

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

WP(C) No. 2313/2025

M/s S. S. Traders and Ors.

...Appellant/Petitioner(s)

Through: Mr. L. A. Latief, Advocate

Vs.

Union of India and Ors.

...Respondent(s)

Through: Mr. T. M. Shamsi, DSGI with Ms. Rehana Qayoom, Adv.

CORAM:

HON'BLE MS JUSTICE SINDHU SHARMA, JUDGE

HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE

ORDER

11.03.2026

01. In the instant petition, the petitioners invoke the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India to challenge the show cause notices issued by the Superintendent, CGST and CX Range-I, Srinagar, under Section 74(1) of the Central Goods and Services Tax Act, 2017 ("CGST Act"), read with the J&K Goods and Services Tax Act, 2017 ("J&K GST Act").
02. Prior to considering rival contentions of the parties and the grounds of challenge to the impugned show cause notices, it would be appropriate to notice certain background facts which led to issuance of show cause notices and consequently filing of instant petition.
03. In 2008, Ministry of Home Affairs, Government of India, issued a Notification NO.13015/17/2007-k.II dated 20th October 2008, vide which certain standing operating procedure was laid for cross LOC Trade and the same was governed by J&K Value Added Taxes Act, 2005. Section 55 thereof, which was amended on 7th February 2012,

- provided that cross LoC Trade would be considered as a zero-rated sale and, therefore, the cross LOC Trade was carried by petitioners and other traders without payment of any sale or purchase tax.
04. In 2017, the CGST Act, 2017 and the J&K GST Act, 2017, came into being, which, as is stated by petitioners, also did not contain any provision equivalent to Section 55 of the erstwhile VAT Act and resultantly, the petitioners continued to treat cross LoC Trade as zero-rated, omitting these transactions from their returns and failing to pay GST for the financial years 2017-2018 and 2018-2019.
05. Directorate General of GST Intelligence (DGGI), upon receipt of specific information, initiated investigation as to whether GST was paid on outward supplies to and inward supplies from PoK during cross LOC Trade.
06. The investigation revealed substantial trade volumes that had not been accounted for in the petitioners' tax returns. Consequently, the authorities issued Show Cause Notices (SCN) under Section 74(1) of the CGST Act, 2017. Instead of replying these notices, the petitioners are challenging them before this Court under Article 226 of the Constitution on various grounds including lack of jurisdiction.
07. It is pertinent to mention here that the remedy available to petitioners vis-à-vis impugned demand/show cause notices is to respond to the same by filing reply. The present writ petition against such demand/show cause notice under Section 74(1) of CGST Act, read with J&K GST Act, is premature and liable to be dismissed. In this regard reliance is being had to the judgement dated November 27, 2025 passed by the Division Bench of this Court in a bunch of writ petitions with lead case, being WP(C) no.1938/2024 titled as M/s New

Gee Enn & Sons vs. Union of India, by which the controversy similar to the present case, has been set at rest and it has been held that remedy for aggrieved person is to file reply, submit requisite material and contest such demand/show cause notices on merits and if, after consideration of such reply, the officer concerned passes an order confirming demand in terms of Subsection (9) of Section 74 of CGST Act, the aggrieved shall have a remedy of appeal.

08. This petition is dismissed on the same analogy, i.e. of being premature and also because the petitioners have an equally efficacious alternative remedy under the statute.

09. We also issue the following directions as already passed in WP(C) No. 1938/2024.

(i) Where the petitioners have not yet filed a reply to the show cause notice issued under Section 74(1) of the CGST Act of 2017, they shall do so within six weeks from today. The proceedings initiated under Section 74(1) shall be taken to their logical conclusion by the proper officer within three months of receiving the reply.

(ii) Where a final order under Section 74(9) confirming the demand has already been passed, the petitioners shall have three months from today to avail themselves of the appellate remedy under Section 107 of the CGST Act of 2017.

10. We further clarify that anything said by us in the order hereinabove in respect of merits of the controversy shall not be taken as an expression of final opinion on the matter and the proper authority or the appellate

authority, as the case may be, shall be free to adjudicate the matter on its merits independently of the *prima facie* view we have taken on the merits of the case. The legal questions determined, however, shall be binding on the parties.

(SHAHZAD AZEEM)
JUDGE

(SINDHU SHARMA)
JUDGE

SRINAGAR

11.03.2026

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