01.10.2026
Court No.10
DL/Item No.–**9**
[Milan]

WPA 8848 of 2025
With
CAN/1/2026

LAXMI DEVI SHAW
VS
SUPERINTENDENT (ANTI EVASION), CGST AND CENTRAL EXCISE, HOWRAH COMM. & ORS.

Mrs. Sutapa Roy Choudhury, Sr. Adv.,
Mr. Abhijat Das,
Mr. Anirban Chatterjee,
Ms. Aratrika Roy
Mr. Somsuvra Chatterjee

….for the Petitioner

Mr. Vipul Kundalia, Sr. Adv.,
Mr. Kaustav Kanti Maiti,
Mr. Anindya Kanan,
Ms. Anukriti Agarwal

….for the Respondents/GST

1. Learned Senior Counsel appearing for the petitioner submits that the impugned Show Cause Notice dated 27.06.2024 clubbing different Financial Years i.e. 2017-18 and 2022-23 is ex facie bad, illegal, without jurisdiction and barred by limitation under Section 74 of CGST Act, 2017. Multiple Assessment Years cannot be clubbed in a single Show Cause Notice. Hence, the consequential demand of Rs. 6,21,64,552/- is liable to be set aside.

2. The Learned Counsel appearing for the petitioner submits that the proper officer shall determine the amount of tax, interest and penalty within a period of five years from the date of furnishing of the Annual Return for the Financial Years to which unpaid tax relates. Thus, the issuance of a consolidated show cause notice is not

sustainable in law which is de hors the mandate of the statutory provisions.

3. In this context, the respondent raises an objection to the point of maintainability and submits that the issue involved herein stands settled by the Hon'ble Apex Court as observed in the case of ***M/s Mathur Polymers –vs- Uniof of India & Ors.*** reported in ***Special Leave Petition (Civil) Diary no. 50279 2025***, order dated 7.11.2025 which is reproduced below:

> *"However, we find no good ground and reason to interfere with the impugned judgment/order passed by the High Court. The special leave petition is, accordingly, dismissed."*

4. It is further submitted by the respondents by placing reliance on another judgment of the Coordinate Bench in the case of ***UBS Exports International Pvt. Ltd. And Another – Vs- State of West Bengal and Others*** reported in ***2025 SCC Online Cal 3966*** by placing reliance upon paragraph 9 wherein the writ petition stands dismissed on the ground of the alternative remedy. The respondent places reliance on paragraph 9 of the said judgment, which is reproduced hereunder:

> *"9. As rightly pointed out by Mr. Siddiqui, learned Additional Government Pleader the aforesaid judgments have been delivered under Section 73 of the said Act. Be that as it may, taking into consideration the fact that the petitioners have an efficacious alternative remedy, all such issues which the petitioners seeks to raise can be decided by the appellate authority, I am of the view that there is no scope to entertain the writ petition especially having*

regard to the fact that the petitioners at the first instance after the aforesaid show cause was issued, did not proceed to challenge the same. The belated attempt made the petitioners to challenge the show cause along with the final order appear to be an attempt made by the petitioners to abruptly stall the multitired adjudicatory process provided for in the scheme of the said Act. No exceptional case for interference has been made out. There is no explanation for the delay in filing the petition as well."

5. The petitioners further relies upon the judgment of the Bombay High Court in the case of ***Mirloc Good Earth Developers –vs- Union of India*** reported in ***2026 (104) GSTL 45 (Bom)*** wherein an identical issue has been referred to a Larger Bench for a decision on the question of law formulated by the Hon'ble Bombay High Court.

6. The petitioner also relies upon a judgment of the High Court of Calcutta, in the case of ***State Bank of India vs. Commercial GCST & CE, SLG Commissionerate*** reported in ***2026 (187 taxmann.com 1127 (Calcutta)*** paragraph 40, 51 and 52 is set out hereunder:

"40. By issuing single show-cause notice for multiple financial years under Section 74 of the 2017 Act, the revenue authority seeks to invoke its power not only for the relevant financial year but also for the previous financial years, for which no show-cause notice can be issued, having been barred by the period of limitation mentioned under sub-Section (10) to Section 74 of 2017 Act. In effect, the revenue seeks to achieve to lay their hands on the previous assessment years having been barred by limitation,

which it could not and cannot do directly but seeks to do indirectly, is not permissible in law.

51. In view of the forgoing reasons and discussions, the impugned show-cause notice dated June 25, 2025 part of Annexure-P8 at page 94 to the writ petition and the consequential impugned order-in-original dated December 12, 2025 Annexure-P12 at page 454 to the writ petition stand set aside and quashed.

52. However, it is made clear that this Court has not gone into the rival contentions of the parties on merits. Since the impugned show-cause notice and the consequential order-in-original suffer from jurisdictional error on the face of it, this Court has proceeded on such jurisdictional issues, as narrated above and not beyond that. This Court has not expressed any opinion on the other points raised by the petitioner".

7. The Learned Senior Counsel appearing for the respondent, CGST Authorities submits that the Writ Petition is not maintainable due to existence of alternate efficacious alternative statutory remedy available for the petitioner to prefer an appeal under Section 107 of the CGST Act. The issue of clubbing and limitation can be agitated before the appellate authority. Demand has already been raised in accordance with law and an amount of Rs. 2,35,233/- has already been recovered on 03.09.2026.

8. The learned Counsel appearing for the GST authorities places reliance upon a judgment and order of this Court dated 19.05.2026 in the case of WPA 10419 of 2026 [S.S. Iron & Steel & Anr. vs. Union of India and Ors.]

9. The learned Counsel appearing for the GST authorities submits that the consolidated issuance of the show cause

notice has already been decided on 26.08.2025 by the Hon'ble Division Bench of Delhi High Court in the case of the **M/s Mathur Polymers –vs- Uniof of India & Ors.** prior to the decision of the Division Bench of Kerala High Court in the case of ***Joint Commissioner(intelligence & Enforcement) vs. Lakshmi Mobile Accessories***;

10. It is further submitted that both the matters bunching all show cause notices, wherein in the case of **M/s Mathur Polymers (supra),** the Hon'ble Supreme Court has been pleased to affirm on 14.11.2025 the order of the Division Bench Judgment of the Delhi High Court whereas in the case of Joint Commissioner(intelligence & Enforcement) (supra).

11. The Hon'ble Supreme Court has only issued a notice by seeking an application for condonation of delay as well as the special leave petition on 14.11.2025 and, as a result of which, the decision taken by the Hon'ble Supreme Court by affirming the Davison Bench judgment of the Delhi High Court still holds the field.

12. Having heard the Learned Counsels for the respective parties and upon perusing of all the materials available on records, this Court is of the prima facie view that the issues of limitation, jurisdiction and permissibility of clubbing of different Financial Years involved disputed question of facts and law which can be more effectively adjudicated by the Appellate Authority under Section 107 of the CGST Act.

13. This Court without entering into the merits, is of the view that an efficacious alternative remedy of appeal under

Section 107 of CGST Act, 2017 is available. All questions of law including the issue of limitation and jurisdiction are kept open to be urged before the Appellate Authority.

14. Hence, the Writ Petition is disposed of with the following directions:

i. Since the respondent authorities have already recovered an amount of Rs. 2,35,233/- on 03.09.2026 out of the assessed demand, inclusive of tax, penalty, interest to the tune of Rs. 6,21,64,552/-, the petitioner shall deposit balance 10% pre-deposit after adjustment of Rs. 2,35,233/- already recovered on 03.09.2026.

ii. The appeal, if preferred, shall be entertained and decided expeditiously within a period of eight weeks from the date of the communication of this order.

iii. Till appeal attains finality, no coercive action shall be taken against petitioner. All points including jurisdiction and limitation are kept open.

15. With the above observation and direction, the writ petition being WPA 8848 of 2025 along with CAN 1 of 2026 is disposed of.

16. Since no affidavit in opposition has been called for, the allegations contained in the writ petition are deemed to have been denied and not admitted.

17. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)