IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.19381 OF 2024

M/s. RioCare India Private Limited .. Petitioner

Versus

Assistant Commissioner CGST
and C.Ex. & Ors. .. Respondents

Mr.Virendrasinh V. Tapkir, Advocate for the Petitioner.

Mr.Subir Kumar a/w Ashita Aggarwal, Advocates for Respondents.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : JANUARY 06, 2025

P. C.

1. The above Writ Petition seeks Writ of Certiorari to quash and set aside the show cause-cum-demand notice dated 4th December 2024 issued to the Petitioner under Section 74 of the Central Goods and Services Tax Act, 2017 for the period 1st July 2018 to 31st March 2023. The other relief sought is to restrain the Respondents or prohibit them from acting further and/or taking any steps and/or act pursuant to the said impugned show cause notice.

2. The only ground canvassed before us by the learned advocate appearing on behalf of the Petitioner is that the impugned show cause notice relates to different financial years and therefore for each financial year a separate show cause notice ought to have been issued. One show cause notice for the period 1st July 2018 to 31st March 2023 was impermissible, was the argument.

3. At least *prima facie* we are not impressed with this argument. There is nothing in Section 74 and more particularly 74(1) which would prohibit the Authority from issuing a notice calling upon the assessee to pay tax that 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. At least *prima facie,* a notice under Section 74(1) can be issued for any period provided said notice is given at least 6 months prior to the time limit specified in sub-section (10) of Section 74 for issuance of the order.

4. In the present case, admittedly there is no issue of limitation as contemplated under Section 74(10). In these circumstances, at least *prima facie* we are not satisfied that this Writ

Petition ought to be entertained and which is challenging the show cause notice. The Petitioner will have to face the show cause notice and can canvass all arguments before the authority concerned, including the issues raised in the present Writ Petition.

5. The Writ Petition is accordingly disposed of. However, there shall be no order as to costs.

6. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Utkarsh