

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (C) No. 851/2026
CM No. 2206/2026

M/s Mohd Maqbool Lone

...Petitioner(s)/Appellant(s)

Through: Mr. Umang Goyal, Adv. Mr. Hitesh Garg &
Ms. Sunfat Ashraf, Adv.

Vs.

Union Territory of JK & Ors.

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

O R D E R (Oral)

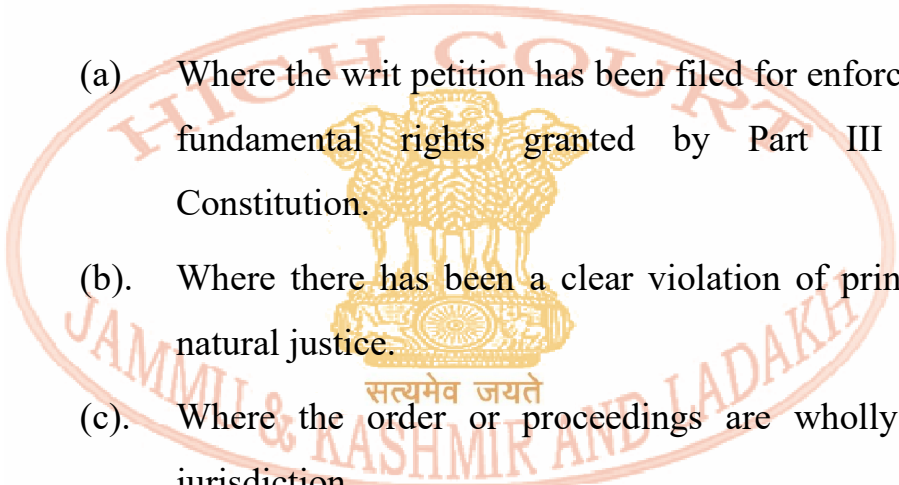
27.04.2026

1. The petitioner who is an assessee registered under Goods and Services Tax law is aggrieved of an order dated 31st of December 2025 passed by the respondent, whereby and whereunder, a demand of Rs. 36,00,58,562.16/- on account of GST interest and penalty has been raised for the Financial Year 2018-2019 under Section 74 of the Goods and Services Tax Act, 2017 [‘the Act’]. The order has been challenged on multiple grounds, most of them touching upon merits.

2. The order impugned which is sought to be challenged by invoking the extraordinary writ jurisdiction vested in this court under Article 226 of Constitution of India is appealable under Section 107 of the Act. In the presence of equally efficacious statutory remedy available under the Act, the petitioner has no cause to file the instant petition.

3. It needs no emphasis that power under Article 226 of the Constitution to issue Writs can be exercised not only for enforcement of fundamental rights, but for any other purpose as well. However, the High Court has the discretion not to entertain a writ petition, more so, when there is an effective alternative remedy available to the aggrieved person in law. It is true that availability of alternative 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 where an efficacious alternative remedy, more particularly, when a statutory remedy is available in law. It is equally trite that 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 Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience, and discretion, and is further subject to well-known exceptions like the following:-

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- (a) Where the writ petition has been filed for enforcement of fundamental rights granted by Part III of the Constitution.
 - (b). Where there has been a clear violation of principles of natural justice.
 - (c). Where the order or proceedings are wholly without jurisdiction
 - (d). Where the vires of a legislation is challenged.

4. The afore-stated legal position is succinctly laid down in **Whirlpool Corporation vs. Registrar of Trademarks, Mumbai, (1998) 8 SCC 1** and **Harbanslal Sahnia & Anr. vs Indian Oil Corporation Limited, (2003) 2 SCC 107**.

5. In the instant case, none of the exceptions adverted to hereinabove exist. The primary emphasis of the learned counsel for the petitioner was that in view of the violations of principles of natural justice, i.e., denial of right of hearing to the petitioner, this case would fall within the exceptions carved out in the aforesaid judgments, and therefore, the writ petition would be maintainable, availability of alternative statutory remedy under the Act notwithstanding.

6. It was though vehemently argued by learned counsel for the petitioner that the mandatory personal hearing was not afforded to him before passing the order. However, on close scrutiny of the material on record, it is writ-large that petitioner has adequately participated in the proceedings, submitted detailed reply to the show cause notice and, therefore, cannot complain of not providing him adequate opportunity to defend himself. It is

not the case of the petitioner that he demanded but was denied personal hearing by the respondent No. 2.

7. As a matter of fact, in the reply tendered to the show cause notice issued by the respondent, the petitioner has virtually admitted the mistake which has resulted in evasion of tax etc. That being the clear position emerging from the reading of the documentary evidence on record, it cannot be contended that the impugned order is ex-facie passed in violation of principles of natural justice. It is absolutely not the case of the petitioner that the respondent is not a competent authority to pass the impugned order under Section 74 of the Act.

8. For the following reasons, we are not inclined to entertain this petition and, thus, relegate the petitioner to the remedy of appeal envisaged under Section 107 of the Act.

9. This petition is accordingly dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

27.04.2026

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Whether approved for reporting? Yes/No