HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Civil Writ Petition No. 18093/2026
CNR: RJHC010696052026 | URN: CW / 31341U / 2026

M/s Gyankeer Tobacco Products Private Limited, Having Its Registered Office At Nh 8, Upli Oden, Nathdwara, Rajsamand-313301, Rajasthan, Through Its Authorized Signatory Shri Chetanendukumar Indubhai Patel, S/o Indubhai Mundasbhai Patel, Aged About 50 Years, R/o Near Bank Of Baroda, Keriavi, Nadiad, Kheda, Gujarat, India, 387355

----Petitioner

Versus

1. Additional Commissioner, Central Excise And Central Goods And Services Tax Commissionerate, H-Block, 100 Feet Road, Sector-14, Hiran Magri, Udaipur, Rajasthan.
2. Rajasthan Appellate Authority, For Advance Ruling, Goods And Service Tax, Ncr Building, Statute Circle, C-Scheme, Jaipur, Rajasthan-302005
3. Rajasthan Authority, For Advance Ruling, Goods And Services Tax, Kar Ambedkar Circle, Near Rajasthan High Court, Jaipur, Rajasthan-302005.
4. Union Of India, Through The Secretary Finance, Ministry Of Finance, Department Of Revenue, Government Of India, Shastri Bhawan, New Delhi-110001.
5. State Of Rajasthan, Through The Secretary, Department Of Finance, Secretariat, Jaipur, 302005.

----Respondents

For Petitioner(s)	:	Mr. Vikas Balia, Sr. Advocate, through VC assisted by Mr. Sharad Kothari Mr. Kalpit Shishodia Mr. Chirag Soni Mr. Pranjul Mehta Mr. Dinesh Kumar Bishnoi Mr. Pramod Viraish
For Respondent(s)	:	Mr. Mahaveer Bishnoi, AAG Assisted by Mr. Harshavardhan Singh Chundawat Mr. Rajvendra Saraswat

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HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

06/08/2026

1. Mr. Vikas Balia, learned Senior Counsel assisted by Mr. Sharad Kothari, Mr. Kalpit Shishodia, Mr. Chirag Soni, Mr. Pranjul Mehta, Dinesh Kumar Bishnoi and Mr. Pramod Viraish has taken this Court to the prayer, which reads as follows:

> *"(a) The show cause notice dated 04.05.2026 (Annexure-3) issued by Respondent no. 1 may be quashed and set-aside."*

2. Learned Senior Counsel has thereafter drawn the attention of this Court to paragraph 28 of the impugned show cause notice, which is the foundation of the present challenge. The same reads as under:-

> *"28. As mentioned supra, this Show Cause Notice is being issued in continuation of Show Cause Notice issued under F. No. V(15)80/AE/Gr. IV/UDR/2023 dated 08.08.2024 by the Additional Commissioner, Central Excise & CGST Commissionerate, Udaipur. The said show cause notice has been set aside by the Hon'ble High Court of Rajasthan at Jodhpur vide their order dated 16.04.2026 and decided the case in favour of taxpayer. However, the acceptance of the High Court order dated 16.04.2026 is in the process of review by the competent authority. Thus, this Show Cause Notice is being issued for the period April 2024 to January 2026 within the prescribed time limit in terms of section 11(A)(1)(a) of the Central Excise Act, 1944 to safeguard revenue."*

3. Learned counsel for the petitioner have taken this Court through Annexure-8, which is the order passed by the Hon'ble Division Bench of this Court in ***D.B. Civil Writ Petition No. 18915/2024 : Gyankeer Tobacco Products Pvt. Ltd. & Anr. vs. Additional Commissioner,***

Central Excise And Central Goods and Services Tax Commissionerate & Ors., relevant part of which read as follows:-

"34. The contention of the respondents that the impugned notices are based on "fresh findings" is not borne out from the record, as the very allegations regarding use of machines and addition of aroma and menthol had already been specifically considered in the Advance Ruling as well as in proceedings under Section 104. The case of M/s Kavicut Tobacco was also duly considered and distinguished by the Authority for Advance Ruling, wherein it was categorically held that mixing lime with tobacco leaves and addition of volatile flavours does not render unmanufactured tobacco into manufactured tobacco. Thus, the respondents' plea of "fresh findings" stands unsubstantiated.

35. Thus, the issuance of the impugned show cause notices reflects an attempt to reopen issues which have already attained finality, without any legal basis. Such an exercise is contrary to the scheme of the statute and cannot be sustained. It is also in violation of the settled principle that a subordinate authority is bound by the findings of a higher or competent authority, unless such findings are set aside in accordance with law. The Hon'ble Supreme Court in Union of India v. Kamalakshi Finance Corporation has held that the principles of judicial discipline require that orders of appellate authorities must be followed unreservedly by subordinate authorities :-

> *"6. Sri Reddy is perhaps right in saying that the officers were not actuated by any mala fides in passing the impugned orders. They perhaps genuinely felt that the claim of the assessee was not tenable and that, if it was accepted, the Revenue would suffer. But what Sri Reddy overlooks is that we are not concerned here with the correctness or otherwise of their conclusion or of any factual malafides but with the fact that the officers, in reaching in their conclusion, by-passed two appellate orders in regard to the same issue which were placed before them, one of the Collector (Appeals) and the other of the Tribunal. The High Court has, in our view, rightly criticised this conduct of the Assistant Collectors and the harassment to the assessee caused by the failure of these officers to give*

effect to the orders of authorities higher to them in the appellate hierarchy. It cannot be too vehemently emphasised that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities; The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not "acceptable"to the department - in itself an objectionable phrase - and is the subject matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent court. If this healthy rule is not followed, the result will only be undue harassment to assessees and chaos in administration of tax laws.

*7. The impression or anxiety of the Assistant Collector that, if he accepted the assessee's contentio*n, the department would lose revenue and would also have no remedy to have the matter rectified is also incorrect. Section 35-E confers adequate powers on the department in this regard. Under Sub-section (1), where the Central Board of Direct Taxes come across any order passed by the *Collector of Central Excise with the legality or propriety of which it is not satisfied, it can direct the Collector to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Board in its order. Under Sub-section(2)the Collector of Central Excise, when he comes across any order passed by an authority subordinate to him, if not satisfied with this legality or propriety, may direct such authority to apply to the Collector (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Collector of Central Excise in his order and there is a further right of appeal to*

the department. The position now, therefore, is that, if any order passed by an Assistant Collector or Collector is adverse to the interests of the Revenue, the immediately higher administrative authority has the power to have the matter satisfactorily resolved by taking up the issue to the Appellate Collector or the Appellate Tribunal as the case may be. In the light of these amended provisions, there can be no justification for any Assistant Collector or Collector refusing to follow the order of the Appellate Collector or the Appellate Tribunal, as the case may be, even where he may have some reservations on its correctness. He has to follow the order of the higher appellate authority. This may instantly cause some prejudice to the Revenue but the remedy is also in the hands of the same officer. He has only to bring the matter to the notice of the Board or the Collector so as to enable appropriate proceedings being taken under Section.35-E(1) or (2) to keep the interests of the department alive. If the officer's view is the correct one, it will no doubt be finally upheld and the Revenue will get the duty, though after some delay which such procedure would entail.

8. We have dealt with this aspect at some length, because it has been suggested by the learned Additional Solicitor General that the observations made by the High Court have been harsh on the officers. It is clear that the observations of the High Court, seemingly vehement, and apparently unpalatable to the Revenue, are only intended to curb a tendency in revenue matters which, if allowed to become widespread, could result in considerable harassment to the assesses-public without any benefit to the Revenue. We would like to say that the department should take these observations in the proper spirit. The observations of the High Court should be kept in mind in future and the utmost regard should be paid by the adjudicating authorities and the appellate authorities to the requirements of judicial discipline and the need for giving effect to the orders of the higher appellate authorities which are binding on them."

36. The record reveals that no finding of fraud, willful misstatement, or suppression of facts has been recorded at any stage. In the facts of the present case, no such inference can be drawn, particularly when all material facts stood disclosed and there is no indication of any intent to evade tax. In such circumstances, the jurisdictional requirements for invoking Section74 of the CGST Act are not satisfied.

37. That apart, it is evident from the Advance Ruling dated 1stJune 2022, and the Order dated 10th July 2023 that AAR, as well as Respondent No. 4, were aware of both the processes involved in the preparation of the Product, that is, machine-based and manual and also about use of aroma and menthol, and both have concluded that the Product is 'unmanufactured tobacco'. It has been categorically held that the process of mixing of lime and tobacco and coating of aroma/menthol does not alter the raw tobacco, and the product remains 'unmanufactured tobacco' only. The method of preparation, whether manual or machine-based, also does not alter the nature of the product, which remains unmanufactured tobacco pre-mixed with lime. Thus, the very basis for invoking Section 74 does not survive, and the present proceedings constitute an impermissible attempt to circumvent the binding effect of the said ruling.

38. It is well settled that when a statutory provision confers jurisdiction subject to fulfillment of certain conditions, the existence of such conditions is a sine qua non for valid assumption of jurisdiction. In the present case, the material relied upon has already been considered and decided, and in the absence of any fresh material, the impugned show cause notices are without jurisdiction and liable to be quashed at the threshold.

39. In view of the foregoing analysis, this Court is of the considered opinion that the jurisdictional conditions required under Section 74 of the CGST Act as well as Section 11A of the Central Excise Act are not satisfied. The attempt to revive allegations of fraud and suppression, which already stand rejected and have attained finality, is impermissible in law. The impugned show cause notices, therefore, cannot be sustained.

40. Accordingly, the present writ petition is allowed. The impugned show cause notices dated 8th August 2024 issued by Respondent No. 1 under Section 74 of the CGST Act and Section11A of the Central Excise Act, are hereby quashed and set aside as being without jurisdiction. No order as to costs."

4. Learned counsel for the petitioner, therefore, submit that, in view of the adjudication rendered by the Hon'ble Division Bench in ***Gyankeer Tobacco Products Pvt. Ltd.*** **(supra)**, the controversy involved in the present petition already stands adjudicated. It is submitted that the issue arising from the Advance Ruling as well as the proceedings under Section 104 of the CGST/RGST Act, on the very same aspect as involved in the present case, has already been considered and decided in favour of the petitioner.

5. Per contra, learned counsel appearing for the respondents, Mr. Rajvendra Saraswat, opposes the submissions advanced on behalf of the petitioner. However, he fairly submits that the issue involved in the present proceedings has already been considered and decided by the Hon'ble Division Bench of this Court in ***Gyankeer Tobacco Products Pvt. Ltd.*** **(supra)**.

6. Thus, this Court finds that once the controversy is no longer *res integra* and the proposition involved, arising from the Advance Ruling as well as the proceedings under Section 104 of the CGST/RGST Act, on the same aspect as involved in the present case, already stands adjudicated by the Hon'ble Division Bench in *Gyankeer Tobacco Products Pvt. Ltd.* (supra), there is no reason for this Court to take a different view.

7. Accordingly, the writ petition is allowed in same terms as in M/s Gyankeer Tobacco Products (Supra).

8. All pending application(s), if any, stand disposed of.

(PRAVEER BHATNAGAR),J (DR.PUSHPENDRA SINGH BHATI),J

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