IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.1956 OF 2025

Petitioner : M/s. Savla Traders,
through its Partner Shri Bharat s/o Dungarshi Shah,
Plot No.171, Shivaji Nagar, Dharampeth Extension,
Nagpur – 440 010

– Versus –

Respondents : **1.** Deputy Director DGGI,
Nagpur Zonal Unit, Nagpur,
New Secretariat Building, Civil Lines, Nagpur.

2. Asst. Commissioner CGST & C. Excise,
Nagpur-I Commissionerate,
GST Bhavan, Civil Lines, Nagpur.

WITH

WRIT PETITION NO.1959 OF 2025

Petitioner : M/s. S.N. Enterprises,
through its Partner Shri Bharat s/o Dungarshi Shah,
Plot No.171, Shivaji Nagar, Dharampeth Extension,
Nagpur – 440 010

– Versus –

Respondents : **1.** Deputy Director DGGI,
Nagpur Zonal Unit, Nagpur,
New Secretariat Building, Civil Lines, Nagpur.

2. Asst. Commissioner CGST & C. Excise,
Nagpur-I Commissionerate,
GST Bhavan, Civil Lines, Nagpur.

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Mr. A.J. Bhoot, Advocate for the Petitioner.
Mr. S.N. Bhattad, Advocate for Respondent No.1.
Mr. Kunal Nalamwar, Advocate for Respondent No.2.

CORAM : ANIL L. PANSARE & M.M. NERLIKAR, JJ.
DATE : 8th AUGUST, 2025.

COMMON JUDGMENT: *(Per Anil L. Pansare, J.)*

01. Issue **Rule**, returnable forthwith. Mr. S.N. Bhattad, learned Counsel waives service for respondent No.1 and Mr. Kunal Nalamwar, learned Counsel waives service for respondent No.2. With the consent for learned Counsel for the parties, the petition is taken up for final hearing.

02. The issue involved in both the petitions is same and, therefore, is being decided by common judgment. For the sake of convenience, the facts of Writ Petition No.1956/2025 are considered.

03. The petitioner, who is dealing with the minor minerals viz. pebbles/metals, is aggrieved by the 'show cause notice' dated 31/07/2024 issued by respondent No.1, claiming it to be ultra vires, arbitrary, illegal and barred by limitation.

04. The 'show cause notice' is dated 31/07/2024. Respondent No.1 has called upon the petitioner to pay G.S.T. on a royalty payment that was made for the period from 01/07/2017 to 31/03/2020. The amount assessed is Rs.33,60,510/-.

05. The learned Counsel for the petitioner submits that respondent No.1, as on 20/10/2021 issued similar such notice but for the period from 01/04/2016 to 30/06/2017. The service tax, then payable was Rs.6,01,999/-.

06. The argument is that respondent No.1 could have, in the aforesaid background, circumstances, issued notice within three years from the date of each relevant assessment year. In the present case, last assessment year is 2019-2020 and, therefore, notice could have been issued prior to March, 2023. The notice, however, has been issued on 31/07/2024.

07. The notice impugned has been issued on the count that the petitioner has suppressed the turnover/taxable value, which was revealed during the course of enquiry and, therefore, issuance of notice is said to be justified.

08. The question here is, whether the ground of suppression of taxable income is available to respondent No.1 to issue notice beyond the period of limitation. In our view, this ground is not available. The reason being, respondent No.1 was aware of the business of the petitioner. He has on earlier occasion issued similar such notice and was thus fully aware about the nature of activities of the petitioner and, therefore, could have

ascertained the fact that the payment of royalty, whether shown or not shown, was payable by the petitioner.

09. Thus, the respondent No.1 was aware of the nature of business of the petitioner and since the petitioner has filed G.S.T. return disclosing the turnover and payment of royalty, respondent No.1 could have ascertained the amount of G.S.T. payable. It is for this reason, we say that respondent No.1 could not have taken a plea that the petitioner has suppressed the payment of royalty.

10. The Supreme Court in the case of ***Nizam Sugar Factory vs. Collector of Central Excise, A.P. - (2006) 11 SCC 573*** has held that once the department has issued 'show cause notice' for a certain period in respect of payment of service tax/G.S.T., it could not have issued another notice based on the allegation that for a later period, there was suppression of payment of royalty, since the department was aware of nature of business/ activities of the petitioner and could have well ascertained the fact of payment of royalty paid by the petitioner and in consequence the G.S.T. payable on the said amount.

11. That being so, the 'show cause notice dated 31/07/2024 issued on the ground of suppression of the royalty is apparently illegal and also barred by limitation. The 'show cause notice' is, accordingly quashed

and set aside. The consequential benefits shall be extended to the petitioner.

12. Rule is made absolute in above terms with no order as to costs.

(M.M. Nerlikar, J.) **(Anil L. Pansare, J.)**

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