IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13195 OF 2025

Astrum Developments Pvt. Ltd. And Anr. … Petitioners

Versus

The Union of India And Ors … Respondents

Mr. Prakash Shah, Senior Advocate a/w Mr. Mihir Mehta, Mr. Mohit Raval i/b PDS Legal, for Petitioners.

Ms. Maya Majumdar (through Video-Conferencing) a/w Mr. Saket R. Ketkar, for Respondent Nos.1 to 4.

Ms. Vrishali Raje, A.G.P., for the Respondent-State.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 09 October 2025

PC:-

1. Heard Mr Prakash Shah, Senior Advocate, for the Petitioner, Ms Maya Majumdar, for Respondent Nos . 1 to 4 and Ms Vrishali Raje, for the Respondent-State.

2. The challenge in this Petition is to the show cause notice dated 27 June 2025, issued under Section 74 of the Central Goods and Services Tax, 2017 (“CGST Act”).

3. Mr Shah contended that the impugned show cause notice is without jurisdiction for two reasons. Firstly, because the same was issued to Neo Pharma Private Limited, which had, by NCLT's order dated 07 March 2022, already de-merged its Pune Constructions Business. He submitted that the assets as well as liabilities of this business, consequent to the demerger, were vested in the 1st Petitioner's Company, i.e. Astrum Developments Private Limited. He submitted that this fact was duly intimated to the Respondents; however, the impugned show cause notice has still been issued to the transferor company, i.e., Neo Pharma Private Limited. Secondly, Mr Shah submitted that the Respondents seek to apply the GST Notification of 2018 to a transaction of a Joint Development Agreement entered into on 25 February 2012. He submitted that such a retrospective operation of the 2018 Notification is not contemplated, and this is another ground which renders the impugned show cause notice as being without jurisdiction.

4. Ms Majumdar submits that this Petition is premature and ordinarily, no Writ Petition to challenge the show cause notice may be entertained. She submits that the grounds now raised, assuming they have merit, do not go to the root of jurisdiction and therefore, this Petition may not be entertained. She submitted that the factual aspect would have to be verified before the contentions now raised on behalf of the Petitioner are accepted. Accordingly, she urged the dismissal of this Petition.

5. The rival contentions now fall for our determination.

6. At the outset, we are not satisfied that the grounds now raised render the impugned show cause notice wholly without jurisdiction. Possibly, after examination of jurisdictional facts, a view could be taken on the matter. But this does not appear to be a case of any exercise of jurisdiction that was patently not vested in the authority which had issued the impugned show cause notice.

7. The Respondents can always consider the details and effects of the demerger, provided the Petitioners file a detailed response with full particulars at the stage of disposing of the show cause notice. Similarly, even the contention about the applicability or otherwise of the GST Notification, 2018, can be considered by the Respondents when deciding on the impugned show cause notice.

8. The above two matters do not give the Petitioners the right to rush to this Court and question the show cause notice itself, thereby delaying all adjudication at the outset. A detailed response, followed by a proper examination of the contentions now raised by the Petitioner, would be necessary. This process can be best carried out by the adjudicating authority, at least initially.

9. Ordinarily, the Petitions are not entertained against show cause notices because the parties have a full opportunity to respond to the show cause notice and convince the authority why the allegations contained therein are incorrect or otherwise untenable. Only in exceptional cases, as have been explained by the Hon'ble Supreme Court in the case of **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai And Ors.**[1] do we entertain such Petitions.

10. From the contentions raised before us and the fact that an investigation into such contentions would certainly contain factual elements or elements concerning interpretations of demerger orders or the 2018 Notification, we do not think that the Petitioner has made out an exceptional case to avoid responding to the impugned show cause notice or for striking down the show cause notice, at the very threshold.

11. In the case of **Oberoi Constructions Ltd Vs Union of India And Ors.**[2], we have surveyed the precedents of the subject of challenges to show-cause notices and the practice of exhaustion of alternate remedies. We were constrained to take cognisance of the rising trend of instituting Petitions bypassing alternate remedies provided under the statute, primarily to take a chance and see whether the adjudication could be stalled or at least delayed. By following the reasoning in the said decision and also the precedents of the Hon'ble Supreme Court referred to therein, we relegate the Petitioner to respond to the show-cause notice.

12. For all the above reasons, we decline to entertain this Petition and dismiss the same. However, we clarify that nothing in this order shall preclude the Petitioners from

1 (1998) 8 SCC 1

2 2024 SCC OnLine 3508

raising these contentions in response to the show cause notice and no observations in this matter need influence the adjudication of the impugned show cause notice. Such adjudication shall be in accordance with law and on its own merits.

13. This Petition is dismissed with no order as to costs.

14. All concerned are to act on an authenticated copy of this order.

(Advait M. Sethna, J) **(M.S. Sonak, J)**