



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 23<sup>RD</sup> DAY OF APRIL, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE S.G.PANDIT**

**AND**

**THE HON'BLE MR. JUSTICE K. V. ARAVIND**

**WRIT APPEAL No. 1751 OF 2024 (T-RES)**

**C/W**

**WRIT APPEAL No. 1590 OF 2024 (T-RES)**

**WRIT APPEAL No. 7 OF 2025 (T-RES)**

**WRIT APPEAL No. 407 OF 2026 (T-RES)**

**WRIT APPEAL No. 495 OF 2026 (T-RES)**

**WRIT APPEAL No. 555 OF 2026 (T-RES)**

**IN WA No. 1751/2024**

**BETWEEN:**

1. THE COMMISSIONER OF CENTRAL TAX,  
BENGALURU, NORTH-WEST DIVISION,  
2<sup>ND</sup> FLOOR, SHIVAJINAGAR,  
BMTc BUS STAND, BENGALURU-560051.
  2. THE ADDITIONAL COMMISSIONER OF CENTRAL TAX,  
ANTI-EVASION, BENGALURU,  
NORTH WEST DIVISION,  
2<sup>ND</sup> FLOOR, SHIVAJINAGAR,  
BMTc BUS STAND, BENGALURU-560051.
- ...APPELLANTS

(BY SRI ARAVIND V. CHAVAN, SENIOR STANDING  
COUNSEL)

**AND:**

1. M/S CHIMNEY HILLS EDUCATION SOCIETY,  
REPRESENTED BY ITS SECRETARY,  
SHRI MARI SWAMY G.,  
AGED ABOUT 60 YEARS,  
SY. No.15 , CHIKKASANDRA,  
HESARAGHATTA MAIN ROAD,  
BENGALURU URBAN.  
KARNATAKA -560090.

...RESPONDENT

(BY SRI.A.SHANKAR, SENIOR COUNSEL FOR  
SRI PRANAY SHARMA Y., ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF  
THE KARNATAKA HIGH COURT ACT PRAYING TO SET  
ASIDE THE ORDER PASSED BY THE LEARNED SINGLE  
JUDGE IN WP No.26164/2024 DATED 30/09/2024.

**IN WA No. 1590/2024**

**BETWEEN:**

1. THE ASSISTANT COMMISSIONER OF CENTRAL  
TAX,  
DIV-4, GST COMMISSIONERATE,  
BENGALURU EAST, 2<sup>ND</sup> FLOOR,  
TTMC BMTC BUS STAND,  
OLD AIRPORT ROAD,  
DOMMALURU, BENGALURU-560 071.

...APPELLANT

(BY SRI M. UNNIKRISHNAN, SENIOR STANDING  
COUNSEL)

**AND:**

1. M/S. VEREMAX TECHNOLOGIE SERVICES  
LIMITED,

INCORPORATED UNDER THE COMPANIES ACT,  
REPRESENTED BY ITS SENIOR  
ACCOUNTS EXECUTIVE,  
SRI. VENKATESAN B.,  
AGED ABOUT 33 YEARS,  
No.507, HBR LAYOUT,  
1<sup>ST</sup> STAGE, 4<sup>TH</sup> BLOCK,  
OUTER RING ROAD,  
BENGALURU URBAN-560 043.

...RESPONDENT

(BY SRI E.I. SANMATHI, ADVOCATE FOR  
SRI M.N. SHANKARE GOWDA, ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF  
THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW  
THE ABOVE APPEAL FILED BY THE APPELLANT THEREBY  
SETTING ASIDE THE ORDER PASSED BY THE LEARNED  
SINGLE JUDGE IN WP No.15810/2024 DATED 04/09/2024,  
AND CONSEQUENTLY DISMISS THE SAID PETITION.

**IN WA No. 7/2025**

**BETWEEN:**

1. ASSISTANT COMMISSIONER OF CENTRAL TAX  
(A.E.), BENGALURU SOUTH COMMISSIONERATE,  
C.R.BUILDING, 5<sup>TH</sup> FLOOR,  
HEAD QUARTERS PREVENTIVE UNIT,  
BENGALURU 560 001.

...APPELLANT

(BY SRI ARAVIND V. CHAVAN, SENIOR STANDING  
COUNSEL)

**AND:**

1. M/S ALBATROSS BUILDERS AND DEVELOPERS  
LLP.,  
REP. BY ITS PARTNER,

SRI.SHARATH H.P.,  
No.45, 100 FEET RING ROAD,  
OPP.TO MANDAVI MOTORS,  
J.P.NAGAR 4<sup>TH</sup> PHASE,  
BENGALURU 560 078.

...RESPONDENT

(BY SRI.K.K.CHYTHANYA, SENIOR COUNSEL FOR  
SRI SANMATHI E. I., ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF  
THE KARNATAKA HIGH COURT ACT PRAYING TO SET  
ASIDE THE ORDER PASSED BY THE LEARNED SINGLE  
JUDGE IN WP No. 23731/2024 DATED 14.11.2024.

**IN WA No. 407/2026**

**BETWEEN:**

1. PRINCIPAL COMMISSIONER OF CENTRAL TAX,  
MYSORE GST COMMISSIONERATE,  
VINAYA MARGA, SIDDHARTHA NAGAR,  
MYSURU 570011.
2. THE ADDITIONAL COMMISSIONER OF CENTRAL  
TAX,  
MYSORE GST COMMISSIONERATE,  
S1, S2 VINAYA MARGA,  
SIDDHARTHA NAGAR,  
MYSURU-570011.
3. THE SUPERINTENDENT OF CENTRAL TAX  
HPU, MYSURU GST COMMISSIONERATE,  
S1, S2 VINAYA MARGA,  
SIDDHARTHA NAGAR,  
MYSURU-570011.
4. CENTRAL BOARD OF INDIRECT TAXES  
AND CUSTOMS, MINISTRY OF FINANCE,  
GOVERNMENT OF INDIA,

REPRESENTED BY ITS CHAIRMAN,  
NORTH BLOCK, NEW DELHI-110 001.

5. UNION OF INDIA  
REPRESENTED BY ITS SECRETARY,  
MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE,  
NORTH BLOCK, NEW DELHI-110 001.  
...APPELLANTS

(BY SRI ARAVIND V CHAVAN, SENIOR STANDING  
COUNSEL)

**AND:**

1. M/S PRAMUR HOMES AND SHELTERS,  
A PARTNERSHIP FIRM HAVING ITS  
REGISTERED OFFICE AT  
4<sup>TH</sup> FLOOR, No.37, VENJAY EDIFICE,  
JLB ROAD, CHAMARAJAPURAM,  
MYSORE 570 005,  
REPRESENTED BY ITS MANAGING PARTNER,  
SHRI SRINIVASA MURTHY PRAKASH,  
AGED ABOUT 66 YEARS,  
S/O LATE K. S. MURTHY.  
...RESPONDENT
- IA.2/26 M/S PAVANPUTRA RESORTS  
A PROPRIETARY CONCERN  
REPRESENTED HEREINBY IT PROPRIETOR  
MR. C. P. DIVAKAR  
HAVING ITS REGISTERED OFFICE AT:  
PLOT NO.114, 116 AND 117  
KIADB INDUSTRIAL AREA  
H N PURA ROAD, HASSAN – 573 201.
- IA.3/26 M/S EDGE SOLUTIONS  
HAVING ITS REGISTERED OFFICE AT

NO.91, LAKSHMI NIVASA  
GROUND AND 2NDFLOOR  
5<sup>TH</sup> CROSS, BULLET KRISHNAPPA LAYOUT  
KODIGEHALLI MAIN ROAD  
VIDYARANYAPURA  
BANGALORE-560 097.

IA.4/26 M/S ASWAN VENTURES  
A PARTNERSHIP FIRM UNDER  
THE PROVISIONS OF THE INDIAN  
PARTNERSHIP ACT OF 1932  
REP. BY ITS PARTNER  
MR. MUZZAKIR HUSSAIN  
ADDRESS NO.15/5, 3<sup>RD</sup> FLOOR  
PRIME ROSE, ASHOK NAGAR  
BENGALURU-560 001  
ALSO AT-  
R/O 37/23, YELLAPPA CHETTY LAYOUT  
ULSOOR ROAD  
BEHING MANIPAL CENTRE  
BENGALURU-560 075.

IA.5/26 M/S CENTURY REAL ESTATE HOLDING PVT. LTD.  
A COMPANY INCORPORATED UNDER  
THE PROVISIONS OF THE COMPANIES ACT, 1956  
HAVING ITS REGISTERED OFFICE AT:  
NO.3/1, 4<sup>TH</sup> FLOOR, JP TECHNO PARK  
MILLERS TANK ROAD, VASANTHNAGAR  
BANGALORE-560 052  
REP. HEREIN BY ITS  
VICE PRESIDENT-FINANCE AND TAXATION  
MR. ANANTH KUDVA M.

...INTERVENING APPLICANTS

(BY SRI BHARAT B RAICHANDANI, ADVOCATE FOR C/R1;  
SRI SANDEEP HUILGOL, ADVOCATE FOR INTERVENING  
APPLICANTS IN IA 2/2026 TO IA 5/2026)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF  
THE KARNATAKA HIGH COURT ACT PRAYING TO SET

ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No. 33081/2025 (T-RES) DATED 11.12.2025.

**IN WA No. 495/2026**

**BETWEEN:**

1. THE COMMISSIONER OF CENTRAL EXCISE,  
BENGALURU NORTH-WEST COMMISSIONERATE,  
2<sup>ND</sup> FLOOR, SOUTH WING,  
BMTc BUS STAND COMPLEX,  
SHIVAJINAGAR, BENGALURU - 560 051.
2. THE ADDITIONAL COMMISSIONER OF CENTRAL  
TAX,  
BENGALURU NORTH-WEST COMMISSIONERATE,  
2<sup>ND</sup> FLOOR, SOUTH WING,  
BMTc BUS STAND COMPLEX,  
SHIVAJINAGAR, BENGALURU - 560 051.
3. THE OFFICE OF THE ADDITIONAL DIRECTOR  
GENERAL,  
DIRECTORATE GENERAL OF GST INTELLIGENCE,  
BELAGAVI ZONAL UNIT,  
BELAGAVI - 590 019.
4. THE UNION OF INDIA,  
THROUGH THE SECRETARY,  
MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE,  
NEW DELHI-110 001.

...APPELLANTS

(BY SRI UNNIKRISHNAN M., ADVOCATE)

**AND:**

1. M/S. G.M. AGRO AND BEVERAGES  
(INDIA) PRIVATE LIMITED,  
A COMPANY INCORPORATED

UNDER THE COMPANIES ACT, 2013,  
HAVING ITS REGISTERED OFFICE AT  
PLOT No.5A1, DOOR No.1939,  
HARIHAR, SHIVAMOGA ROAD,  
HARIHAR TALUK, BELLUDI,  
DAVANGERE - 577 601,  
REP. BY ITS DIRECTOR.

...RESPONDENT

(BY SRI VINAY N., ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THE ABOVE WRIT APPEAL FILED BY THE APPELLANTS THEREBY SETTING ASIDE THE JUDGEMENT AND ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No.7470/2025 DATED 17/12/2025 AND CONSEQUENTLY DISMISS THE SAID PETITION.

**IN WA No. 555/2026**

**BETWEEN:**

1. THE ADDITIONAL DIRECTOR,  
DIRECTORATE GENERAL OF GOODS AND  
SERVICE TAX INTELLIGENCE,  
BANGALORE ZONAL UNIT,  
No.112, S. P. ENCLAVE,  
ADJACENT TO KARNATAKA BANK,  
K. H. ROAD, BENGALURU-560027.
2. THE JOINT COMMISSIONER OF CENTRAL TAX,  
BENGALURU SOUTH GST COMMISSIONERATE,  
  
C. R. BUILDING, QUEENS ROAD,  
BENGALURU-560001.

...APPELLANTS

(BY SRI ARAVIND V. CHAVAN, SENIOR STANDING  
COUNSEL)



**AND:**

1. M/S S.R.S TRAVELS AND LOGISTICS PRIVATE LIMITED  
REGISTERED UNDER COMPANIES ACT OF 1956,  
No.321, TSP ROAD,  
OPPOSITE TO BANGALORE MEDICAL COLLEGE,  
KALASIPALAYAM, BANGALORE- 560092,  
REPRESENTED BY ITS  
MANAGING DIRECTOR,  
SMT. MEGHA BANGALORE,  
RAJASHEKHARA  
D/O LATE K.T.RAJASHEKHARA,  
AGED ABOUT 47 YEARS,  
OFFICE AT No.321, TSP ROAD,  
OPPOSITE TO BANGALORE MEDICAL COLLEGE,  
KALASIPALYAM, BENGALURU 560002.
2. THE DEPUTY COMMISSIONER OF  
COMMERCIAL TAXES (AUDIT)-3.1,  
DGSTO-3, II FLOOR,  
BMTc BUILDING, SHANTI NAGAR  
BENGALURU-560027.
3. THE COMMERCIAL TAX OFFICER,  
OFFICE OF THE ADDITIONAL COMMISSIONER  
OF COMMERCIAL TAXES (ENFORCEMENT),  
SOUTH ZONE, ROOM No.204,  
2<sup>ND</sup> FLOOR, VTK-2 BUILDING,  
RAJENDRANAGAR, KORAMANGALA,  
BENGALURU-560047.

...RESPONDENTS

(BY SRI P. B. HARISH, ADVOCATE FOR R1;  
SRI ADITYA VIKRAM BHAT, AGA FOR R2 & R3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF  
THE KARNATAKA HIGH COURT ACT PRAYING TO SET  
ASIDE THE ORDER PASSED BY THE LEARNED SINGLE  
JUDGE IN WP No.27928/2024 (T-RES) DATED 19.12.2025.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR ORDER ON **10.03.2026** COMING ON THIS DAY, **S.G.PANDIT J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT  
and  
HON'BLE MR. JUSTICE K. V. ARAVIND

**CAV JUDGMENT**

(PER: HON'BLE MR JUSTICE S.G.PANDIT)

Since facts involved in all the above appeals are similar and as they raise common questions of law, with the consent of learned counsel for the parties, these appeals are heard together and disposed of by this common judgment. It is noticed that though common questions are involved, the financial years involved are different which would not make any difference.

2. The above intra-Court appeals are filed under Section 4 of the Karnataka High Court Act, 1961 by the Revenue, respondent before the learned Single

Judge questioning order of the learned Single Judge quashing common/consolidated show cause notices issued under Section 73 and 74 of the Central Goods and Services Tax Act, 2017 (for short, 'the Act') covering more than one tax period or financial years. The parties shall be referred to hereinafter as per the rank they hold before this Court.

3. For convenience, the facts in W.A.No.1751/2024 is taken up for discussion.

4. The facts in brief are that, the appellants/Revenue issued a show cause notice under Section 74 of the Act for the period from July 2017 to March 2023 alleging defaults committed by the respondents. In other words, the allegations related to fraud, willful misstatement or suppression of facts. It is also noticed that the material forming the foundational basis for issuance of the show cause

notice was also enclosed, calling upon the respondents to submit their reply.

5. Aggrieved by the show cause notice, the respondents approached this Court under Article 226 of the Constitution of India basically on the ground that, under the Act, Sections 73 and 74 are financial year specific and that show cause notice relating to period beyond financial year or for multiple financial years is impermissible. The learned Single Judge held that the issuance of a common/consolidated show cause notice for multiple financial years is impermissible and quashed the show cause notices reserving liberty to the appellants/Revenue to issue fresh show cause notices, placing reliance on the order dated 07.08.2024 in ***M/S. BANGALORE GOLF CLUB VS. ASSISTANT COMMISSIONER OF COMMERCIAL TAXES<sup>1</sup>*** of this Court and the decision of the Madras High Court in

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<sup>1</sup> *W.P.No.16500/2024 DATED 07.08.2024*

***M/S. TITAN COMPANY LIMITED VS. JOINT COMMISSIONER OF GST<sup>2</sup>.***

6. The Revenue aggrieved by the said order of the learned Single Judge, is in appeal.

7. Heard learned standing counsel Sri.Aravind V. Chavan and learned counsel Sri.M.Unnikrishnan for appellants/Revenue, learned Additional Advocate General Shri Aditya Vikram Bhat for State, learned senior counsel Sri.A.Shankar for learned counsel Sri.Pranay Sharma.Y, learned senior counsel Sri.K.K.Chythanya for learned counsel Sri.E.I.Sanmathi, learned counsel Sri.M.N.Shankare Gowda, learned counsel Sri.Bharat B. Raichandani for caveator/respondent No.1 and learned counsel Sri.Sandeep Huilgol for intervening applicants in I.A.No.2/2026 to I.A.No.5/2026 in W.A.No.407/2026,

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<sup>2</sup> W.P.No.33164/2023

learned counsel Sri.Vinay.N., learned counsel Sri.P.B.Harish for respondents/ assessees. Perused the appeal papers.

8. Learned senior standing counsel Sri.Aravind V. Chavan for appellants/Revenue referring to Sections 73 and 74 of the Act submits that it would not restrict initiation of proceedings to a single financial year. Similarly, he submits that the procedure prescribed for regular assessment under Chapters IX and XII as well as proceedings under Chapter XV with regard to demands and recovery is also not restricted to a single financial year. Further, learned counsel for Revenue would submit that Sections 73 and 74 of the Act uses the word "any period" and when the legislature has used consciously the expression "any period", it would be impermissible to read it as restrictive one, restricting it to a single financial year.

9. It is further submitted that, Sub-Section (10) of Sections 73 and 74 of the Act protects the interest of the assessee by prescribing limitation and use of financial year in Sub-Section (10) cannot be read as financial year specific to the proceedings under Sections 73 and 74 of the Act. It is also submitted that Sections 73 and 74 of the Act would not prohibit initiation of multiple proceedings within a financial year also. In the said circumstances, it is submitted that the contention that show cause notice issued under Sections 73 and 74 of the Act must be confined to a financial year would be contrary to the provision itself and it would amount to reading and understanding the provision by adding what is not there in the provision. However, it is pointed out that show cause notice issued under Sections 73 and 74 of the Act would be subject to limitation prescribed under Sub-Section (10) of Sections 73 and 74 of the Act.

Learned counsel for the Revenue places reliance on the judgment of the Delhi High Court in **MATHUR POLIMERS VS. UNION OF INDIA (2026) 154 GSTR 443** (decided on 26.08.2025) and **AMBIKA TRADERS VS. COMMISSIONER<sup>3</sup>** to contend that, it is permissible to issue consolidated show cause notice covering multiple financial years. It is also submitted that, the SLPs filed against both the decisions are dismissed. Learned counsel for the Revenue also placed reliance on the decision of the High Court of Judicature at Allahabad in **M/S. SA AROMATICS PVT. LTD., AND ANOTHER VS. UNION OF INDIA AND OTHERS<sup>4</sup>**, which also permitted issuance of combined show cause notices for multiple financial years under Sections 73 and 74 of the Act.

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<sup>3</sup> (2025) 33 Centax 189 (Del)

<sup>4</sup> Writ Tax.No.7515/2025 dated 20.01.2026



10. Learned Additional Government Advocate Sri.Aditya Vikram Bhat supporting the learned counsel for the Revenue submits that writ petition questioning show cause notice is not maintainable as the show cause notice would provide an opportunity to the respondent/assesses to submit their reply and thereafter efficacious statutory remedy is provided under the Act.

11. Further, learned Additional Government Advocate referring to Rule 56 of the Central Goods and Services Tax Rules, 2017 (for short, 'the Rules') would submit that accounts are to be maintained for each works contract. It is also submitted that if common show cause notice covering various financial years is issued, at the time of adjudication, adjudication could be for each financial year, therefore, issuance of common show cause notice

involving several financial years cannot be found fault with.

12. The Learned AGA relied upon the following judgments:

*(i) Singareni Collieries Company Limited vs. Vemuganti Ramakrishan Rao and Others, (2013) 8 SCC 789 : 2013 SCC OnLine SC 780*

*(ii) Union of India and Others vs. V.R. Nanukuttan Nair, (2019) 19 SCC 690 : 2019 SCC OnLine SC 1435*

*(iii) Murlidhar Madanlal vs. Commissioner of Income Tax, Bihar and Orissa, (1954) 26 ITR 231 : 1954 SCC OnLine Pat 41 : AIR 1954 Pat 511*

*(iv) State of Jammu and Kashmir vs. Caltex (India) Ltd., 1965 SCC OnLine SC 168 : (1966) 17 STC 612*

*(v) Bennett and White (Calgary) Ltd. vs. Municipal District of Sugar City No. 5, Privy Council Appeal No. 42 of 1950 (decided on 23.07.1951)*

*(vi) Vallabh Textiles vs. Additional/Joint Commissioner, CGST Delhi East Commissionerate and Ors., W.P.(C) 13855/2024*

*(vii) Kasautii The Jewellers vs. Commissioner of Income Tax & Ors., W.P.(T) No. 2344 of 2015*

*(viii) Deputy Commissioner (Intelligence) vs. Minimol Sabu, W.A. No. 238/2025 (Kerala High Court, Ernakulam)*

13. On the contrary, learned counsel Sri.Bharath appearing for respondent/assessee in W.A.No.407/2026 submitted that the provisions of the Act would not permit issuance of common show cause notice for multiple financial years, as assessment is to be made for the financial year with independent returns, liabilities and that too within the period of limitation prescribed. Further, he submits that annual returns, along with year-wise re-conciliation of

turnover, input tax credit, tax liability, are required to be furnished. It is also submitted that as per the scheme of the Act registration, maintenance of accounts, filing of returns, reconciliation, assessment, determination and limitation is structured independently for each financial year. By referring to Sections 2(11), 44, 62, 34 of the Act and Rule 56 of the Rules, he submits that scheme framed itself is financial year specific and any default attracts consequences under Sections 73 and 74 of the Act.

14. It is further submitted that when the provisions governing filing of returns and assessment, whether self-assessment or provisional assessment, are structured with reference to the financial year, the consequential proceedings under Sections 73/74 must necessarily also be with reference to the financial year. Learned counsel, by referring to Form GST DRC-01 prescribed under Rules 100 and 142 of the Rules,

contends that the prescribed format of the show cause notice itself refers to the "tax period" and the "financial year." It is submitted that the tax period may be monthly or annual; however, it cannot extend beyond a financial year. When DRC-01 show cause notice format indicates and confines the period to a financial year, issuance of show cause notice for multiple financial years is impermissible. In that regard, learned counsel also refers to Form-GST ADT-01 under Rule 101 of the Rules and Form-GST DRC-07 issued under Rule 100 of the Rules.

15. In support of the aforesaid submissions, learned counsel relied upon the following judgments:

- (i) *J.K. Steel Ltd vs. Union of India, 1978*  
(2) *E.L.T. 355 (SC).*
- (ii) *Dhandhaniala Kedia & Co vs. CIT, [1959]*  
*35 ITR 400 (SC).*

(iii) *Shri Ishar Alloy Steels Ltd vs Jayaswals Neco Limited, 2001 (3) SCC 609.*

(iv) *Milroc Good Earth Developers vs. Union of India [2025] 179 [taxmann.com](#) 465 (Bombay)/[2025] 112 GST 596 (Bombay)/[2026] 104 GSTL 45 (Bombay) [09-10-2025].*

(v) *Joint Commissioner (Intelligence & Enforcement) vs. Lakshmi Mobile Accessories [2025] 171 [taxmann.com](#) 214 (Kerala)/[2025] 108 GST 750 (Kerala)/[2025] 95 GSTL 356 (Kerala) [05-02-2025].*

(vi) *Tharayil Medicals vs. Deputy Commissioner, SGST Department, Thrissur [2025] 173 [taxmann.com](#) 867 (Kerala) [08-04-2025].*

(vii) *S.J.Constructions vs. Assistant Commissioner [2025] 178 [taxmann.com](#) 570 (Andhra Pradesh)/[2025] 102 GSTL 348 (Andhra Pradesh) [17-09-2025].*

(viii) *R A and Co vs. Additional Commissioner of Central Taxes [2025] 176 [taxmann.com](#) 731 (Madras)/[2025] 111 GST 104*

*(Madras)/[2025] 101 GSTL 21 (Madras) [21-07-2025].*

*(ix) Titan Company Ltd. vs. Joint Commissioner of GST & Central Excise [2024] 159 [taxmann.com](http://taxmann.com) 162 (Madras) [18-12-2023].*

*(x) Rite Water Solutions vs. Joint commissioner W.P.No.466 of 2025 (Bombay High Court).*

*(xi) ICAD School of Learning vs. Union of India, W.P.No.736/2026 (Bombay High Court).*

*(xii) M/s. Hakikatrai and Sons, Akola vs. Union of India 2026 (3) TMI 248.*

*(xiii) Instakart Services Private Limited vs. The Additional Commissioner (W.P. No.31551 of 2025).*

*(xiv) Kunhayammed vs. State of Kerala, 2001 (129) E.L.T. 11 (S.C.)"*

*(xv) UBER India Systems Pvt, Ltd., vs. Deputy Commissioner of Central Tax & another, W.P.No.19740 of 2024 (AP).*

*(xvi) Dhanlaxmi Bank Limited vs. State of Kerala & Others, WP (C) No.15618 of 2025 (Kerala).*

*(xvii) M/s. Aparna Collection vs. UOI & others., W.P. (Civil No.890/2025 (SC).*

*(xviii) M/s. Aparna Collection vs. UOI & others., W.P. (C) No.17077/2025 & CM APPL. 70280/2025 (Delhi).*

*(xix) Berger Paints India Ltd. vs. CIT, 2004 (165) E.L.T. 488 (S.C.).*

16. Learned senior counsel Sri.K.K.Chythanya for respondent/assessee in W.A.No.7/2025 submits that issuance of a show cause notice is a jurisdictional aspect which shall strictly comply statutory requirements. It is his specific contention that under the Scheme of the Act, every action either by the Revenue or by the assessee is financial year specific. However, he submits that although Sections 73 and 74 of the Act do not expressly prohibits issuance of a



combined notice, referring particularly to the provisions relating to filing of returns and self-assessment, the notice under Sections 73 and 74 of the Act, by necessary implication would suggest each financial year. In that regard, learned senior counsel refers to Sections 2(11), 106, 39, 44, 59 and 168A of the Act.

17. Learned senior counsel would submit that Section 74 of the Act would deal with cases involving fraud, misrepresentation or suppression of facts, whereas Section 73 of the Act deals with other than cases of fraud, misrepresentation or suppression of facts. However, he submits that Sub-Section (10) of Sections 73 and 74 of the Act prescribes different limitation period. By issuing a common show cause notice for different periods whether it involves fraud, misrepresentation or suppression, the statutory limitation applicable to cases falling under Section 73

of the Act would effectively stand extended by application of Section 74 of the Act, which is impermissible. Learned senior counsel also places reliance on the circulars prescribing pecuniary limits for adjudication by the proper officer. It is submitted that depending on the pecuniary jurisdiction, show cause notices are to be adjudicated. Issuance of common or consolidated show cause notice may result in adjudication of show cause notice by officer having no pecuniary jurisdiction.

18. It is also contended that in view of the deeming fiction under sub-section (10) of Section 75, proceedings are deemed to be concluded if not adjudicated within the time prescribed under sub-section (10) of Sections 73 and 74. Such anomalies, it is submitted, can be avoided if separate show cause notices are issued for each financial year, which would, in fact, be advantageous even from the

perspective of the Revenue. Learned counsel further submits that where a consolidated show cause notice is issued covering multiple years, and some of those years attract Section 73, such cases may, by legal fiction, be treated and determined under Section 73(1) of the Act, leading to further inconsistencies. This anomaly, it is urged, can be obviated if the show cause notices are confined to individual financial years.

19. In support of the aforesaid submissions, learned senior counsel relied upon the following judgments:

*(i) Deputy Commissioner of Income Tax vs. Sunil Kumar Sharma, [2024] 469 ITR 197 (Karnataka).*

*(ii) Needle Industries (India) Ltd and Others vs. Needle Industries Newey (India) Holding Ltd. and Others, (1981) 3 SCC 333.*

*(iii) R.K. Upadhyaya vs. Shanabhai P. Patel, [1987] 33 Taxman 229 (SC).*

*(iv) Deputy Commissioner of Income Tax vs. Sunil Kumar Sharma, [2024] 168 taxmann.com 77 (SC).*

*(v) Everest Flavours Ltd. Vs. National Faceless Assessment Centre, [2024] 166 taxmann.com 621 (Bombay).*

*(vi) C.C., C.E. and S.T. Bangalore (Adjudication) and others vs. Northern Operating Systems Private Limited, (2022) 17 SCC 90.*

20. Learned senior counsel Sri.A.Shankar for respondent/assessee in W.A.No.1751/2024 submits that circular prescribes pecuniary jurisdiction to each proper officer and issuance of consolidated show cause notice would defeat such pecuniary jurisdiction. It is submitted that when pecuniary jurisdiction is prescribed to a proper officer, demand in a consolidated show cause notice would result in shifting

of jurisdiction of proper officer. To maintain pecuniary jurisdiction show cause notice under Sections 73 and 74 of the Act shall be restricted to each financial year. Further, learned senior counsel would also submit that when common show cause notice is issued consolidating various financial years, show cause notice for some financial years may not be maintainable or barred by limitation.

21. In support of his submissions, the learned Senior Counsel relied on the following Judgments:

(i) *Milroc Good Earth Developers vs. Union of India* [2025] 179 taxmann.com 465 (Bombay)/[2025] 112 GST 596 (Bombay)/[2026] 104 GSTL 45 (Bombay) [09-10-2025].

(ii) *Paras Stone Industries vs. Union of India* [2026] 182 taxmann.com 643 (Bombay) [09-01-2026].

(iii) *Joint Commissioner (Intelligence & Enforcement) vs. Lakshmi Mobile Accessories*

[2025] 171 taxmann.com 214 (Kerala)/[2025] 108 GST 750 (Kerala)/[2025] 95 GSTL 356 (Kerala) [05-02-2025].

(iv) *Tharayil Medicals vs. Deputy Commissioner, SGST Department, Thrissur* [2025] 173 taxmann.com 867 (Kerala) [08-04-2025].

(v) *S.J.Constructions vs. Assistant Commissioner* [2025] 178 taxmann.com 570 (Andhra Pradesh)/[2025] 102 GSTL 348 (Andhra Pradesh) [17-09-2025].

(vi) *Pramur Homes and Shelters vs. Union of India* [2025] 181 taxmann.com 541 (Karnataka) [11-12-2025].

(vii) *Gopi Chand vs. Deputy Commissioner of Commercial Taxes (Audit)* [2025] 171 taxmann.com 586 (Karnataka)/[2025] 109 GST 25 (Karnataka) [22-01-2025].

(viii) *R A and Co vs. Additional Commissioner of Central Taxes* [2025] 176 taxmann.com 731 (Madras)/[2025] 111 GST 104 (Madras)/[2025] 101 GSTL 21 (Madras) [21-07-2025].

(ix) *Titan Company Ltd. vs. Joint Commissioner of GST & Central Excise [2024] 159 [taxmann.com](#) 162 (Madras) [18-12-2023].*

(x) *Ekta Enterprises vs. State of Himachal Pradesh (2026) 38 Centax 303 (H.P).*

(xi) *Dream Infotech vs. State Tax Officer (Ins), Tirunelveli (2026) 183 [taxmann.com](#) 272 (madras)[02-02-2026].*

(xii) *Smt. R Ashaarajaa vs. Senior Intelligence Officer, Directorate General of GST Intelligence [2025] 176 [taxmann.com](#) 689 (Madras).*

(xiii) *Speedways Logistics (P.) Ltd. vs. Union of India (2026) 183 [taxmann.com](#) 232 (Bombay) [06-02-2026].*

22. Learned counsel Sri.Sandeep Huilgol for some of the intervening applicants in W.A.No.407/2026, in addition to the submissions made on behalf of respondents/assessee submits that, overall scheme of the Act would suggest

issuance of show cause notice under Sections 73 and 74 of the Act for a financial year. Learned counsel referring to the minutes of 53<sup>rd</sup> meeting of the GST Council dated 22.06.2024 to introduce Section 74A of the Act, submits that proceedings are intended to be for financial year. Further, referring to Section 36 of the Act, he submits that retention of books of accounts are with reference to financial year, as such, all proceedings under the Act shall have to be construed to be financial year specific. Learned counsel places reliance on the judgment of the Hon'ble Apex Court in ***NIZAM SUGAR FACTORY VS. COLLECTOR OF CENTRAL EXCISE, A.P***<sup>5</sup>.

23. Learned counsel Sri.E.I.Sanmathi for respondent/assesses in W.A.No.1590/2025 submits that the reason for issuance of a show cause notice shall have nexus with the conditions stipulated under

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<sup>5</sup> 2006 TAXMANN.COM 2313 (SC)



Sections 73 and 74 of the Act. If common or consolidated show cause notices are issued, it may not satisfy the necessary ingredients of fraud, misrepresentation or suppression of facts. Learned counsel places reliance on the judgment of the Hon'ble Apex Court in **COMMISSIONER OF INCOME TAX VS. KURBAN HUSSAIN IBRAHIMJI MITHIBORWALA**<sup>6</sup>.

24. On hearing the learned counsel appearing for the parties and on perusal of the entire appeal papers, the following point would arise for our consideration:

*Whether it would be permissible to issue consolidated/common show cause notice under Sections 73 and 74 of the Act covering multiple financial years or multiple tax periods?*

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<sup>6</sup> (1971) 82 ITR 821 (SC)

25. Answer to the above point would be in the affirmative for the reasons stated hereunder.

### **STATUTORY FRAMEWORK**

Before proceeding to answer the contentions, it is necessary to analyse the scheme of the Central Goods and Services Tax Act, 2017, particularly in view of the submissions advanced by the majority of the learned counsel that Sections 73 and 74 must be interpreted in the backdrop of the overall statutory framework. The relevant provisions of the Act are extracted herein below for ready reference and convenience:

**"2. Definitions.**—*In this Act, unless the context otherwise requires,—*

\*\*\*\*\*

*(106) "tax period" means the period for which the return is required to be furnished;"*

**"37. Furnishing details of outward supplies.**—*(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of Section 10 or Section 51 or Section 52, shall furnish, electronically, [subject to such conditions and*

*restrictions and] in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details [shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies]:*

*[\* \* \*]*

*[Provided that] the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:*

*[Provided further that] any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.*

*(2) [\* \* \*]*

*(3) Any registered person, who has furnished the details under sub-section (1) for any tax period [\* \* \*], shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:*

*Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after [the*

*thirtieth day of November] following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.*

*[Provided further that the rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under Section 39 for the month of September, 2018 till the due date for furnishing the details under sub-section (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.]*

*[(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him:*

*Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods.]*

*[(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section*

(1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:

*Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details.]*

*Explanation.—For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.*

**38. Communication of details of inward supplies and input tax credit.—**(1)

*The details of outward supplies furnished by the registered persons under sub-section (1) of Section 37 and of such other supplies as may be prescribed, [a statement] containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.*

(2) *The [statement referred in] sub-section (1) shall consist of—*

(a) *details of inward supplies in respect of which credit of input tax may be available to the recipient; [\* \* \*]*

*(b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, [including] on account of the details of the said supplies being furnished under sub-section (1) of Section 37,—*

*(i) by any registered person within such period of taking registration as may be prescribed; or*

*(ii) by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or*

*(iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or*

*(iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or*

*(v) by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of Section 49 subject to such conditions and restrictions as may be prescribed; or*

(vi) by such other class of persons as may be prescribed.]  
 [(c) such other details as may be prescribed.]"

**"39. Furnishing of returns.**— [(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of Section 10 or Section 51 or Section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, [within such time, and subject to such conditions and restrictions], as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(2) A registered person paying tax under the provisions of Section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.]

[(3) Every registered person required to deduct tax at source under Section 51 shall electronically furnish a return for every calendar month of

*the deductions made during the month in such form and manner and within such time as may be prescribed:*

*Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.]*

*(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.*

*(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within [thirteen] days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of Section 27, whichever is earlier.*

*(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:*

*Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.*



*[(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:*

*[Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,—*

*(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or*

*(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed : ]*

*Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in*

*such form and manner, and within such time, as may be prescribed.]*

*(8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.*

*(9) [Where] any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars [in such form and manner as may be prescribed], subject to payment of interest under this Act:*

*Provided that no such rectification of any omission or incorrect particulars shall be allowed after [the thirtieth day of November] following [the end of the financial year to which such details pertain], or the actual date of furnishing of relevant annual return, whichever is earlier.*

*(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods [or the details of outward supplies under sub-section (1) of Section 37 for the said tax period has not been furnished by him:*

*Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of Section 37 for the said tax period.]*

*[(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:*

*Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return.]*

**"41. Availment of input tax credit.**—(1)  
*Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.*

*(2) The credit of input tax availed by a registered person under sub-section (1) in*

*respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:*

*Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.]"*

**"44. Annual return.**— *[(1)] Every registered person, other than an Input Service Distributor, a person paying tax under Section 51 or Section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:*

*Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:*

*Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.]*

*[(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:*

*Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said annual return."*

***"45. Final return.***—Every registered person who is required to furnish a return under sub-section (1) of Section 39 and whose registration has been cancelled shall furnish a final return within three months of the date of cancellation or date of order of cancellation, whichever is later, in such form and manner as may be prescribed."

***"49. Payment of tax, interest, penalty and other amounts.***—(1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his

*electronic credit ledger, in accordance with [Section 41 [\* \* \*]], to be maintained in such manner as may be prescribed.*

*(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.*

*(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions [and restrictions] and within such time as may be prescribed.*

*(5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of—*

*(a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;*

*(b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be*

*utilised towards the payment of integrated tax;*

- (c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax:*

*[Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;]*

- (d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax:*

*[Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;]*

- (e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and*

- (f) the State tax or Union territory tax shall not be*

*utilised towards payment of central tax.*

*(6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of Section 54.*

*(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.*

*(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—*

*(a) self-assessed tax, and other dues related to returns of previous tax periods;*

*(b) self-assessed tax, and other dues related to the return of the current tax period;*

*(c) any other amount payable under this Act or the rules made thereunder including the demand determined under Section 73 or Section 74 [or Section 74-A].*

*(9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.*



*Explanation.—For the purposes of this section,—*

*(a) the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;*

*(b) the expression,—*

*(i) "tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and*

*(ii) "other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.*

*[(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for,—*

*(a) integrated tax, central tax, State tax, Union territory tax or cess; or*

*(b) integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of Section 25,*

*in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act:*

*Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.]*

*[(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).]*

*[(12) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 (13 of 2017) which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.]*

**"51. Tax deduction at source.—(1)**  
*Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—*

- (a) a department or establishment of the Central Government or State Government; or*
- (b) local authority; or*
- (c) Governmental agencies; or*
- (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,  
 (hereafter in this section referred to as "the deductor"), to deduct tax at*

*the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:*

*Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.*

*Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.*

*(2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.*

*[(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.]*

*(4) [\* \* \*]*

*(5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of Section 39, in such manner as may be prescribed.*

(6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of Section 50, in addition to the amount of tax deducted.

(7) The determination of the amount in default under this section shall be made in the manner specified in Section 73 or Section 74 [or Section 74-A].

(8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of Section 54:

*Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee."*

**"52. Collection of tax at source.—(1)** *Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.*

*Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean*

*the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of Section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.*

*(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.*

*(3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.*

*(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.*

*[Explanation:—For the purposes of this sub-section, it is hereby declared that the due date for furnishing the said statement for the months of October, November and December, 2018 shall be the [7th February, 2019] : ]*

*[Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of*

*registered persons as may be specified therein:*

*Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]*

*(5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year:*

*[Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:*

*Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]*

*(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or*

*incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of Section 50:*

*Provided that no such rectification of any omission or incorrect particulars shall be allowed after the [thirtieth day of November] following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.*

*(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.*

*(8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.*

*(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under [Section 37 or Section 39], the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.*

*(10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished*

*by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.*

*(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of Section 50 on the amount so added from the date such tax was due till the date of its payment.*

*(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—*

*(a) supplies of goods or services or both effected through such operator during any period; or*

*(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,*

*as may be specified in the notice.*

*(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.*

*(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under Section*



122, be liable to a penalty which may extend to twenty-five thousand rupees.

[(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement.]

*Explanation.—For the purposes of this section, the expression "concerned supplier" shall mean the supplier of goods or services or both making supplies through the operator."*

**"54. Refund of tax.**—(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of Section 49, may claim such refund in [such form and] manner as may be prescribed

(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities)

*Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under Section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of [two years] from the last day of the quarter in which such supply was received.*

*(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:*

*Provided that no refund of unutilised input tax credit shall be allowed in cases other than—*

- (i) zero rated supplies made without payment of tax;*
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:*

*[\* \* \*]*

*Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of*

*central tax or claims refund of the integrated tax paid on such supplies.*

*(4) The application shall be accompanied by—*

*(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and*

*(b) such documentary or other evidence (including the documents referred to in Section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:*

*Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.*

*(5) If, on receipt of any such application, the proper officer is*

*satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in Section 57.*

*(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both [or of unutilised input tax credit allowed under clause (ii) of the first proviso to sub-section (3)] made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, [\* \* \*] in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.*

*(7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.*

*(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—*

- (a) refund of tax paid on ["export" and "exports"] of goods or services or both or on inputs or input services used in making such zero-rated supplies;
- (b) refund of unutilised input tax credit under sub-section (3);
- (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) refund of tax in pursuance of Section 77;
- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

[(8-A) The Government may disburse the refund of the State tax in such manner as may be prescribed.]

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in

*any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).*

*(10) Where any refund is due [\* \* \*] to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—*

*(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;*

*(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.*

*Explanation.—For the purposes of this sub-section, the expression "specified date" shall mean the last date for filing an appeal under this Act.*

*(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud*

*committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.*

*(12) Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in Section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.*

*(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of Section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under Section 39.*

*(14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) [ , other than cases where refund of tax is claimed on account of goods exported out of India with payment of tax,] shall be paid to an applicant, if the amount is less than one thousand rupees.*

*[(15) Notwithstanding anything contained in this section, no refund of unutilised input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero*

*rated supply of goods shall be allowed where such zero rated supply of goods is subjected to export duty.]*

*Explanation.—For the purposes of this section,—*

*(1) "refund" includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (3).*

*(2) "relevant date" means—*

*(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—*

*(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or*

*(ii) if the goods are exported by land, the date on which such goods pass the frontier; or*

*(iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;*

*(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the*



- return relating to such deemed exports is furnished;*
- [(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;]*
- (c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—*
- (i) receipt of payment in convertible foreign exchange <sup>197</sup>[or in Indian rupees wherever permitted by the Reserve Bank of India], where the supply of services had been completed prior to the receipt of such payment; or*
- (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;*
- (d) in case where the tax becomes refundable as a consequence of judgment, decree, order or*

*direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;*

*[(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under Section 39 for the period in which such claim for refund arises;]*

*(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;*

*(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and*

*(h) in any other case, the date of payment of tax."*

**"59. Self-assessment.**—Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under Section 39."

**"60. Provisional assessment.**—(1) Subject to the provisions of sub-section (2), where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an

*order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.*

*(2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.*

*(3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:*

*Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.*

*(4) The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both under provisional assessment but not paid on the due date specified under sub-section (7) of Section 39 or the rules made thereunder, at the rate specified under sub-section (1) of Section 50, from the first day after the due date of payment of tax in respect of the said supply of goods or services or both till the date of actual payment, whether such amount is paid before*

or after the issuance of order for final assessment.

(5) Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of Section 54, interest shall be paid on such refund as provided in Section 56."

**"61. Scrutiny of returns.**—(1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.

(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under Section 65 or Section 66 or Section 67, or proceed to determine the tax and other dues under Section 73 or Section 74 [or Section 74-A]."

**"62. Assessment of non-filers of returns.**— (1) Notwithstanding anything to the contrary contained in Section 73 or Section 74 [or Section 74-A], where a registered person fails to furnish the return under Section 39 or

*Section 45, even after the service of a notice under Section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.*

*(2) Where the registered person furnishes a valid return within [sixty days] of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of Section 50 or for payment of late fee under Section 47 shall continue:*

*[Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of Section 50 or to pay late fee under Section 47 shall continue.]"*

**"63. Assessment of unregistered persons.**—Notwithstanding anything to the contrary contained in Section 73 or Section 74 or Section 74-A], where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of Section 29 but who

*was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:*

*Provided that no such assessment order shall be passed without giving the person an opportunity of being heard."*

**"64. Summary assessment in certain special cases.**—(1) *The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:*

*Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.*

*(2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in Section 73 or Section 74 [or Section 74-A]."*

**"65. Audit by tax authorities.**—(1) *The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.*

(2) *The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.*

(3) *The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.*

(4) *The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:*

*Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.*

*Explanation.—For the purposes of this sub-section, the expression "commencement of audit" shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.*

(5) *During the course of audit, the authorised officer may require the registered person,—*

(i) *to afford him the necessary facility to verify the books of account or other documents as he may require;*

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(7) Where the audit conducted under subsection (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under Section 73 or Section 74 [or Section 74-A]."

**"66. Special audit.**—(1) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.

(2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified:

Provided that the Assistant Commissioner may, on an application made



*to him in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of ninety days.*

*(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.*

*(4) The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.*

*(5) The expenses of the examination and audit of records under sub-section (1), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner and such determination shall be final.*

*(6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under Section 73 or Section 74 [or Section 74-A]."*

**"67. Power of inspection, search and seizure.**—(1) *Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—*

*(a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement*

*under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or*

*(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act, he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.*

*(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:*

*Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the*

*custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:*

*Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.*

*(3) The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.*

*(4) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.*

*(5) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an*

*authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.*

*(6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.*

*(7) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:*

*Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.*

*(8) The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper*

*officer in such manner as may be prescribed.*

*(9) Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorised by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.*

*(10) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of Section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.*

*(11) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.*

*(12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of*

*tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier."*

***"73. Determination of tax [ pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.—(1) Where it appears***

*to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under Section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.*

*(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.*

*(3) Where a notice has been issued for any period under sub-section (1),*

*the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.*

*(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.*

*(5) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under Section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.*

*(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.*

*(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall*

*proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.*

*(8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under Section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.*

*(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.*

*(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.*

*(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.*



*[(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.]"*

***"74. Determination of tax [ , pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.—(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under Section 50 and a penalty equivalent to the tax specified in the notice.***

*(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.*

*(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for*

*such periods other than those covered under sub-section (1), on the person chargeable with tax.*

*(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of Section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.*

*(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under Section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.*

*(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.*

*(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in*

*respect of such amount which falls short of the amount actually payable.*

*(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under Section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.*

*(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.*

*(10) The proper officer shall issue the order under sub-section (9) 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 or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.*

*(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under Section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.*

*[(12) The provisions of this section shall be applicable for determination*

*of tax pertaining to the period up to Financial Year 2023-24.]*

*Explanation 1.—For the purposes of Section 73 and this section,—*

*(i) the expression "all proceedings in respect of the said notice" shall not include proceedings under Section 132;*

*(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under Section 73 or Section 74, the proceedings against all the persons liable to pay penalty under [Sections 122 and 125] are deemed to be concluded.*

*Explanation 2.— [ \* \* \* ]"*

26. In terms of Section 2(106), the tax period would mean the period for which a return is required to be furnished.

27. Chapter IX of the Act deals with the filing of returns. Section 37 requires every registered person, other than an Input Service Distributor, to

furnish, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period, on or before the 10th day of the month succeeding the said tax period. For convenience, this may be referred to as a monthly return. Sub-section (3) of Section 37 provides for rectification of any error or omission in the return furnished under sub-section (1). Section 38 mandates communication of the details of inward supplies and input tax credit by the registered supplier to the recipient of the supply. Section 39 requires every registered person, other than an Input Service Distributor or a non-resident taxable person, to furnish a return of inward and outward supplies of goods or services or both for every calendar month, in such form and manner and within such time as may be prescribed. The other compliances contemplated under the said section are also structured with

reference to each calendar month. Section 41 deals with the availment of input tax credit on the basis of self-assessment as reflected in the return, and the corresponding amount credited to the electronic credit ledger. Section 44 requires every registered person, other than an Input Service Distributor, to furnish an annual return for each financial year. Such return is to include a self-certified reconciliation statement, reconciling the value of supplies declared in the returns furnished for the financial year with the audited annual financial statements, and is to be filed electronically within such time and in such form as may be prescribed. Sub-section (2) prescribes the outer time limit for furnishing the annual return. Section 45 requires every registered person, who is required to furnish a return under Section 39 and whose registration has been cancelled, to furnish a final return in such form and manner as may be

prescribed. Section 49, falling under Chapter X, deals with the payment of tax, interest, penalty, and other amounts. Section 51 deals with tax deduction at source and requires deduction of tax at the prescribed rate from payments made towards taxable supplies of goods or services or both. Section 52 deals with the collection of tax at source. Section 54 deals with refund of tax and prescribes a limitation period of two years from the relevant date. The "relevant date" is defined in clause (2) of the Explanation thereto. Chapter XII of the Act provides for assessment. Section 59 mandates that every registered person shall self-assess the tax payable under the Act and furnish returns for each tax period as specified under Section 39. Section 39 pertains to the furnishing of monthly returns. Section 60 provides for provisional assessment in cases where a taxable person is unable to determine the value of goods or services or both or

the rate of tax applicable thereto. Upon a written request being made to the proper officer, the proper officer may pass an order permitting payment of tax on a provisional basis at such rate or on such value as may be specified. Section 61 enables the proper officer to scrutinize the return and the related particulars furnished by a registered person. While undertaking such scrutiny, if any discrepancies are noticed, the proper officer is required to inform the registered person and seek an explanation. If the explanation furnished is found satisfactory, the registered person is to be informed accordingly, and no further action is contemplated. However, if no satisfactory explanation is furnished within a period of thirty days from the date of such intimation, or if the registered person fails to take corrective measures in the return for the period in which the discrepancy is accepted, the proper officer may initiate proceedings



under Sections 73 or 74 for determination of tax and other dues. Section 62 deals with the assessment of non-filers of returns, and in such cases, proceedings may be initiated under Sections 73 or 74 of the Act. Similarly, Section 63 deals with the assessment of unregistered persons, and in such cases, proceedings may be initiated under Sections 73 or 74 of the Act. Section 64 enables the proper officer to undertake summary assessment in certain special cases, and such assessment is to be carried out in accordance with the procedure contemplated under Sections 73 or 74 of the Act. A combined reading of Sections 59, 60, 61, 62, 63, and 64, which govern various modes of assessment, indicates that in the event of any default, the consequence is initiation of proceedings under Sections 73 or 74 of the Act. The aforesaid provisions do not indicate that such proceedings are to be

confined to a financial year; rather, they are default-specific.

28. In accordance with the provisions of the Act, a registered person is required to comply with the prescribed requirements in the prescribed manner and in the event of non-compliance, it contemplates determination under Sections 73 and 74 of the Act without reference to a financial year. If the default pertains to a monthly return, proceedings may relate to that month and if default pertains to annual return, the proceedings may relate to the said period. Therefore, the tax period defined has to be understood in the context in which the requirement is prescribed and it cannot be confined to a month or a financial year. It would be useful to refer the provisions contained in Chapter XIII in respect of audit. Section 65 enables the Commissioner or any officer authorised by him to undertake an audit of any

registered person for such period, at such frequency, and in such manner as may be prescribed. Such audit is not confined to a tax period or a financial year; rather, it may extend to such period as the Commissioner or the authorised officer deems fit. Sub-section (7) of Section 65 provides that, upon completion of audit, where it is found that tax has not been paid or has been short paid, or has been erroneously refunded, or where input tax credit has been wrongly availed or utilised, the proper officer is required to initiate proceedings under Sections 73 or 74 of the Act. Even in the context of Section 65, therefore, Sections 73 and 74 cannot be construed as being confined to a financial year.

29. Section 66 of the Act prescribes for special audit of the books of account of a registered person by a Chartered Accountant or a Cost Accountant nominated by the Commissioner and such special

audit is not confined to a specific period or to a financial year. Sub-section (6) of Section 66 provides that, upon submission of the Special Audit Report, if it is found that tax has not been paid or has been short paid, or has been erroneously refunded, or that input tax credit has been wrongly availed or utilised, the proper officer is required to initiate proceedings under Sections 73 or 74 of the Act.

30. A conjoint reading of Section 66 with Sections 73 and 74 of the Act would not indicate that such proceedings are to be confined to a tax period or a financial year.

31. Section 67 of the Act under Chapter XIV deals with inspection, search, seizure and arrest. The material unearthed in the course of such inspection search or seizure may lead to initiation of proceedings under Sections 73 and 74 of the Act, as the case may

be. Such proceedings are also not confined to any specific tax period or financial year. Combined reading of the above said provisions would indicate that wherever the legislature intended the proceedings to be confined to a specific tax period, be it a month or a financial year, it has expressly provided so. Conversely, whenever such confinement was not intended, the statute either employs the expression "such period" or does not refer to any period at all.

32. We have to take note of the expressions used in the Act by the legislature i.e., "tax period", "financial year", "such period" or in some provisions, no reference to a period. On a combined reading of the provisions of the Act and particularly Sections 73 and 74 of the Act, the irresistible conclusion would be that the proceedings under Sections 73 and 74 of the Act were never intended to be confined to a financial year.

33. Sections 73 and 74, falling under Chapter XV, deal with demands and recovery. Sections 73 and 74 deal with determination of defaults arising under the provisions of the Act, other than those relating to assessment. The scope and ambit of Sections 73 and 74 must be understood in the context in which they are enacted. Significantly, the provisions consciously employ the expression "any period" while providing for issuance of notice. In the backdrop of the statutory scheme analysed hereinabove, such expression cannot be rendered otiose or ignored. The expression "any period" is not defined under the Act and cannot be equated with "tax period." A "tax period" denotes the period for which a return is required to be furnished, which may be monthly or annual. Therefore, the concept of "tax period" is relevant in the context of provisions dealing with furnishing of returns, and cannot be imported into the interpretation of Sections

73 and 74. It is, however, contended that sub-section (10) of Sections 73 and 74 prescribes a limitation for passing orders under sub-section (9) with reference to a financial year, thereby indicating that proceedings under Sections 73 and 74 are financial year-specific. This contention cannot be accepted. The prescription of limitation under sub-section (10) operates within a limited sphere and does not control or restrict the scope of issuance of notice under Sections 73 and 74. Only because Sub-Section (10) of Sections 73 and 74 of the Act refers to financial year, the entire provision cannot be construed as being confined to a financial year. A reading of Sections 73 and 74 of the Act would make it clear that it provides a complete mechanism for determination of demand and it constitutes a code in itself.

34. A plain reading of Section 74 would indicate that Sub-section (2) mandates that the show cause

notice under sub-section (1) shall be issued at least six months prior to the time limit specified under sub-section (10). Sub-section (3) enables issuance of a statement containing details of tax not paid, short paid, erroneously refunded, or input tax credit wrongly availed or utilised, for periods other than those covered under sub-section (1). Upon issuance of such a statement, sub-section (4) deems it to be a notice under Section 73(1), unless the case involves fraud, wilful misstatement, or suppression of facts to evade tax. Sub-section (5) provides an opportunity to the person chargeable to tax to pay the amount of tax along with interest and a penalty equivalent to 15% of such tax, either on the basis of self-ascertainment or as ascertained by the proper officer, and to inform the proper officer in writing of such payment before service of notice under sub-section (1). As per sub-section (6), upon receipt of such information, the



proper officer shall not issue a notice under sub-section (1) in respect of the tax so paid or the penalty. However, if the proper officer is of the opinion that the amount so paid falls short of the actual liability, sub-section (7) enables issuance of a show cause notice to the extent of the shortfall. Sub-section (8) provides for deemed conclusion of proceedings under sub-section (1) where the person chargeable pays the tax along with interest and a penalty equivalent to 25% of such tax within thirty days of issuance of notice. In cases where objections are filed to the show cause notice, sub-section (9) empowers the proper officer to determine the amount of tax, interest, and penalty, and to pass an order. Sub-section (10) prescribes the limitation for passing such an order under sub-section (9). The proceedings under sub-section (1) may relate to defaults arising from monthly returns, annual returns, or even periods extending beyond a financial

year. While prescribing a limitation period of five years, the statute necessarily provides a reference point for commencement of such limitation. For this purpose, the due date for furnishing the annual return for the relevant financial year pertaining to the period covered under the show cause notice is adopted. Mere reference to "financial year" in sub-section (10) neither indicates, nor can it be construed to mean, that Sections 73/74 are confined to a financial year. Such an interpretation is not borne out from a plain reading of the provisions. It is a settled principle that, while interpreting a fiscal statute, the provisions must be construed strictly in accordance with their plain language. Nothing can be added, omitted, or implied. Any such exercise would amount to rewriting the legislation, which is impermissible. The contention urged by the respondents that Sections 73/74 are to be read as confined to a financial year does not

withstand scrutiny when sub-sections (2), (3), and (4) of Section 74 are examined in their proper context. By way of illustration, if a notice under sub-section (1) is assumed to cover a period of twelve months corresponding to a financial year, sub-section (3) expressly enables the proper officer to serve a statement containing details of tax not paid, short paid, erroneously refunded, or input tax credit wrongly availed or utilised, for "such periods" other than those covered under sub-section (1). The use of the expression "such periods" in sub-section (3) is significant. If the legislative intent was to confine proceedings strictly to a financial year, the language employed in sub-section (3) would have been materially different. Further, if sub-section (1) were to be restricted to a financial year, i.e., a period of twelve months, no additional period could be brought within the ambit of the same proceedings as

contemplated under sub-section (3). Such a restrictive interpretation would render sub-section (3) unworkable and lead to an anomalous situation. Therefore, construing Sections 73/74 in the manner suggested by the respondents would result in manifest absurdity, which is impermissible in statutory interpretation.

35. To appreciate the contention of the learned counsel for the respondent/assessee Sri.Bharath, placing reliance on Form-GST DRC-01, it would be necessary to go through the said form, which reads as follows:

Reference No.:.....  
 Date:.....  
 To  
 ..... GSTIN/Temp.ID  
 ..... Name  
 ..... Address  
 Tax Period..... F.Y. ....  
 Act -  
 Section/sub-section under which SCN is being issued -  
 SCN Reference No. .... Date  
 .....

**Summary of Show Cause Notice**

- (a) Brief facts of the case :
- (b) Grounds :
- (c) Tax and other dues :

(Amount in Rs.)

2[Sr No.	Tax rate	Turnov er	Tax Period		Ac t	POS (Place of Suppl y)	Ta x	Intere st	Penalt y	Fe e	Other s	Tot al
			Fro m	To								
1	2	3	4		5	6	7	8	9	10	11	12
Tot al												

.....

Signature  
Name.....  
Designation.....  
Jurisdiction.....  
Address.....

Notes----

1. Only applicable fields may be filled up.
2. Column Nos. 2,3,4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.
3. Place of Supply (POS) details shall be required only if the demand in created under the IGST Act."

The above is the prescribed format of show cause notice to be issued under Sections 73 and 74 of the Act. It is contended that as the form refers to tax period and financial year, the proceedings under Sections 73 and 74 of the Act must necessarily be confined to a financial year. However, on going through the above format, it is gathered that it requires furnishing certain particulars in a tabular format. Though column No.4 refers to the tax period,

note appended to the form clarifies that column No.4 is not mandatory. Therefore, reference to tax period or financial year in the format cannot be relied upon to say that show cause notice shall be confined to a financial year. It could at the best may be relevant for computation of limitation under Sub-Section (10) and it would not affect the exercise of power under Sections 73 and 74 of the Act.

36. It is contended that, where a consolidated show cause notice is issued, the period covered therein may include cases involving fraud, misrepresentation, or suppression of facts (FMS), as well as cases not involving such elements (non-FMS). Since Section 73 governs non-FMS cases and Section 74 governs FMS cases, each prescribing different periods of limitation for conclusion of proceedings, it is urged that issuance of show cause notices with reference to specific tax periods is necessary to avoid

anomalies. However, Circular No.5/2023-GST dated 13.12.2023 answers this contention and the relevant paragraph of the circular reads as follows:

*"3.3 From the perusal of wording of section 74(1) of CGST Act, it is evident that section 74(1) can be invoked only in cases where there is a fraud or wilful mis-statement or suppression of facts to evade tax on the part of the said taxpayer. Section 74(1) cannot be invoked merely on account of non-payment of GST, without specific element of fraud or wilful mis-statement or suppression of facts to evade tax. Therefore, only in the cases where the investigation indicates that there is material evidence of fraud or wilful mis-statement or suppression of fact to evade tax on the part of the taxpayer, provisions of section 74(1) of CGST Act may be invoked for issuance of show cause notice, and such evidence should also be made a part of the show cause notice."*

Even otherwise, the text of Section 74 is unambiguous in its application to cases involving fraud, wilful

misstatement, or suppression of facts. Sub-section (4) of Section 74 enables a notice issued under sub-section (3) to be treated as one under Section 73(1) where the element of fraud, wilful misstatement, or suppression is not made out. The principle underlying sub-section (4) would equally apply in the context of sub-section (1), inasmuch as, unless the proper officer establishes fraud, wilful misstatement, or suppression of facts, the limitation prescribed would correspondingly be governed by Section 73(10). It cannot be contended that merely because certain issues are included in a show cause notice issued under Section 74(1), the protection available under Section 73(10) stands displaced.

37. The extended period of limitation under Section 74(10) is not automatic; it is attracted only upon a determination under sub-section (9) that the case involves fraud, wilful misstatement, or



suppression of facts. In all other cases, the limitation would be governed by Section 73(10). Thus, the scheme preserves the limitation in favour of the assessee, except in cases where the statutory conditions for invoking the extended period are duly established.

38. It is contended that the Central Board of Indirect Taxes and Customs, for the purposes of Sections 74A to 75(2), has prescribed pecuniary jurisdiction for different ranks of proper officers. In support, reliance is placed on ***Circular No. 254/11/2025-GST*** dated ***27.10.2025***, wherein the table specifies the functions of the proper officers and the corresponding monetary limits for issuance of show cause notices namely, Superintendent of Central Tax up to Rs.10,00,000/-, Deputy/Assistant Commissioner up to Rs.1,00,00,000/-, and

Additional/Joint Commissioner without any monetary limit.

39. It is submitted that proper officer is determined based on the monetary limit based on the tax demand proposed for issuance of show cause notice under Sub-Section (1) of Sections 73 and 74 of the Act. Sub-Section (3) further enables issuance of additional statements for the same or extended period. The Circular, taking note of the possibility that such additional statements may alter the pecuniary jurisdiction, provides a mechanism, whereby jurisdiction is determined based on the total amount involved in the proceedings. It is further clarified that, if the pecuniary jurisdiction changes by virtue of subsequent statements, the proceedings stand transferred to the appropriate proper officer having the requisite jurisdiction.

40. Thus, it is not a case where adjudication would be undertaken *dehors* pecuniary jurisdiction. The submission that, if show cause notices are confined to a financial year or tax period, the pecuniary jurisdiction would remain at a lower level, whereas aggregation would enhance the quantum and shift jurisdiction to a higher authority, is of no relevance. The assessee's concern is only that the show cause notice be adjudicated by a proper officer vested with jurisdiction, whether territorial or pecuniary.

41. It is settled position of law that an assessee has no right to chose the Adjudicating Authority. Merely because combining of more than one financial year, the pecuniary jurisdiction shifts to an officer of the higher rank, no prejudice would be caused to the assessee, since statutory safeguards, remedies and determination of tax would remain as it is. Therefore,

the respondent/assessee's contention with regard to pecuniary jurisdiction cannot be accepted.

42. Learned counsel for the respondents contends that, if a consolidated show cause notice is issued, the entire period covered therein would be reckoned for the purpose of sub-section (10), thereby depriving the assessee of the benefit of limitation. We find no merit in the said contention. Sub-section (10) operates with reference to the financial year, and each component period covered in the show cause notice must independently satisfy the test of limitation prescribed therein. If any portion of the period covered by the notice is demonstrated to be beyond the limitation stipulated under sub-section (10), the same would be liable to be excluded as being time-barred. However, issuance of a consolidated show cause notice would not dilute or take away the protection of limitation available under Sub-Section

(10) of Sections 73 and 74 of the Act. Each period forming part of notice must satisfy scrutiny on the touchstone of limitation and any portion falling short of such test cannot be sustained.

43. Another submission advanced is that Section 74A, having been made applicable from the financial year 2024-25 onwards, indicates that proceedings under Sections 73, 74, and 74A are financial year-specific. This contention also cannot be accepted. Section 74A, though newly introduced with certain modifications, expressly provides under subsection (12) that it applies to determination of tax pertaining to the financial year 2024-25 onwards. However, the scope of issuance of show cause notice, namely for "any period," remains unchanged.

44. The Delhi High Court, in ***Ambika Traders vs. Commissioner, 2025 SCC OnLine Del 6913 /***

**(2025) 33 Centax 189 (Del.)**, while examining the validity of a common show cause notice covering multiple financial years, and upon analysing the scheme of the Act, has held as under:

*"43. Insofar as the issue of consolidated notice for various financial years is concerned, a perusal of section 74 of the CGST Act would itself show that at least insofar as fraudulently availed or utilised ITC is concerned, the language used in section 74(3) of the CGST Act and section 74(4) of the CGST Act is "for any period" and "for such periods" respectively. This contemplates that a notice can be issued for a period which could be more than one financial year. Similar is the language even in section 73 of the CGST Act. The relevant provisions read as under:*

*"73. Determination of tax, pertaining to the period up to financial year 2023-2024, not paid or short paid or erroneously refunded or input-tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.—*

*(1) and (2)..*

*(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input-*

*tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.*

*(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.*

...

*"74. Determination of tax, pertaining to the period up to financial year 2023-2024, not paid or short paid or erroneously refunded or input-tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.—(1) and (2)...*

*(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input-tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.*

*(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1)*

are the same as are mentioned in the earlier notice.”

**44.** Some of the other provisions of the CGST Act, which are relevant, include section 2(106) of the CGST Act, which defines “tax period” as under:

“2. (106) ‘tax period’ means the period for which the return is required to be furnished.”

**45.** Thus, sections 74(3), 74(4), 73(3) and 73(4) of the CGST Act use the term “for any period” and “for such periods”. This would be in contrast with the language used in sections 73(10) and 74(10) of the CGST Act where the term “financial year” is used. The said provisions read as under:

“73. (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input-tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

74.(10) The proper officer shall issue the order under sub-section (9) 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 or short paid or input-tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.”

The Legislature is thus, conscious of the fact that insofar as wrongfully availed ITC is concerned, the notice can relate to a period



*and need not to be for a specific financial year."*

**46.** *The nature of ITC is such that fraudulent utilization and availment of the same cannot be established on most occasions without connecting transactions over different financial years. The purchase could be shown in one financial year and the supply may be shown in the next financial year. It is only when either are found to be fabricated or the firms are found to be fake that the maze of transactions can be analysed and established as being fraudulent or bogus.*

**47.** *A solitary availment or utilisation of ITC in one financial year may actually not be capable of by itself establishing the pattern of fraudulent availment or utilisation. It is only when the series of transactions are analysed, investigated, and enquired into, and a consistent pattern is established, that the fraudulent availment and utilisation of ITC may be revealed. The language in the abovementioned provisions, i.e., the word "period" or "periods" as against "financial year" or "assessment year" are therefore, significant.*

**48.** *The ITC mechanism is one of the salient features of the GST regime which was introduced to encourage genuine businesses. In the words of Shri Pranab Mukherjee, the then honourable President of India, who addressed the Nation at the launch of the GST on July 1, 2017, ITC was highlighted as one of the core features integral to the framework of the GST regime. The relevant extract of the*

*said speech of the honourable President is set out below:*

*"I am told that a key feature of the system is that buyers will get credit for tax paid on inputs only when the seller has actually paid taxes to the Government. This creates a strong incentive for buyers to deal with honest and compliant sellers who pay their dues promptly."*

**49.** *It is seen that the said feature of ITC has been misused by large number of unscrupulous dealers, businesses who have in fact utilised or availed of ITC through non-existent supplies/purchases, fake firms and non-existent entities. The ultimate beneficiary of the ITC in the most cases may not even be the persons in whose name the GST registration is obtained. Businesses, individuals, and entities have charged commissions for passing on ITC. In several cases, it has also been noticed that the persons in whose name the GST registration stands are in fact domestic helps, drivers, employees, etc., of businessmen who are engaged on salary and who may not even be aware that their identities are being misused.*

**50.** *In fact, Parliamentary questions have been raised on such fraudulent availment of ITC. In one such Parliamentary question, it was revealed as under:*

*"The press release issued by Ministry of Finance on January 7, 2024 (annexure 1) brought out that 29,273 bogus firms involved in suspected input-tax credit (ITC) evasion of*

*Rs 44,015 crores were detected in a sustained drive against non-existent tax payers by GST formations across the country since May 2023. An amount of Rs. 44,015 crores*

*(Rs. 15,240 crores (State) + Rs. 28,775 crores (Centre)) of fake ITC has been detected [ Answer by the Minister of State in Ministry of Finance, Mr. Pankaj Chaudhary to a question raised on Monday, February 5, 2024 in Lok Sabha being unstarred question No. 435 titled as 'Unearthing of fake input-tax credit'. ] )."*

**51.** *On January 7, 2024, vide a press release issued by the Press Information Bureau, New Delhi, the Ministry of Finance brought to light the said large-scale involvement of fictitious entities in the alleged evasion of ITC. As per the contents of the said press release, a total of 29,273 non-genuine firms have purportedly been found to be involved in the evasion of ITC amounting to approximately Rs. 44,015 crores, as unearthed during a sustained enforcement drive undertaken by the GST authorities across the country since May 2023 against non-existent taxpayers. The relevant portion of the said release reads as under:*

*"To curb frauds in Goods and Services Tax (GST) and increase compliance, the GST formations, under the Central Board of Indirect Taxes and Customs (CBIC) and the State/UT Governments, across the country are carrying out a focused drive on the issue of non-existent/bogus registrations and issuance of*

*fake invoices without any underlying supply of goods and services.*

*Since the initiation of the special drive against fake registrations in mid-May 2023, a total of 29,273 bogus firms involved in suspected input-tax credit (ITC) evasion of Rs. 44,015 crores have been detected. This has saved Rs. 4,646 crores of which Rs. 3,802 crores is by blocking of ITC and Rs. 844 crores is by way of recovery. So far, 121 arrests have been made in the cases.*

*In the quarter ending December, 2023, 4,153 bogus firms that involved suspected ITC evasion of around Rs. 12,036 crore were detected. 2,358 of these bogus firms were detected by the Central GST Authorities. This has protected revenue of Rs. 1,317 crores of which Rs. 319 crore has been realised and Rs. 997 crore has been protected by blocking ITC. 41 persons were arrested in these cases. 31 of these arrests were by Central GST Authorities. State wise details are annexed."*

**52.** *Moreover, a co-ordinate Bench of this court vide order dated October 3, 2024 in W.P. (C) No. 13855 of 2024 titled Vallabh Textile vs. Additional/Joint Commissioner, CGST, has held as under:*

*"1. The instant writ petition seeks to assail the validity of a show-cause notice ('SCN') dated May 29, 2024 and which raises issues pertaining to financial years ('FYs') 2017-2018 to 2021-2022.*

*2. The principal ground of challenge which was addressed before us was with respect to*

*the action of the respondents who have proceeded to issue a consolidated notice for the aforesaid period.*

*3. On an ex-facie perusal of section 74 of the Central Goods and Services Tax Act, 2017 ('CGST')/Delhi Goods and Services Tax Act, 2017 ('DGST'), we find ourselves unable to sustain that challenge in the absence of any prohibition that may have been statutorily engrafted in this respect. That in any case would not constitute a jurisdictional challenge warranting the writ petition being entertained against a SCN.*

*4. Insofar as FY 2017-2018 is concerned, it was the submission of learned counsel for the writ petitioner that the same would not sustain bearing in mind the provisions contained in section 74(10) of the CGST Act, 2017/DGST Act, 2017. Insofar as that question is concerned, we leave it open to the writ petitioner to initiate appropriate proceedings independently.*

*5. Bearing in mind the well-settled principles which govern situations and contingencies in which a SCN challenge may be entertained by a court under article 226 of the Constitution, we find no ground to entertain the instant writ petition.*

*6. It shall, subject to the aforesaid observation, stand dismissed."*

**53.** *Vide the said decision, the co-ordinate Bench of this court has clarified the position in law that a consolidated SCN for multiple years is permissible under the purview of section 74*

*of the CGST Act, and hence, the said argument cannot be a ground for entertaining a writ petition.*

**54.** *The present case appears to be one such case where a substantial amount of ITC is alleged to have been availed/utilised running into more than Rs. 83 crores. The petitioner is alleged to be one of the main entities/persons involved in the said activity. The transactions are between the years 2017 to 2021. A consolidated notice is, therefore, not merely permissible but, in fact, required in such cases in order to establish the illegal modality adopted by such businesses and entities. The language of the provision itself does not prevent issuance of SCN or order for multiple years in a consolidated manner.*

**55.** *Even in the order which has been impugned before this court, the details of the amounts for each year are set out clearly in the content of the order itself and is, therefore, clearly decipherable. Thus, it cannot be held that the issuance of consolidated notice or order violates the language of the provisions. Especially, in the case of fraudulent availment of ITC or utilisation of ITC such consolidated notice and order would not just be permissible but may, in fact, be required to show the wilful misstatement or suppression or the fraudulent availment/utilisation."*

45. In ***Mathur Polymers vs. Union of India, (2026) 154 GSTR 443 / 2025 SCC OnLine Del 6892***, the Delhi High Court has 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."*

46. An identical issue came up for consideration before the High Court of Judicature at Allahabad in ***SA Aromatics (P) Ltd. vs. Union of India, 2026 SCC OnLine All 191***. The Court held as follows:

*"82. To read "tax period not beyond the Financial Year", into Sections 73(1) and 74(1) would be to introduce an artificial restriction in the scope of Sections 73(1) and 74(1), not on strength of legislative language, but based on imagined restriction. In contrast, the adjudication procedure contemplates decision on disputes pertaining to specified tax,*

*penalty, refund and ITC amounts. The legislature has specifically authorised the Proper Officer to, in addition to issuing notices under Section 73(1)/74(1), issue further statements with respect to other periods beyond that specified in the notice itself. Once that specific provision has been made, there is no room to introduce the concept of adjudication proceedings being confined to a unit of assessment/FY. To do that would be to do violence to the plain language of Section 73(3)/74(3) and 73(4)/74(4) of the Acts. Standard rule to be applied in matters of interpretation of statutes being that every word used by the legislature be given its full and natural meaning unless a conflict arises, we find no occasion to restrict the scope of Section 73(3)/74(3) and 73(4)/74(4), by introducing an alien concept of unit of assessment/FY to adjudication proceedings.*

**87.** *Insofar as further objection has been raised to composite notice being issued to multiple noticees, adjudication proceedings are referable to pre-identified and quantified disputes with respect to non-payment or short payment of tax, wrongful refund or wrongful availment or utilization of ITC. The challenge to the proceedings on the ground of multiple noticees has arisen (in this batch of petitions), in adjudication proceedings arising under Section 74 of the Acts and not under Section 73 of the Acts. As extracted above, the provisions of Section 74(12) of the Acts are specific. Clearly, they allow for multiple noticees to be included in one notice. Upon that specific inclusion made by the legislature,*



*the submission to the contrary carries no weight. Suffice to note, there is no challenge to the validity of Section 74(12) of the Acts. Once the legislature clearly contemplates issuance of one notice with respect to disputed quantified demand, there survives no room to consider that submission, any further.*

**88.** *Wherever it may be disputed that multiple noticees have been wrongly roped in together, that issue by very nature, would remain a mixed question of fact and law. Evidence would have to be led before any firm conclusion may be drawn, i.e. whether the dispute is such as may involve more than one noticee. It may normally be examined during statutory proceedings.*

**89.** *Therefore, while we are not inclined to accept on principle that a composite notice may never be issued under Section 74 of the Acts, we leave that question of validity of individual notices issued to individual noticees open to be examined in individual adjudication proceedings, subject to appropriate objections being raised. Thus, if any noticee objects that he is not liable for a disputed transaction giving rise to the adjudication proceeding or he has been wrongly included as a noticee, it may give rise to an objection in that case. That objection once raised would have to be dealt with and decided by the Adjudicating Authority on the own strength of the objection."*

**94.** *The third issue of limitation to issue a notice under Section 73 and 74 requires consideration. As noted above, the provision of Section 73(10) & 74(10) leave no doubt that the limitation to pass an adjudication order has been fixed with reference to the due date for furnishing annual return for the FY, to which*

*the dispute may relate. Thus, if the dispute sought to be adjudicated pertains to or falls in 'tax periods' falling in three different FYs, the period of limitation to make a composite order would start running from the due date of furnishing of annual return for earliest/first FY (to which any 'period' may relate), such that if that date is crossed, the adjudication proceedings with respect to that FY would lapse but not the entire notice if segregation of the dispute exists, 'period' wise. The entire proceedings initiated by such notice may be declared time barred only if the limitation to make the order from the due date of filing annual return for the last FY (for which dispute is referred to adjudication), also lapses. In short, that issue will have to be dealt with, on individual facts."*

**"100.** *In view of the above conclusion drawn, the writ petitions must meet mixed results. While issue of composite notice is served under Section 74 of the Acts, both for different tax periods and FYs and also multiple assesses, is decided against the petitioners; the other objection based on Section 6(2)(b) of the Acts; multiple orders arising from a single notice, and the issue of limitation provision being mandatory, are decided in favour of the petitioners such that any notice issued within six months from the end of the limitation to make the adjudication order is time barred. The issue of composite notice, for different FYs and multiple noticees, is decided against the petitioners....."*

47. The High Court of Jammu & Kashmir and Ladakh, in ***New Gee Enn & Sons vs. Union of India, 2025 SCC OnLine J&K 1180***, framed the question and answered it as under:

***"Q. No. 4. Whether the bunching of two show cause notices pertaining to tax period with effect from July 2017 to April 2019 which falls in two financial years i.e., 2017-2018 and 2018-2019 is permissible under the provisions of CGST Act, 2017/JKGST Act of 2017?"***

***37.*** From the reading of entire CGST/JKGST Act, one would not find any prohibition for issuing one composite show cause notice for multiple financial years. Sections 73 and 74 would only require that:

- (1) the period of demand must be specified;*
- (2) show cause notice must be issued within limitation;*
- (3) the notice must contain clear grounds, specific allegations and year wise quantification;*

***38.*** If the aforesaid requirements are met, there would be no bar in bunching of financial years, more particularly, when the requirement of principles of natural justice is adequately met.

***39.*** We are thus of considered opinion that the composite show cause notice cannot be held invalid if there is year-wise breakup of tax, interest and penalty; the allegations are not vague; each period is within limitation and the notice is speaking and detailed one.

**40.** *It is only in the cases where the show cause notice suffers from vagueness or non specificity, that bunching may be impermissible. The show cause notice can be found fault with on the ground of bunching only in the following circumstance:—*

(1) *Where there is no year wise quantification;*

(2) *Where there are general and vague allegations like "tax evaded for several years";*

(3) *where there is no specific evidence for each period;*

(4) *Where the limitation has expired for any part of the notice;*

(5) *Where the court finds that clubbing of notices for two or more financial years has caused prejudice to the assessee and is in violation of principles of natural justice.*

**41.** *When we examine the show cause notices issued to the petitioners in the instant cases, we find that there is year-wise quantification of the liability and the allegations are prima facie, cogent and detailed one, giving fair opportunity to the assesses to respond and defend themselves. We have also found that the show cause notices in respect of both the periods, i.e., Financial Years 2017-2018 and Financial Year 2018-2019, are not hit by the limitation prescribed under Section 74(2) read with Section 74(10) of the CGST Act, 2017.*

**42.** *Viewed thus, it cannot be said that in the instant case, the bunching of composite show cause notice issued in respect of tax periods falling in mentioned year 2017-2018 and mentioned year 2018-2019 is impermissible and liable to be interfered with."*

The above judgments have categorically held that show cause notice issued under Sections 73 and 74 of the Act would relate to the period specified in the show cause notice itself and would not confine to a tax period or financial year. The above decisions would aptly support the contentions advanced on behalf of the appellants/Revenue. The judgments of the High Courts of Delhi, Allahabad, and Jammu & Kashmir have considered the issue after a detailed analysis of the entire scheme of the Act. In the said decisions, upon examining the statutory framework and interpreting the plain language of Sections 73/74, it has been held that issuance of a common show cause notice covering multiple financial years is permissible.

48. Learned counsel for the respondents/assesses in support of their contention that show cause notices issued under Sections 73 and 74 of the Act shall confine to a financial year and

cannot be for multiple financial years, relied upon certain judgments and some of the judgments are discussed below:

The Bombay High Court, in ***Milroc Good Earth Developers vs. Union of India, [(2025) 179 taxmann.com 465 (Bom.)]***, while referring to the judgment of the Kerala High Court in ***Tharayil Medicals vs. Commissioner, Audit Division-IV, [(2025) 173 taxmann.com 867 (Kerala)]***, and also taking note of the judgment of the Delhi High Court in ***Ambika Traders (supra)***, held that the action of the respondent No. 2 (proper officer) in issuing consolidated show cause notices for multiple financial years was without jurisdiction, and, treating the same as a case of judicial overreach, quashed the notices.

The Bombay High Court, in ***Paras Stone Industries vs. Union of India, [(2026) 182***

***taxmann.com 643 (Bom.)***], placing reliance on its earlier decision in ***Milroc Good Earth Developers (supra)***, reiterated that a consolidated show cause notice covering multiple financial years is not maintainable.

Reliance is also placed on the judgment of the High Court of Himachal Pradesh in ***Ekta Enterprises vs. State of Himachal Pradesh, (2026) 38 Centax 303 (H.P.)***, wherein, following the decision of the Bombay High Court in ***Milroc Good Earth Developers (supra)***, it was held that a consolidated show cause notice covering multiple financial years is not permissible and that separate show cause notices are required to be issued.

49. The High Court of Madras, in ***Titan Company Ltd. vs. The Joint Commissioner of GST***

**and Central Excise, Salem and Others, (2024) 159**

**taxmann.com 162 (Madras)**, has held as under:

*"13. The main contention of the petitioner was that bunching of show cause notices was not allowed in law and it is against the provisions of Section 73 of the Act. Section 73(10) of the Act specifically provides a time limit of three years from the due date for furnishing of annual return for the financial year to which the tax due relates to. In the present case, notice was issued under Section 73 of the Act for determination of the tax and therefore, the limitation period of three years as prescribed under Section 73(10) would be applicable. Therefore, the contention of the respondent that there is no time limit contemplated under Section 73 of the Act is not correct.*

*14. Further, by issuing bunching of show cause notices for five Assessment Years starting from 2017-18 to 2021-22, the respondents are trying to do certain things indirectly which they are not permitted to do directly and the same is not permissible in law. If the law states that a particular action has to*



*be completed within a particular year, the same has to be carried out accordingly. The limitation period of three years would be separately applicable for every assessment year and it would vary from one assessment year to another. It is not that it would be carried over or that the limitation would be continuing in nature and the same can be clubbed. The limitation period of three years ends from the date of furnishing of the annual return for the particular financial year.*

*15. Therefore, issuing bunching of show cause notices is against the spirit of provisions of Section 73 of the Act and the Constitution Bench of the Hon'ble Apex Court in the decision reported in. Caltex (India) Ltd's case supra has held that where an assessment encompasses different assessment years, each assessment year could be easily split up and dissected and the items can be separated and taxed for different periods. The said law was laid down keeping in mind that each and every Assessment Year will have a separate period of limitation and the limitation will start independently and that is the reason why the Hon'ble Supreme Court has held that each*

*assessment year could be easily split up and dissected and the items can be separated and taxed for different periods. The said principle would apply to the present case as well."*

50. The High Court of Kerala, in ***Tharayil Medicals vs. Commissioner, Audit Division-IV, [(2025) 173 taxmann.com 867 (Kerala)/ 2025 SCC OnLine Ker 2334]***, has held as under:

*"11. When we read sub-sections (9) and (10) of section 74, which specifically refer to "financial year to which the tax not paid or short paid or input tax wrongly availed or utilised relates" while passing the final order of adjudication, it presupposes that independent show-cause notice be issued to the assessee for each different years of assessment while proceeding under section 74. We are constrained to hold so because, as we noted earlier, the assessee can raise a distinct and independent defence to the show-cause notice issued in respect of different assessment years. In other words, the entitlement to proceed and assess each year being separate and distinct, and further the time-limit being*

*prescribed under the Statute for each assessment year being distinct, we see no reason as to why we should not hold that separate show-cause notices are required before proceeding to assess the assessee for different years of assessment under section 74.*

**12.** *There is yet another reason why we should hold that separate show-cause notices are issued for different assessment years. There may be cases where proceedings are initiated in the guise of a show-cause notice under section 74 wherein, on facts, the case of the assessee will fall under section 73 of the CGST/SGST Act. We find that insofar as the time-limit prescribed under section 73(10) of the CGST/SGST Act is concerned, it is three years instead of five years and further, the aspect of fraud, wilful misstatement and suppression do not arise for consideration in proceedings under section 73. Thus, by issuing a composite notice, the assessing authority, cannot bypass the mandatory requirement of section 73 to complete the assessment by falling back on a larger period of limitation under sub-section (10) of section 74. If such a*

*recourse is permitted, then certainly the said action would be a colourable exercise of the power conferred by the statute and will offend express provisions of the CGST/SGST Act qua limitation. This reason would also prompt us to hold that in cases where the assessing officer finds that an assessee is liable to be proceeded either under section 73 or under section 74 for different assessment years, a separate show-cause notice has to be issued. Still further, since proper officer need to issue a show-cause notice prior to six months to the time-limit prescribed under sub-section (10) of section 74, if a composite notice is issued, the assessee will be prejudiced inasmuch as the availability of a lesser period to submit a proper and meaningful explanation. This also is a strong indicative factor which would prompt us to hold in favour of the assessee."*

51. The High Court of Andhra Pradesh, in **S.J. Constructions vs. Commissioner, 2025 SCC OnLine AP 3334 / (2025) 178 taxmann.com 570 (Andhra Pradesh)**, has held as under:

**"13.** *The scheme of the Act, is that GST is payable on supplies of goods and services, at the rates fixed under the schedules and notifications that would be issued by the GST Council. This GST is assessed and calculated as per the provisions set out in the Act. The provisions under Section 62 providing assessment of non-filers of returns and Section 63 providing assessment of unregistered persons etc., can be ignored for the purpose of this case. The primary provisions for determination of tax are Sections 73 and 74.*

**14.** *Section 73 is applicable where tax has not been determined and paid properly, for reasons other than fraud or willful-misstatement or suppression of facts. Section 74 applies to determination of tax where such tax has not been properly determined or tax not paid or calculated on account of fraud, willful-misstatement or suppression of facts. Both these provisions envisage issuance of notice to the registered person for bringing to his attention, the view of the competent authority that appropriate tax has not been disclosed and paid.*

**15.** *The question that has now arisen is whether such a notice has to be given only in relation to specified period or whether such a notice can be given for any period. The further question would be whether one order of assessment/penalty has to be passed for each specified period or whether it can be issued, in relation to any period.*

**16.** *For this purpose, Section 73(3) and (4) are relevant. Under Section 73(3) the notice that has to be issued can be for "any period". The Hon'ble High Court of Delhi, in the aforesaid judgment, had held that the term "any period" cannot be restricted to a specified period but would mean any length of period. The Hon'ble High Court at Madras had taken the opposite view. The Hon'ble High Court at Madras held that while the term "any period" has been used in Section 73(3), the language in Section 73(4) is "such tax periods". The Hon'ble High court at Madras then went into the definition of tax period as specified in Section 2(106) to mean that a period for which a return is to be filed. Since return, as defined in Section 2(97) is a return for a month or a year, the Hon'ble High Court at Madras had*

*come to the conclusion that the term "any period" would have to be understood, in the light of the use of the term "such tax periods" in Section 73(4) and consequently "any period" would have to be understood to be a tax period. We would respectfully follow the view taken by the Hon'ble High Court at Madras, in as much as, the effect of Section 73(4) and Section 73(3) had not been brought to the notice of the Hon'ble High Court of Delhi. With all due respect, the interpretation, of the interplay between Section 73(3) and Section 73(4), placed by the Hon'ble High Court at Madras appears to be the correct interpretation.*

**17.** *Section 74(3) is in parimateria with Section 73(3). However, subsection (4) of Section 74 does not contain the term "such tax period". This non mention would not, in our opinion, make any difference to the aforesaid interpretation. Apart from this, there are certain other provisions, which would also have to be considered. Any interpretation of an Act should not result in some of the other provisions becoming otiose or reduced in scope. As rightly pointed out by the Hon'ble*

*High Court at Madras, the right of a registered person to obtain benefit under Section 128 of APGST Act as well as the right to invoke the remedy of appeal against the orders of assessment either under Section 73 or under Section 74 would get impacted if a common order is permitted to be issued in relation to more than one assessment/financial year.*

**18.** *In the circumstances, we are of the opinion that a single show cause notice or a single composite assessment order cannot be passed in relation to more than one tax period of either a month if the assessment is taken up before the due date for filing of the annual return or for more than one year if the due date for filing of annual return has been reached."*

52. The Kerala High Court in **Tharayil Medicals** (*supra*), while deciding the issue, has primarily proceeded on the basis of the reference to "financial year" in sub-section (10) of Sections 73/74, to conclude that a show cause notice covering multiple financial years is not permissible. However, the said



judgment does not examine the entire scheme of the Act, nor does it analyse the scope and ambit of Sections 73/74 in their proper context. As observed hereinabove, the effect of sub-section (3) of Sections 73/74, which enables extension of the period covered by the show cause notice beyond the initial period, has not been considered. In our view, the interpretation adopted by the Kerala High Court results in effectively rewriting the statutory provision and renders certain parts of the provision otiose, leading to unintended anomalies.

53. The Bombay High Court has followed the view taken by the Kerala High Court in ***Tharayil Medicals*** (*supra*). Similarly, the Madras High Court, placing primary reliance on sub-section (10) of Sections 73/74 of the Act, has concluded that a show cause notice covering multiple financial years is not permissible. The reasoning adopted by the Madras

High Court is substantially similar to that of the Kerala High Court.

54. Further, the Division Bench of the Bombay High Court in ***M/s.Rollmet LLP V. Union of India, Writ Petition No.16848 of 2025 and connected matters***, by order dated 17.04.2026, has expressed doubt regarding the view taken by the earlier Division Bench of the Bombay High Court in ***Milroc Good Earth Developers*** (supra) and has referred the matter to a larger Bench.

55. The High Court of Andhra Pradesh, without examining the scheme of the Act in its entirety, has proceeded to hold that the expression "tax period" in Section 73 is to be construed as referring to a single tax period.

56. The High Court of Himachal Pradesh has followed the judgment of the Bombay High Court in

***Milroc Good Earth Developers*** (supra). In that view of the matter, no further discussion is required.

57. For the foregoing discussion and the reasons assigned while analyzing the scheme of the Act, we conclude that show cause notices issued under Sections 73/74 do not prohibit coverage of multiple financial years. Such notices are neither tax period-specific nor financial year-specific. There is no statutory bar to issuance of a common show cause notice covering multiple tax periods or financial years. Any interpretation to the contrary would amount to rewriting the language of Sections 73/74, which is impermissible.

58. In the light of the reasons assigned hereinabove, we find ourselves in agreement with the views expressed by the High Courts of Delhi,

Allahabad, and Jammu & Kashmir. Accordingly, we concur with the view taken by the said High Courts.

59. For the reasons assigned hereinabove, we are not inclined to concur with the view taken by the High Courts of Bombay, Kerala, Madras, Andhra Pradesh, and Himachal Pradesh. Accordingly, we respectfully decline to follow the said judgments.

60. Learned Single Judge in the impugned order held that common/consolidated show cause notice and the period covering beyond financial year is not permissible. Such finding is arrived by following the judgment of the Madras High Court in ***Titan Company Limited*** and also on interpreting Section 73(10) of the Act.

61. In view of the findings recorded hereinabove, the conclusion reached by learned Single Judge is contrary to scheme of the Act resulting in re-

writing of the provisions, which is not permissible. The order of learned Single Judge is not sustainable and is to be set aside.

62. In W.A.No.1590/2014, the respondents challenged the show cause notice issued under Section 74 of the Act as well as the Order-in-Original dated 21.11.2023. The learned Single Judge quashed the show cause notice issued under Section 74 of the Act on the ground that issuance of a common show cause notice for multiple financial years is not permissible. In light of the findings recorded hereinabove, we hold that issuance of a consolidated/common show cause notice for multiple financial years is permissible. However, the respondent should not be rendered remediless in respect of the Order-in-Original dated 21.11.2023. Though a statutory remedy of appeal is available, the scope for condonation of delay by the appellate

authority is limited, particularly having regard to the period during which the writ petition remained pending.

63. Therefore, while setting aside the order of the learned Single Judge and relegating the respondent to avail the remedy of appeal against the Order-in-Original, we deem it appropriate to grant six weeks time to the respondent to prefer such appeal. If the appeal is filed within the time granted hereinabove, the appellate authority shall not raise the issue of limitation and shall consider the same on merits.

64. In W.A.No.495/2026 as well, the respondent challenged the show cause notice issued under Section 74 as well as the Order-in-Original dated 16.12.2024. The learned Single Judge, under the impugned order, while setting aside the show

cause notice, also set aside the Order-in-Original. The show cause notice was set aside on the ground that issuance of a consolidated/common show cause notice covering multiple financial years is impermissible. In light of the finding recorded above, we hold that issuance of a consolidated/common show cause notice for multiple financial years is permissible. Consequently, the show cause notice as well as the Order-in-Original are restored.

65. Since the period of limitation for filing an appeal against the Order-in-Original dated 16.12.2024 has expired, and having regard to the limited power vested in the appellate authority to condone the delay, coupled with the fact that the respondent had been diligently pursuing the remedy by way of writ petition, we deem it appropriate, while relegating the respondent to the statutory remedy of appeal, to grant six weeks' time to file such appeal. If such

appeal is filed within the time granted hereinabove, the appellate authority shall consider the same on merits without raising the plea of limitation.

66. In the light of the above, the following;

**ORDER**

(i) The Writ appeals are ***allowed***.

(ii) The impugned orders passed in W.P.No.26164/2024, dated 30.09.2024; W.P.No.15810/2024, dated 04.09.2024; W.P.No.23731/2024, dated 14.11.2024; W.P.No.33081/2025, dated 11.12.2025, W.P.No.7470/2025, dated 17.12.2025 and W.P.No.27928/2024 dated 19.12.2025 are hereby ***set aside***.



(iii) The writ petitions are hereby ***dismissed.***

(iv) The show cause notices issued under Section 73/74 of the Act are hereby ***restored.***

(v) The respondents in W.A.No.1751/2024, W.A.No.7/2025, W.A.No.407/2026 and W.A.No.555/2026 are granted 4 weeks' time from the date of receipt of copy of this order to reply to the show cause notices. Contentions of the parties insofar as merits are concerned are left open.

(vi) In W.A.No.1590/2024 and W.A.No.495/2026, the respondents are at liberty to file an appeal before

the appellate authority within six weeks from the date of receipt of a copy of this order. If such appeal is filed within the time granted by this Court, the appellate authority is directed to consider the same on merits without raising the plea of limitation.

(vii) Needless to observe that the proper officer is at liberty to adjudicate the show cause notice after due opportunity is provided to the respondent.

(viii) Any observations made in this order are confined to the issue under consideration and shall not be

construed as an expression on the merits of the case.

(ix) Costs made easy.

We place on the record our appreciation for the able assistance rendered by Sriyuths Damodar M. Nayak and Amaregouda Kellur, Research Assistants, and Sri Harshith A., Law Intern.

**Sd/-  
(S.G.PANDIT)  
JUDGE**

**Sd/-  
(K.V.ARAVIND)  
JUDGE**

MV/NC  
CT: bms