



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

WRIT PETITION NO. 7718 OF 2025

(M/s Paras Stone Industries, through proprietor Shri Sunil Shatrughan Mishra Vs. Union of India & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.J. Bhoot, Counsel for the petitioner.
Mr. R.K. Maheshwari, Counsel for respondent nos. 2 and 3.
None for respondent nos. 1 and 4.

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CORAM : ANIL L. PANSARE AND
NIVEDITA P. MEHTA, JJ.
JANUARY 9, 2026

Heard.

2] Challenge is to the show cause notice issued in September - 2023 under Section 74 of The Central Goods and Services Tax Act, 2017 (for short "CGST Act") by respondent no.2 – Deputy Director, Directorate General of GST Intelligence, Nagpur. The notice issued pertains to the Financial Years 2017-18, 2018-19 and 2019-20, saying that the petitioner has, during this period, suppressed taxable value, and thereby made short payments of Central Goods and Service Tax.

3] The argument is that clubbing of period, while issuing notice under Section 74 of the CGST Act, is not permissible. The Counsel for the petitioner submits that the issue involved is covered by a judgment passed by the Division Bench of this Court at Goa in *M/s. Milroc Good Earth Developers Vs. Union of India & Ors. [Writ Petition No. 2203/2025* decided on 9/10/2025], wherein, the Court held that if an authority lacks jurisdiction to

have composite assessment for different tax periods/assessment years, then the formality of responding to show cause notice shall not be encouraged. While doing so, the Court considered relevant provisions of the CGST Act, and held as under :

“18. When we have perused the scheme of assessment and payment of tax, we find that the taxes payable under the Act commensurate with Return filed for ‘each tax period’ and this may be in the form of selfassessment or provisional assessment as provided in the Act. However, what is important to note is that there is a prescription of period of five years of due date on which ‘annual Return’ is filed for the relevant financial year and provision of payment and recovery is also included in the statutory scheme in form of Section 73 and 74, which underwent significant amendment by the Act 15 of 2024 and the provision as per sub-section (12) shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24 and for financial year 2024-25 and onwards, the provision under Section 74A will be relevant.

19. From the perusal of the entire Scheme, it is evidently clear to us that the statutory provision for assessment of tax for each financial year expect the Show Cause Notice to be issued at least 3 months prior to the time limit specified in Section 73(10) and 74(10) of the Act, for issuance of assessment order as sub-section (10) provide that the proper officer shall issue the order within a period of five years from the due date for furnishing of annual Return for the financial year to which the tax not paid/short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous Return. Thus, there is limitation prescribed for demand of tax and its recovery.

The Act of 2017, therefore involve a definite tax period, based on the filing of the Return, which can be either monthly or annual Return and if the assessment is based on annual

Return, the tax period shall be the relevant financial year.

In the light of the statutory scheme, we find that there is no scope for consolidating various financial years/tax period which is attempted by the impugned Show Cause Notices assailed in the Petition.”

4] As could be seen, the Division Bench has, in categorical terms, held that there is no scope for consolidating various financial years/tax period while issuing show cause notice under Section 74 of the CGST Act.

5] The aforesaid judgment was then considered by the Division Bench of this Court in *Rite Water Solutions (India) Ltd. Vs. Joint Commissioner, CGST & Central Excise, Nagpur and Ors. [Writ Petition No. 466/2025 decided on 28/11/2025]*, wherein, the Court reiterated that there is no scope for consolidating various financial years/tax period while issuing show cause notice under Section 74 of the CGST Act.

6] Despite such status, the Counsel for respondent nos. 2 and 3 opposed the contentions by saying that clubbing of notice is permissible. He referred to the judgment of the Division Bench of the High Court of Delhi in *M/s Mathur Polymers Vs. Union of India & Ors. [WP(C) 2394/2025 decided on 26/8/2025]*, wherein, the Court referred to its earlier judgment, and held as under :

“22. Thus, this Court is of the opinion that in cases involving allegations of fraudulent avilment of ITC, where the transactions are spread across several years, a consolidated notice may in fact be required in such cases in

order to establish the illegal modality adopted by such businesses and entities. The language of the legislation, itself, does not prevent issuance of SCN or order for multiple years in a consolidated manner.”

7] Thus, the argument is that the law laid down by the High Court of Delhi should be followed by ignoring the law laid down by this Court.

8] The submission is apparently contrary to law and precedents, where a judgment of a High Court of a State will be binding on the authorities of the State. As such, in matters of revenue, an order is passed considering scheme of Central Act, i.e., the Income-tax Act, 1961. If a High Court of another State has taken a view, the same will be binding on all the authorities pan India, unless a different view is taken by another High Court, in which case the authorities below will be bound by the judgment of the High Court within whose jurisdiction the authorities are working. The decision of the Delhi High Court is of August – 2025, wherein decisions of the Bombay High Court are of October – 2025 and November – 2025.

9] The Division Bench of this Court in *Commissioner of Income-tax, Vidarbha and Marathwada, Nagpur Vs. Smt. Godavaridevi Saraf Tumsar [1978 (2) ELTJ 624 Bombay]* held that until a contrary decision is given by any other competent High Court, which is binding on Tribunal in the State of Bombay, it has to proceed on the footing that the law declared by the High Court, though of another State, is the final law of land.

10] In the present case, since this Court has, subsequent to decision of the Delhi High Court, taken a different view, the authorities below will be bound by the subsequent judgments. The Hon'ble Supreme Court has neither stayed nor overruled the view taken in above two cases. The argument of Counsel for respondent nos. 2 and 3, therefore, cannot be accepted.

11] At this stage, the Counsel for respondent nos. 2 and 3 submits that the petition itself is not maintainable. According to him, the appropriate remedy is to file an appeal. He was informed that the petitioner has referred to a judgment in *M/s. Milroc Good Earth Developers (supra)* and *Rite Water Solutions (India) Ltd. (supra)* to contend that there is no scope for consolidating various financial years/tax period while issuing show cause notice under Section 74 of the CGST Act and, thus, the challenge is to jurisdiction to issue such notice. Despite such status, the Counsel insisted for further hearing. He submits that in support of his argument, he has, in his hands, four judgments.

12] We, accordingly, cautioned him, and put him to notice that he should go through the judgments and make up a mind whether those judgments will be of any relevance, else, we will impose cost for unnecessarily wasting judicial time of the Court. The Counsel then submits that he will rely on one judgment. Accordingly, he has invited our attention to a judgment of the Division Bench of the High Court of Jharkhand in *Star India Industries Vs. The State of Jharkhand & Ors. [W.P. (T) No. 622/2024* decided on 16/7/2024], wherein, the Court

held that the petitioner therein has an alternative remedy of appeal available under the statute but has approached under Writ Court. Accordingly, the petition was disposed of with liberty to avail alternative remedy.

13] In our view, the judgment is wholly irrelevant, inasmuch as, question of alternative remedy will not arise. It is well settled that despite alternate remedy, the Writ Petition is maintainable, at least in four contingencies, *viz.*, a) the Writ Petition has been filed for enforcement of a fundamental right protected by Part – III of the Constitution of India; b) there has been a violation of the principles of natural justice; c) the order or proceedings are wholly without jurisdiction; or d) the vires of a legislation is challenged. The Counsel ought not to have wasted time on this point, particularly when he was put to notice.

14] The petition is, accordingly, partly allowed. The show cause notice issued in September – 2023 by respondent no.2 is quashed and set aside. The respondents, however, are at liberty to re-issue notice strictly in terms of the provisions of Section 74 of the CGST Act, if there is no other legal impediment.

15] The respondent nos. 2 and 3 shall pay cost of Rs.50,000/- for wasting judicial time of the Court, despite putting Counsel to notice. The cost shall be deposited with the Registry of this Court within fifteen working days from today, which shall be then remitted to the High Court Bar Association Library, Nagpur.

16] After passing order, the Counsel kept on saying that cost could not have been imposed.

17] The Counsel should be aware that once judgment is passed or pronounced in Court, further submissions ought not to be made. The Counsel is advised/instructed to maintain decorum hereinafter, else appropriate recommendation will be made against him to the Bar Council of Maharashtra and Goa for taking suitable action for misconduct.

(JUDGE)

(JUDGE)

LATER ON

18] The Counsel for respondent nos. 2 and 3 has tendered written apology saying that if the submissions are found irrelevant by the Court, he may not be punished for the same. He has further stated that he had no intention to rely on irrelevant law. He then stated that any act, which in the opinion of the Court constitutes irrelevant or inapplicable submission, may be pardoned, being a *bona fide* mistake.

19] Thus, the apology is qualified and not by heart. The statement “if any submission of Counsel is irrelevant as per the Court, he may not be punished” indicates that the Counsel still believes that his submissions were relevant. Such statement is unacceptable. He was put to notice that he should go through the judgments and make up a mind whether the same have any relevance, considering the fact that the

petitioner has relied on two judgments to contend that clubbing of notice is impermissible. In the circumstances, question of alternative remedy will not arise. The Counsel ought to have understood the scope of Article 226 of the Constitution of India, which even otherwise is well settled. In the circumstances, the apology being qualified is not acceptable.

20] Nonetheless, to afford one opportunity to the Counsel to correct himself, and with the hope that he will maintain decorum of the Court, we recall order of imposing cost. If the conduct, as noted today, is, however, continued in future, same will be viewed seriously, and appropriate action will be taken or recommended against the Counsel.

21] The petition is disposed of in terms of above. No order as to costs.

(JUDGE)

(JUDGE)

Sumit