admissible evidence in terms of Section 65B of the Indian Evidence Act and Section 4 of the IT Act and enable independent verification of the authenticity and integrity of issuance of notices or orders by the proper officers. The petitioners have failed to rebut the presumption. Only in a case where a demonstrable abuse of the mechanism is made out by the aggrieved taxable person, can the regularity of such proceedings be questioned and examined by the court of law. Mere unsubstantiated allegation, therefore, could not displace the rebuttable presumption attached to such official acts.

123. The petitioners have also taken a plea that there is no delay in approaching the court. The decision in **Glaxo Smith Kline Consumer Health Care Limited** (supra) is not a bar to the relief prayed for. This submission is based upon the contention that the impugned notice and order were uploaded on the GST portal and no other mode of service was adopted. If the show cause notices or orders are unsigned, they are *non est* in the eye of law and the entire proceedings is without jurisdiction. Even in cases where the appellate authority has rejected the appeal on grounds of delay, the principle of merger would not apply in such circumstances. However, as held hereinabove, the service of notice

or order by way of electronic authentification of the proper officer through the common portal meets the requirement of the provisions of the CGST Act in such adjudication proceedings, read with the Rules under Chapter XVIII 'Demands and Recovery'. The notices or orders cannot be held to be invalid or nullity in the eye of law. Therefore the bar of limitation for approaching the writ court as held in the case of **Glaxo Smith Kline Consumer Health Care Limited** (supra) would be attracted. The contention of the petitioners does not merit acceptance.

124. Revenue has also contended that the purpose of Rule 142(1A) of the CGST Rules is to put the taxpayer to notice so that he can pay the tax upon upon show cause notice being issued. The learned Division Bench of this Court in **M/s.Goldstone Infra** (supra) has held that the decision rendered by the Andhra Pradesh High Court in **M/s.New Morning Star Travels** (supra) has been rendered *sub silentio* as it has not taken into consider the 'prejudice' test i.e., as to whether the non-issuance of such intimation led to any prejudice in the facts and circumstances of the case. Since this issue involves alleged violation of principles of natural justice, the validity of such order has to be decided on the touchstone of 'prejudice'. The unamended Rule 142(1A) of the CGST Rules used the expression 'shall' which was amended with effect from 15.10.2020 with the word 'may'. The expression 'shall' under the unamended provision did not refer to any mandatory consequences which would arise in the case of non-service of intimation in DRC-01A

prior to the issuance of the show cause notice. In the absence of such consequences arising of non-compliance thereof, each case has to be decided on the test of 'prejudice' caused to the taxpayer on non-service of the intimation in Form GST DRC-01A. Therefore, the interpretation on the Rule 142(1A), before and after amendment, having been rendered by the learned Division Bench holding the field, the said contention does not require to be answered in the present reference.

125. The petitioners have additionally raised some other grounds in some of the writ petitions *inter alia* (i) that the impugned order does not quote the Document Identification Number (DIN) and as such, cannot be relied upon; and (ii) that the circulars dated 05.11.2019 and 23.12.2019 issued by CBIC requiring DIN on such documents were adopted by the Government of Telangana as per Circular dated 04.11.2019. The circulars are binding on the Revenue as per Section 168 of the CGST Act. It is also stated that CBIC has issued a circular on 09.06.2025, wherein it has been stated that wherever RFN is shown on the document available on the common portal, DIN is not required. The said circular operates prospectively. Therefore, the orders issued prior thereto ought to have reflected the DIN otherwise it cannot be relied upon. It is no doubt true that the impugned orders should quote the DIN or the RFN in the absence of which it cannot be relied upon. The circular issued by the CBIC and adopted by the Government of Telangana in this regard are binding on the Revenue as per Section 168 of the CGST Act. Therefore,

such impugned orders which do not quote the DIN number or RFN number are not fit to be relied upon. It is necessary to extract the Circular as under:

Circular No.249/06/2025-GST

F. No. GST/INV/DIN-Utility/2022-23
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes and Customs)

New Delhi, Dated 09-06-2025.

Subject: Generation and quoting of Document Identification Number (DIN) Number (DIN) on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons – reg.

Attention is invited to Board's Circular No. 122/41/2019- GST dated 05th November 2019 and 128/47/2019-GST dated 23.12.2019, which were issued for implementation of decision regarding Generation and Quoting of Document Identification Number (DIN), initially on specified documents and subsequently expanded to all communications (including e-mails) sent to taxpayers and other concerned persons by any office of CBIC. This was done with a view to leverage technology for greater accountability and transparency in communications with the trade/ taxpayers/ other concerned persons.

2. It has been brought to the notice of the Board that the documents and summary generated through the common portal of GST always bear a Reference No. (RFN), which is verifiable through the portal (at https:// services.gst.gov.in/services/verifyRfn). On verification, the portal provides details of the document such as Date of RFN generation, Date of issuing the Document, Module, Type of Communication and Name of the Office issuing the Document.

3. Reference, in this regard, is also invited to Section 169(1)(d) of the CGST Act, 2017, which provides that any decision, order, summons, notice or other communication shall be served by making it available on the common portal. Further vide Instruction No. 4/2023-ST dated 23.11.2023, CBIC emphasised on strict compliance of rule 142 of CGST Rules and directed to ensure that summary of Show Cause Notices in Form GST DRC-01 and summary of the Order-in-Original in Form GST DRC-07 should be served electronically on common portal / uploaded electronically on the common portal.

4. In light of the above, quoting DIN on such communications generated through the common portal of GST, which already bear RFN, results into two different electronically generated verifiable unique numbers namely RFN & DIN on the same communication, which renders quoting of DIN on such communication unnecessarily.

5. It is therefore clarified that for communications via common portal (in compliance with Section 169 of the CGST Act, 2017) having verifiable Reference Number (RFN), quoting of Document Identification Number (DIN) is not required and such communication bearing RFN is to be treated as a valid communication.

6. To the above extent, Circular No.122/41/2019-GST dated 05th November 2019 and 128/47/2019-GST dated 23.12.2019 issued by the Board, stands modified.

Digitally signed by
Dr. Abhishek Chandra Gupta
Date: 09-06-2025
E mail - gstinv-cbic@gov.in

To,
All Pr. Chief Commissioners/Chief Commissioners, CGST Zones/ CGST & Customs Zones,
All Principal Directors General/Directors General under CBIC.
DDM for incorporating appropriate information/link for taxpayers for verification of documents containing RFN, at DIN verification portal.
The webmaster, CBIC for uploading on official website.

126. The contention of the petitioners that the circular dated 09.06.2025 operates prospectively only is not made out from a reading of the said circular. It only says that wherever RFN is shown on the document available on the common portal, DIN is not required. The document should reflect either the DIN number or RFN number. In the absence of either of them, the order would not be a valid order in the eye of law.

127. RFN is a valid authentification mechanism for communications on or through the portal as clarified by the GSTN through the Circular dated 09.06.2025. RFN is a distinct number to a document which can be duly verified by the taxpayer through the procedure prescribed on the common portal. This has been adequately shown in the live demonstration performed by GSTN during the proceedings of these cases.

128. In the individual writ petitions, either RFN or DIN is quoted in show cause notice, summary of the show cause notice, attachment to the show cause notice, order, summary of the order or the attachment to

order. Therefore, the impugned orders in the respective writ petitions cannot be held to be invalid on that ground.

129. In W.P.No.22326 of 2025 and other connected cases, learned counsel Sri P.Venkat Prasad has taken a plea that in the counter affidavit filed earlier in W.P.No.21072 of 2024 decided on 22.04.2024 by the Commissioner of Central Taxes and Customs, Central Excise & Service Tax, Medchal GST Commissionerate, Hyderabad, whereas the counter affidavit in W.P.No.10295 of 2025 was filed by the Deputy Commissioner of Central Taxes and Customs, Central Excise & Service Tax, Medchal GST Commissionerate, Hyderabad. The averments advanced by the GSTN in its counter affidavit have inconsistencies with the earlier statements made in its prior counter affidavit. Such contradictory pleadings materially impair the credibility of the respondents' case and render the contentions raised by the GSTN now inherently unreliable.

130. This contention of the petitioner is rebutted by learned counsel for the GSTN Sri Dominic Fernandes by submitting that the said affidavit was not filed by the GSTN, but by their backend office., i.e. Automation of Central Excise and Service Tax (ACES). As such, the petitioners cannot draw any mileage by trying to point out a contradiction in the stand filed in the affidavit in **Water Tech Engineers** (supra) with the stand of GSTN filed in the present proceedings. In this regard, it is pertinent to note that in **Water Tech**

Engineers (supra), the GSTN was not a party, whereas in the present batch of writ petitions, GSTN has been impleaded as a party by order of this Court. It has, for the first time, appeared in such proceedings before this Court and filed counter affidavit. Therefore, the contention of the petitioners cannot be accepted and used to deny the GSTN to take an informed stand on the working of the GST system on the issues involved in these cases.

131. The petitioners have also questioned the validity of invocation of jurisdiction under Section 73 of the CGST Act when proceedings under Section 61 had already been initiated and explanation had also been provided by the petitioners by relying upon the case of **Goverdhandham Estate Private Limited** (supra). Since this reference is on the question of unsigned document i.e., notices or orders under Chapter XVIII of the CGST Rules, this Court is of the considered view that there is no necessity to render any opinion on the issue by this Bench. It is left open for the petitioners to raise it in an appropriate proceeding before the appropriate forum/court of law.

132. Another contention has been raised by the petitioner that the procedure prescribed under Section 65 of the CGST Act has not been followed before initiating proceedings under Section 73 or 74 of the CGST Act. He relies on **Adani Power Limited** (supra) (paras 23 to 25). He has also placed reliance on circular dated 09.02.2018 issued by CBIC which requires a designated officer only to initiate proceedings above

the value of Rs.2.00 crores, since the Government of Telangana has followed the circular of CBIC by its circular dated 04.11.2019. The impugned proceedings will be hit by lack of jurisdiction on the part of the proper officer.

133. This Court is of the considered view that the plea of non-compliance of the procedure prescribed under Section 65 of the CGST Act is open to be agitated in an appropriate proceeding before the appropriate forum as this reference is confined to answer on the issue of unsigned documents.

134. An argument has also been raised by Sri K.P.Amarnath Reddy, learned counsel appearing in W.P.No.19120 of 2025, that the Assistant Commissioner, respondent No.1 has accepted issuance of multiple notices without application of mind simply upon forwarding of the email by the Commercial Taxes Commissioner and Joint Commissioner and further to the Assistant Commissioner on the format prepared by the Indian Institute of Technology, Madras. It is the statement of the respondent No.1, Assistant Commissioner which creates doubt as to manner and method employed in uploading such notices within a short time without application of mind. In our view, contention on possible misuse of the powers of the proper officers is open to be raised before the appropriate forum/court where it can be examined on facts. It, therefore, is not required to be dealt with in the present reference.

135. Ms. Y.Siri Reddy, learned counsel for the petitioner in W.P.No.20397 of 2025 has taken a plea that the show cause notice was not properly served as it was uploaded on the Additional Notices tab before the clarification Note on the GST portal. She has relied upon the decision of **M/s.Ramanattu Motor Corporation** (supra) where such order uploaded in the Additional Notices tab was set aside and the matter was remanded. The respondent State has in its reply stated that the GST Portal has clarified it in the 16.01.2024 by appending a 'Note' under the heading 'Additional Notices' in the GST Portal, which is as under:

> "Note:
> 1. Following Notices/Orders issued by tax authorities are available under "Notices and Orders".
>   - Notices/Orders/Intimations pertaining to registration including new registration, amendment, cancellation, revocation and other communications.
>   - Notices issued by System to return defaulters in Form GSTR-3A.
>   - Notices pertaining to Return module comprising GST DRC-01B and GST DRC-01C.
>   - Summary of assessment orders issued in Form GST DRC-07 where notices and other proceedings were held offline.
>
> 2. Following Notices/Orders issued by tax authorities are available under "Additional Notices and Orders".
>   Notices/Orders pertaining modules Advance Ruling, Appeal, Assessment/Adjudication, Audit, Enforcement, Prosecution and Compounding, Recovery, LUT etc.
>
> 3. Notices/Orders pertaining to Refund module will be shown under case details page of respective ARN of refund. Please navigate to 'Services User Services My application' and select ARN under Application Type as 'REFUNDS'."

136. Relying upon the same judgment of **Ramanattu Motor Corporation** (supra), learned counsel for the State has submitted that uploading of notices and orders in Additional Notices tab of GST Portal

is valid service in view of the Note appended to the GST Portal. Further, the moment the notices and orders are uploaded in the GST Portal, automatically the same are also sent to the registered email of the concerned assessee/dealer. As such, their contention that the assessee/dealer could not see Additional Notices tab and also not received the notice or order is untenable. Similarly, in the case of **Karlon Retail Limited vs. Sales Tax Officer**[38] at paragraphs 9 and 10, it has been held that the contention that the Additional Notices tab in the GST Portal is not visible and accessible to the assessee has been negatived. Similar view has been taken in **Chirag Garg vs. Commissioner of State Tax, Delhi GST**[39] and in **HM Traders vs. Goods and Services Tax Officer**[40].

137. It appears from the perusal of the decisions in **Ramanattu Motor Corporation** (supra), **Chirag Garg** (supra) and **HM Traders** (supra), that a consistent view on the show cause notices uploaded on the Additional Notices tab, prior to changes made to the GST portal on 16.01.2024 when Additional Notices tab was visible therein. The petitioners could not notice it on account of lack of clarity whether the notices of adjudication or determination would be posted in the Additional Notices tab. In the case of **Ramanattu Motor Corporation** (supra) and **HM Traders** (supra), the matter was remanded to the

[38] 2025 (34) Centax 442 (del)
[39] 2025 (31) Centax 224 (Del)
[40] 2025 (31) Centax 158 (Del)

authorities. The learned Court in **Ramanattu Motor Corporation** (supra) and **Chirag Garg** (supra) was also of the opinion that the plea of notice in 'Additional Notices Tab' would not be tenable in cases where the show cause notice or order is subsequent to 16.01.2024.

138. Since the reference is confined to the issue of unsigned documents and there is no apparent conflict of views on the instant issue of service of notice on Additional Notices and Orders tab, prior to the Note inserted in the GST portal on 16.01.2024, it would be open for the petitioners in matters where such show cause notices or orders were uploaded on the Additional Notices and Orders tab, prior to 16.01.2024, to raise it in an appropriate proceeding before the appellate forum/court of law.

139. This Court is of the view that when the GST Portal contains a Note which clearly indicates that following notices/orders issued by the tax authorities are available under 'Additional Notices or Orders' i.e., notices or orders pertaining modules of Advance Ruling, Appeal, Assessment/Adjudication, Audit, Enforcement, Prosecution and Compounding, Recovery, LUT etc, the plea that the show cause notice issued after 16.01.2024 was not properly served is not tenable in law. In terms of Section 169(1)(d) of the Act, service of notice or order is complete on making it available on the common portal. If the common portal itself indicates by way of a note that such notices/orders are available under the additional notices and orders tab, the taxpayer cannot

feign ignorance of service of such notice or order through the common portal.

140. Sri G.Venkateswarlu appearing in W.P.No.22806 of 2025 has taken a plea that the Information Technology Act does not have an overriding effect over the provisions of the CGST Act as per Section 81 thereof. Therefore, the summary of the show cause notice in DRC-01 and summary of order in DRC-07 which do not show any visible digital signature are not inconsonance with the provisions of the CGST Act and the Rules framed thereunder including Rule 26(3) of the CGST Rules. This contention has been dealt with in depth while answering the issue of unsigned documents, i.e., those notices/orders under Chapter XVIII, Demands and Recovery of CGST Rules, which have been electronically authenticated and made available through the common portal. Therefore, this contention does not hold good any more.

141. Learned counsel Sri Venkateswarlu has also taken a plea in W.P.No.24349 of 2025 that the penalty under Section 122 of the CGST Act has not been imposed by a proper officer as per circular dated 27.10.2025 issued by the CBIC. Such a plea is open to be raised before the appropriate forum/court and is not required to be answered by this Bench in this reference.

142. In the background of the detailed discussion and analysis made hereinabove, on the issue of unsigned show cause notices/orders, the judgments relied upon by the petitioners are dealt with hereinafter.

The Judgments relied upon by the petitioners:

143. A perusal of the decision in **Silver Oak Villas LLP** (supra) would show that the department had admitted that the document is neither physically nor digitally signed. The learned Division Bench referred to the decisions including **Ramani Suchit Malushte vs. Union of India**[41] (supra) and came to the conclusion that Rule 26(3) of the CGST Rules is applicable to orders under Section 73 of 74 of the CGST Act. **Ramani Suchit Malushte** (supra) was pertaining to cancellation of GST registration covered under Chapter III of the CGST Rules. Therefore, Rule 26(3) was applied. However, in **Bigleap Technologies** (supra), another coordinate Division Bench of this Court held that "the unsigned documents under Section 73 or 74 of the CGST Act under the substantive provisions of Demands and Recovery will not be hit by Rule 26(3) of the CGST Rules. It held that the contrary view taken by the Court about DRC-07 having no signature without considering the above Rule and prescribed Form must be held to be *per incuriam*. As such, there were conflicting views on the application of Rule 26(3) between the two Division Benches in the aforesaid decisions.

144. In the case of **M/s.Sahithi Marketers** (supra), the same coordinate Division Bench which decided the **Bigleap Technologies** (supra) proceeded to hold that DRC-07 is only a summary of order and

[41] [2023] 112 GSTR 149 (Bom)

even if it does not contain any signature, it will not cause any prejudice to the petitioner.

145. In **Bigleap Technologies** (supra) decided on 28.02.2025, however had taken a view relying upon the decisions of **Baru Ram** (supra) and **Anjum M.H.Ghaswala** (supra) that if the law prescribes a thing to be done in a particular manner, the same must be done in the same manner and other methods are forbidden. Therefore, in order to translate Demands and recovery into reality, the Rules were introduced and the Rules are pregnant with statutory Forms for effectively exercising the power, which require a signature.

146. In batch of writ petitions led by **Bigleap Technologies** (supra), the petitioners had challenged the legality, validity and propriety to the show cause notices and final orders on the ground of being unsigned. The learned Division Bench of this Court recorded that although the impugned show cause notices and final orders were placed on the portal, they do not contain physical or digital signatures of the proper officer, as fairly admitted by the learned Special Government Pleader for State Tax. In the light of this undisputed factual position, **Bigleap Technologies** (supra) proceeded to hold that **M/s.Silver Oak Villas LLP** (supra) based on a Bombay High Court decision in **Ramani Suchit Malushite** (supra), which dealt with registration and not on demands and recovery under Chapter XVIII of the CGST Rules as *per incuriam*. In the said case, since GSTN was not a party, the working of the GST

regime through the common portal could not be extensively demonstrated and explained, like in the present batch of cases under reference. In **Bigleap Technologies** (supra), the learned Division Bench proceeded on an impression that if the digital signature was not visible in the form prescribed under the Rules, they have to be held invalid and cannot get immunity in terms of Section 160 of the Act in view of the judgment rendered in **M.M.Rubber** (supra) and **Kilasho Devi** (supra). This aspect of the matter has been dealt with in detail while discussing on the issue of unsigned documents in the earlier part of this judgment. In **Bigleap Technologies** (supra), the learned Court proceeded on an understanding that the Forms are mandatory in nature in view of the expression 'shall' used in every sub-rule of Rule 142 of the CGST Rules. However, as held hereinabove Forms are only subservient to the Rules and cannot supplant them as per the ration in **Apar Industries** (supra).

147. The manner and procedure of electronic authentification of notices and orders through the common portal by the proper officer under Chapter XVIII of the CGST Rules has been held to be a valid means of authentification of electronic record which fulfils the ingredients of Section 3, 3A and 5 of the IT Act. The advisory of the GSTN dated 25.09.2024 was placed before the learned Division Bench in **Bigleap Technologies** (supra), which held that the existence of signature is a statutory requirement in the Forms. In the said

proceedings, the respondents/State Tax Officials had taken a plea that the signature of the officer who passed the order should be there. Though the learned Court referred to Sections 3 and 5 under Chapter II of the IT Act, which deal with digital signature and electronic signature, but it proceeded on the basis that the statutory forms prescribed under the CGST Act and the CGST Rules and Section 3 of the IT Act make it obligatory for the proper officer to put his signature. However, this view is not correct as every such document i.e., notice or order under Chapter XVIII of the CGST Rules are electronically authenticated as per the requirement of Sections 3, 3A and 5 of the IT Act explained in detail in the earlier part of this judgment. Therefore, absence of digital signature on the Forms would not render them invalid. Section 5 of the IT Act provides for legal recognition of electronic signatures and further explains that the terms 'signed' and 'signature' would with its grammatical variations and cognate expressions 'shall' be construed accordingly.

148. The learned Advocate General and the learned Additional Solicitor General of India, both have relied upon the recent decision of the Gujarat High Court judgments in **M/s.Vishwa Enterprise** (supra) and **Radhe Enterprise** (supra) and the Delhi High Court judgment in **M/s.Swarn Cosmetics (India)** (supra), which have held that the show cause notices/orders are uploaded through the GST portal only through the digital key of the officer. The contention that they were not signed

either digitally or physically, was not acceptable. Here also, the petitioners have not brought on record anything to show that these documents have not been obtained from the common portal or from some other source.

149. The contention of the petitioners that uploading of notices/orders on the Common Portal cannot be construed as service, as the taxpayer is not expected to keep on looking at the portal every time does not appeal to reason. The reason being that various provisions of the CGST Act, such as furnishing of returns under Chapter IX, claims of refund under Chapter XI, filing of self-assessment returns under Chapter XII, scrutiny of returns and audit proceedings under Chapter XIII, all require the taxpayer to be diligent and vigilant. Otherwise the taxpayer is liable to face the legal consequences arising thereof, including levy of interest and penalty. A legal duty is therefore cast upon the taxpayer to make these compliances through the Common Portal by exercise of due diligence.

150. Petitioners have also relied upon the cases of **M.M.Rubber** (supra), **Kilasho Devi Burman** (supra) and **Keshab Chandra Mandal** (supra) and referred to in **Bigleap Technologies** (supra) also, on the proposition that an unsigned assessment order lacks legal validity. The contention of the petitioners proceeds on the premise that the relevant notice or order under Chapter XVIII, Demands and Recovery, were invalid in the absence of a digital signature or a physical signature as per

the prescribed Forms. However, in the light of the view expressed by this Court in the present reference, such a plea pales into insignificance as notices or orders covered under Chapter XVIII of the CGST Rules are required to be electronically authenticated through the common portal. Such electronic form is undertaken only by affixation of the digital signature certificate using the private key by the proper officer after onboarding the portal, proper authentification and authorisation. Such notices or orders made available on the common portal through the electronic authentication have the legal recognition as per Section 5 of the IT Act. Therefore, the contention of the petitioners that these documents are invalid in the absence of a visible digital signature or physical signature does not hold good in the eye of law.

151. The decision of **Union of India vs. Harish Chandra Goswami**[42] relied upon by the petitioners does not further the plea raised by the petitioners on the same issue.

152. The petitioners have also placed reliance upon the case of **M/s.ASP Traders** (supra) on the question of service of notice in terms of Section 169(1)(d) of the CGST Act and the expression 'tendered' used in Section 169(2) of the Act. Reference is also made to Section 153(2) of the Customs Act, wherein it expressly provides that the date of upload shall be treated as the date of service, which is not specified under Section 169 of the CGST Act. This issue has also been answered

[42] (1999) 4 SCC 575

in the foregoing paragraphs by this Court by referring to Section 13(2) of the Information Tax Act. Therefore, the petitioners cannot draw any assistance from the said decisions.

153. The plea raised by the petitioners on availability of statutory appellate remedy and expiry of limitation prescribed under the taxing statutes, in view of the decision rendered in **Glaxo Smith Kline Consumer Health Care Limited** (supra) while entertaining the writ petitions under Article 226 of the Constitution of India having adequately been dealt with in the foregoing paragraphs need no repetition.

Conclusion:

154. As an upshot of the detailed analysis and discussion made hereinabove, after dealing with the provisions of the CGST Act, CGST Rules, particularly Chapter XVIII of the CGST Rules, the provisions of the Information Technology Act read with Second Schedule, Certifying Authorities Rules and End Entity Rules, the decisions relied upon by learned counsel for the parties and the manner and procedure by which the show cause notices and orders under Chapter XVIII of the CGST Rules are electronically authenticated and made available on the common portal, the plea of the petitioners that in the absence of any visible digital signature thereupon, they are invalid or nullity in the eye of law is not correct. It is, therefore, held that the presence of the digital

signature on the Forms is not the requirement on the documents covered under Chapter XVIII of the CGST Rules. The contention of the petitioners that these documents are not digitally signed as provided under the Forms does not merit acceptance. The show cause notices and orders electronically authenticated by the proper officer and uploaded on the common portal are valid documents in the eye of law. That these show cause notices and/or orders on being made available on the common portal amount to valid service in terms of Section 169(1)(d) of the CGST Act. However, absence of DIN or RFN on any of these documents would render it invalid. The period of limitation to avail statutory remedy or to make other compliances would run from the date on which the show cause notice or order is uploaded in the common portal. The contrary view taken in the decisions relied upon by the petitioners on this issue, such as in **Bigleap Technologies** (supra) do not lay down the correct position of law.

155. Having held so, since the writ petitions have remained pending for considerable length of time and the challenge in these writ petitions relying upon the plea of unsigned document has failed, the petitioners are allowed liberty to avail the statutory remedy of appeal within a period of two weeks from today. Needless to say, it is open for the petitioners to raise such other grounds of law and facts as have been left open while answering this reference in any such appeal in accordance with law.

156. The Reference is answered accordingly.

157. All the writ petitions are disposed of in terms of the observations and directions made hereinabove. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

APARESH KUMAR SINGH, CJ

N.TUKARAMJI, J

G.M.MOHIUDDIN, J

30.09.2026
Pln/vs

Note: LR copy be marked.
(By order)
Pln/vs

CASE 32 OF 34 · GROUP D

M/s Sikka Motors Pvt. Ltd. v. Union of India & Anr.

Court	High Court of Delhi
Bench	Anil Kshetarpal and Bharat Parashar, JJ.
Date	27.10.2026
Case no. / citation	W.P.(C) 5076/2025

Holding in brief

Time limit for SCN is a matter of jurisdiction; participation or silence cannot cure the breach. SCN and Order-in-Original quashed; petition allowed.

Provisions involved

CGST Act, 2017: Sections 73 and 168A (73(2), 73(10))

Status

Allowed; held in favour of the taxpayer.

The judgment begins on compendium page 822.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 28.09.2026***

Judgment pronounced on: 27.10.2026

Judgment uploaded on: 27.10.2026

\# **CNR No. DLHC010219872025**

\+ W.P.(C) 5076/2025

M/S. SIKKA MOTORS PVT LTD .....Petitioner

Through: Mr. Siddarth Malhotra, Mr. Prerak Khurana and Ms. Ritika Goel, Advs.

versus

UNION OF INDIA & ANR. ....Respondents

Through: Mr. Raghuvendra Shukla, SPC along with Mr. Anil Devlal, GP, Mr. Sampan, Mr. Manu Shukla, Ms. Nandita and Mr. Asra Chandra Advs. for R-1.
Mr. Pranay Mohan Govil, SSC along with Mr. Devnit Chaudhuri and Ms. Tenzin Lhamo Bhutia, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. By way of the present Petition, the Petitioner seeks issuance of an appropriate writ for quashing of the Show Cause Notice ('SCN') dated 08.08.2024 and the consequential Order-in-Original ('OIO') dated 23.08.2024, on account of the SCN being time-barred in

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Signing Date:27.10.2026 14:58:07

contravention of the time stipulated under CBIC Notification No. 56/2023-central tax dated 28.12.2023[1] read with Section 73 of the Central Goods and Services Act, 2017[2].

A. BRIEF BACKGROUND:

2. In order to appreciate the present controversy, the facts, in brief, are required to be noticed.

3. The Petitioner being engaged in the business of Hyundai Car dealership, obtained registration under the provisions of the Act of 2017, bearing GSTIN 07AASCS5522N1ZO in the year 2017. Upon scrutiny of its GST Returns ('GSTR') for the Financial Year ('FY') 2019-20, the Respondents alleged that the Petitioner had availed ineligible Input Tax Credit ('ITC') amounting to Rs.10,57,392/- from suppliers whose registrations had been cancelled suo motu with retrospective effect, and Rs.5,57,720/- from suppliers who had not furnished their GSTR-3B returns for the relevant tax periods. The Respondents further alleged an outstanding late fee of Rs.1,03,100/- for delayed filing of GSTR-1 returns and non-payment of interest amounting to Rs.3,39,603/- on account of delayed payment of GST.

4. Following which, as set out in the Impugned OIO, *vide* ASMT-10 dated 29.02.2024, the Petitioner was conveyed about the aforestated discrepancies, with subsequently being afforded an opportunity of personal hearing on 12.07.2024, 22.07.2024 and 31.07.2024. Pursuant thereto, the Respondents issued the impugned

[1] hereinafter referred to as 'NN-56'
[2] hereinafter referred to as 'Act of 2017'

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SCN, which was followed by the passing of the Impugned OIO. Aggrieved by the aforestated, the Petitioners have approached this Court seeking our indulgence on account of the impugned SCN being issued beyond the prescribed timeline.

B. SUBMISSIONS OF THE PARTIES:

5. Learned counsel representing the Petitioner has argued that even considering the extended limitation under NN-56, the SCN was required to be issued by 31.05.2024 under Section 73(2) of the Act of 2017. However, the same was made available to the Petitioner only on 08.08.2024, and is therefore time-barred.

6. *Per contra*, learned counsel representing the Respondents has argued that the impugned SCN dated 30.05.2024 was duly generated and uploaded on the AIO system in Form GST DRC-01. However, owing to a technical glitch during the migration from the AIO system to the GST BO portal, the notice could not be integrated with GSTN and was consequently re-uploaded on the BO portal on 08.08.2024, with an explanatory remark.

7. Reliance has also been placed on ASMT-10 communication and the subsequent personal hearing opportunities granted to argue that despite service of the aforestated, the Petitioner failed to furnish any response thereto.

8. Rebutting the aforesaid submission made on behalf of the Respondents, it has been argued by the Petitioner that, despite the technical glitch, no attempt was made to serve the impugned SCN

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through any other mode.

C. ANALYSIS AND REASONING:

9. Heard learned counsel representing the parties and with their able assistance perused the paperbook on record.

10. Before dealing with the submissions so advanced we deem it appropriate to reproduce the relevant provisions of the Act of 2017, which shall form the basis of the present analysis. The relevant provisions are extracted hereunder:

> *"**61. Scrutiny of returns.**— (1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.*
>
> *(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.*
>
> *(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.*
>
> ***73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts.**— (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under*

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the provisions of this Act or the rules made thereunder.

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

168A. Power of Government to extend time limit in special circumstances.— *(1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to force majeure.*

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

Explanation.— For the purposes of this section, the expression ―force majeure‖ means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.]

169. Service of notice in certain circumstances.— *(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—*

(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which

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the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved."

11. Section 73 of the Act of 2017 governs determination of tax not paid or short paid, or erroneously refunded, or input tax credit wrongly availed or utilised, for reasons other than fraud, wilful misstatement or suppression of facts. While sub-section (2) stipulates the time limit for issuance of a SCN, sub-section (10) thereof, stipulates the outer time limit for passing of the adjudication order.

12. Further, Section 169 prescribes the modes of service of notices, including, *inter alia*, making the notice available on the common portal, sending it by registered post or speed post, and publication in a newspaper.

13. The scheme of Section 73 of the Act of 2017 is thus clear, wherein the limit for passing order under sub-section (10) is the outer boundary, and an SCN therein is to be issued at least three months before it as per sub-section (2). The period of three months is a minimum statutory limitation, intended to afford the noticee a

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meaningful opportunity to reply and be heard before the order is passed and is not merely a directory timeline.

14. *Vide* NN-56, the time limit under Section 73(10) for issuance of the order for the FY 2019-20 was extended up to 31.08.2024. It is not in dispute between the parties that, by virtue of the aforesaid notification, the outer limit for passing the order was 31.08.2024. Consequently, in terms of Section 73(2), the SCN was required to be issued on or before 31.05.2024.

15. It is an admitted position that the impugned SCN was made available to the Petitioner on the GST portal only on 08.08.2024 and beyond the statutory deadline of 31.05.2024 prescribed under Section 73(2) of the Act of 2017, read with NN-56. Accordingly, the impugned SCN is time-barred, and the consequential impugned OIO, founded thereon, cannot be sustained in law.

16. The principal defence of the Respondents that the impugned SCN was generated and uploaded on the AIO System within time, and it was re-uploaded on the BO portal on 08.08.2024 only on account of a technical glitch during migration, cannot be accepted for three reasons set out hereinafter.

17. *Firstly*, the DRC list page of the portal, as placed on record, shows an SCN dated 29.05.2024 in respect of the Petitioner for FY 2019-20, with the GSTN status as '*awaiting GSTN confirmation*'. The said entry also does not bear any Common Reference Number ('CRN') in respect thereto. The absence of a CRN and the pendency of GSTN confirmation indicate that the notice had not been integrated

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with the common portal and was never communicated to the Petitioner.

18. A notice that remains on an internal system, unconfirmed and without a CRN, cannot be said to have been issued in the eyes of law, since issuance under Section 73(2) must be read together with the mode of service under Section 169 of the Act of 2017. An internal generation or upload, without the notice being made available to the noticee, does not satisfy the statutory requirement.

19. *Secondly*, notwithstanding the aforestated, the Respondents themselves have accepted that a technical glitch occurred on the portal, which led to the re-issuance of the SCN on 08.08.2024. Thus, re-issuance on 08.08.2024 is an acknowledgment that the earlier notice had not become effective. The date of the SCN is, therefore, 08.08.2024 and not any earlier date. The remark appended to the re-uploaded notice, or its date of generation, cannot confer retrospective effect on it, as no statutory provision empowers the proper officer to extend the limit under Section 73(2). The only mechanism for extension of time is a notification under Section 168A, and none such notification has been brought to the notice of this Court beyond NN-56.

20. *Thirdly*, the Court is in agreement with the Petitioner that, despite being aware of the technical glitch, the Respondents made no endeavour to have the SCN served by any other mode. Section 169(1) provides alternative modes of service, including service by registered or speed post and by email. Having failed to do so, the Respondents

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cannot seek to take shelter behind a technical glitch of their own system, since the consequences of administrative lapses cannot be visited upon the taxpayer, nor can they enlarge a limitation that Parliament has fixed in mandatory terms.

21. The second contention of the Respondents that the Petitioner was issued ASMT-10 and was subsequently, granted personal hearings on 12.07.2024, 22.07.2024 and 31.07.2024, but failed to respond is also without merit. Scrutiny of GSTR under Section 61 of the Act of 2017 and the ensuing communications in Form ASMT-10 are preliminary steps, while the personal hearings are procedural formalities. They are not a substitute for the SCN, which is the foundational document that triggers the adjudication under Section 73 of the Act of 2017, which must set out the specific charge and the quantum of demand.

22. These procedural steps cannot act as a bypass to the mandatory statutory requirement of issuing the SCN within the prescribed time period. The Petitioner's alleged non-response to the ASMT-10 or non-participation in the hearings is thus wholly irrelevant to the question of limitation, which goes to the root of the Respondents' jurisdiction. The want of a response by the Petitioner does not relieve the Respondents of their obligation to adhere to the timeline, nor can it be construed as a waiver of the same.

23. It is trite that where a statute prescribes a time limit for the exercise of power, and the consequence of non-compliance is the loss of jurisdiction to proceed further, a proceeding commenced or

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concluded beyond that period is without jurisdiction, and the breach cannot be cured by subsequent participation or by equitable considerations. It is also important to note that the limitation under a fiscal statute is a matter of statutory mandate, and not of convenience.

D. CONCLUSION:

24. In view of the aforegoing discussion, this Court holds that the Show Cause Notice dated 30.05.2024, as uploaded on 08.08.2024, was issued beyond the period stipulated under Section 73(2) of the Act of 2017 read with NN-56, and is therefore, barred by limitation. The Order in Original dated 23.08.2024, being consequential thereto, also does not sustain.

25. Accordingly, the Show Cause Notice along with the Order-in-Original are set aside and quashed.

26. Consequently, the present Petition is allowed in the aforesaid terms.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER 27, 2026
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CASE 33 OF 34 · GROUP E

State of Uttar Pradesh & Anr. v. M/s Bambino Agro Industries Ltd. & Anr.

Court	Supreme Court of India
Bench	Aravind Kumar and Prasanna B. Varale, JJ.
Date	29.05.2026
Case no. / citation	SLP(C) Diary No. 11683/2026

Holding in brief

Interim stay of the High Court's judgment on service/limitation. Delay condoned; notice issued; stay of the impugned order till next date.

Status

Stayed; held in favour of the revenue. Directions: Notice returnable after ten weeks; stay of impugned order.

The judgment begins on compendium page 833.

ITEM NO.8 COURT NO.13 SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).11683/2026

[Arising out of impugned final judgment and order dated 19-12-2025 in WT No.2707/2025 passed by the High Court of Judicature at Allahabad]

STATE OF UTTAR PRADESH & ANR. Petitioner(s)

VERSUS

M/S BAMBINO AGRO INDUSTRIES LTD & ANR. Respondent(s)

FOR ADMISSION
IA No. 161870/2026 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS
IA No. 161871/2026 - EXEMPTION FROM FILING O.T.

Date : 29-05-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) : Mr. Bhakti Vardhan Singh, AOR
Mr. J Tarun Kumar, Adv.
Mr. Narendra Kumar Pandey, Adv.
Mr. Sauvik Singh, Adv.
Mr. Ankit Khatri, Adv.

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.

2. Issue notice, returnable after ten weeks.

3. There shall be stay of the impugned order till the next date of hearing.

(NEHA GUPTA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

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Date: 2026.05.29 17:01:41 IST
Reason:

CASE 34 OF 34 · GROUP E

GVK Jaipur Expressway Pvt. Ltd. v. Deputy Commissioner of State Tax & Ors.

Court	Supreme Court of India
Bench	Manoj Misra and Vijay Bishnoi, JJ.
Date	10.08.2026
Case no. / citation	SLP(C) No. 25965/2026 (with 26973/2026 and 26582/2026)

Holding in brief

Notice issued; no ruling on merits. Issue notice, returnable in four weeks.

Status

Pending. Directions: Notice returnable in four weeks.

The judgment begins on compendium page 835.

ITEM NO.23 + 55 + 55.1 COURT NO.10 SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 25965/2026

[Arising out of impugned final judgment and order dated 18-03-2026 in DBCWP No. 3636/2026 passed by the High Court of Judicature for Rajasthan at Jaipur]

GVK JAIPUR EXPRESSWAY PVT. LTD Petitioner(s)

VERSUS

DEPUTY COMMISSIONER OF STATE TAX & ORS. Respondent(s)

IA No. 220689/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 220690/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Petition(s) for Special Leave to Appeal (C) No(s). 26973/2026

IA No. 229503/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 229507/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

WITH

SLP(C) No. 26582/2026 (XV)

IA No. 226171/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 226172/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 10-08-2026 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Petitioner(s) :Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Adarsh Ramanujan, Adv.
Mr. Lzafeer Ahmad B. F., AOR
Mr. Parth Singh, Adv.
Mr. Shubham Arun, Adv.
Mr. Pawan Kant Singh, Adv.
Mr. Ashwin K, Adv.
Mr. Vishesh Goel, Adv.

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Date: 2026.08.11 16:56:52 IST
Reason:

Mr. Adarsh Ramanujan, Adv. (Item 55)
Mr. Lzafeer Ahmad B. F., AOR
Mr. Parth Singh, Adv.

For Respondent(s) :

UPON hearing the counsel the Court made the following

O R D E R

1. The submission on behalf of the petitioner(s) is that they had raised an issue of non-service of notice as well as the order. Apparently, the notice was allegedly served by uploading it on common portal. It is the contention of the petitioner(s) that the High Court of Madras as well as Delhi High Court have viewed service of notice by uploading on portal as incomplete particularly where the relevant information may be referable to two tabs, namely, "View Additional Notices/Orders", and "View Notices and Orders". It is the case of the petitioner(s) that his case is squarely covered by the decisions of the Madras High Court as well as Delhi High Court.

2. Issue notice, returnable in four weeks.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(SAPNA BANSAL)
COURT MASTER (NSH)

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