Reasonable period for issuance of SCN under Section 76 of the CGST Act is fact-dependent and can be examined by the Appellate Authority

The Hon'ble Delhi High Court in ***Armour Security India Limited v. Union of India & Anr. [W.P. (C) No. 10738 of 2026 dated August 03, 2026]*** declined to exercise writ jurisdiction against the Show Cause Notice issued under Sections 76 and 74 of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) and the consequent Order-in-Original, and relegated the assessee to the alternative remedy of appeal under Section 107 of the CGST Act, holding that the question as to what constitutes a "reasonable period" for issuance of a Show Cause Notice under Section 76 of the CGST Act is required to be adjudicated upon on the basis of the facts of each case, and such power is very much available with the Appellate Authority. The comprehensive appellate remedy cannot be narrowly construed so as to exclude examination of this question.

Facts:

Armour Security India Limited (**"the Petitioner"**) was issued a Show Cause Notice dated September 30, 2025 (**"the Impugned SCN"**) under Sections 76 and 74 of the CGST Act in respect of the Financial Years 2017-18, 2018-19 and 2019-20, alleging that the Petitioner had unlawfully availed Input Tax Credit (**"ITC"**) and, consequently, had not paid the tax due. The Impugned SCN was a detailed and elaborate notice setting out the case of the Department.

Thereafter, the Assessing Authority passed a detailed Order-in-Original dated March 30, 2026 (**"the Impugned Order"**) after considering the reply filed by the Petitioner and after granting an opportunity of hearing.

Aggrieved thereby, the Petitioner filed a writ petition before the Hon'ble Delhi High Court seeking quashing of the Impugned SCN and the Impugned Order. Although the Impugned Order was, *inter alia*, challenged on the ground of violation of Section 6(2)(b) of the CGST Act, the Petitioner did not press the said ground at that stage.

The Petitioner contended that Section 76 of the CGST Act does not prescribe any period for issuance of a notice and, therefore, the question as to what would constitute a "reasonable period" for issuance of the SCN goes to the very jurisdiction of the authorities, which can be interpreted only by the High Court and cannot be left to be examined by the statutory Appellate Authority. Reliance was placed on the judgment of the Hon'ble Supreme Court in ***State of Punjab & Ors. v. Bhatinda District Cooperative Milk Producers Union Ltd. [(2007) 11 SCC 363]***.

It was further contended that, in respect of the Financial Years 2017-18 and 2018-19, only Section 76 of the CGST Act had been invoked and not Section 74 of the CGST Act.

Issue:

Whether the question as to what constitutes a "reasonable period" for issuance of a Show Cause Notice under Section 76 of the CGST Act goes to the jurisdiction of the authorities so as to be examinable only by the High Court in writ jurisdiction, or whether the same can be adjudicated by the Appellate Authority under Section 107 of the CGST Act?

Held:

The Hon'ble Delhi High Court in ***W.P.(C) No. 10738 of 2026*** held as under:

- **Observed that**, the Impugned SCN issued under Sections 76 and 74 of the CGST Act is a detailed and elaborate notice drawing the attention of the Petitioner to the case set up by the Department, and the Impugned Order has been passed after examining the defence put forth by the Petitioner, after considering the Petitioner's reply and after granting an opportunity of hearing. Further, it is not in dispute that the Petitioner has an efficacious alternative statutory remedy by way of an appeal under Section 107 of the CGST Act.

- **Noted that**, the appellate remedy, which is comprehensive in nature, cannot be narrowly construed so as to exclude the jurisdiction of the Appellate Authority to examine the question relating to the interpretation of the expression "a reasonable period", as laid down by the Courts from time to time.

- **Held that**, the question as to what constitutes a reasonable period is required to be adjudicated upon on the basis of the facts of each case, and such power is available with the Appellate Authority. The contention of the Petitioner that the issue goes to the very jurisdiction of the authorities and can be examined only by the High Court was, accordingly, rejected.

- **Further held that**, the additional contention that only Section 76 of the CGST Act has been invoked in respect of the Financial Years 2017-18 and 2018-19, and not Section 74 of the CGST Act, can also be examined by the Appellate Authority.

- **Directed that**, since questions of fact are required to be adjudicated and an efficacious alternative statutory remedy is available, the writ petition is not entertained and the Petitioner is relegated to the remedy of filing an appeal, with the observation that the Appellate Authority shall decide all the questions that may be raised before it in accordance with law.

<u>Our Comments:</u>

Section 76 of the CGST Act deals with "Tax collected but not paid to Government". It mandates that every person who has collected from any other person any amount as representing tax under the Act shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not. Notably, unlike Sections 73 and 74 of the CGST Act, which prescribe outer time limits for issuance of notice and passing of orders with reference to the due date of furnishing the annual return, Section 76(1) of the CGST Act does not prescribe any limitation period for issuance of the Show Cause Notice.

Section 76(6) of the CGST Act, however, requires the proper officer to issue the order within one year from the date of issue of the notice. It is this legislative silence on the time limit for issuance of the notice that gives rise to the judicially evolved doctrine of “reasonable period”.

The doctrine is well settled. In ***Government of India v. Citedal Fine Pharmaceuticals [(1989) 3 SCC 483]***, the Hon’ble Supreme Court held that where a statute does not prescribe any period of limitation for exercise of a power, the power must nonetheless be exercised within a reasonable period, and what would be a reasonable period would depend upon the facts of each case. Similarly, in ***State of Punjab & Ors. v. Bhatinda District Cooperative Milk Producers Union Ltd. [(2007) 11 SCC 363],*** relied upon by the Petitioner, the Hon’ble Supreme Court held that revisional jurisdiction, where no limitation is prescribed, should ordinarily be exercised within a period of three years and, in any event, within a maximum of five years, having regard to the scheme of the statute. Significantly, even *Bhatinda* recognises that the determination of reasonableness is contextual and fact-sensitive – which is precisely the thread the Hon’ble Delhi High Court has picked up to hold that such a fact-dependent enquiry is squarely within the domain of the Appellate Authority.

On the maintainability front, the ruling is consistent with the law laid down by the Hon’ble Supreme Court in ***Assistant Commissioner of State Tax v. Commercial Steel Ltd. [2021 SCC OnLine SC 884],*** wherein it was held that a writ petition against an order passed under the GST law can be entertained, despite the availability of an alternative remedy, only in exceptional circumstances, namely, breach of fundamental rights, violation of principles of natural justice, excess of jurisdiction, or a challenge to the vires of the statute. At the same time, as clarified in ***Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority [2023 SCC OnLine SC 95],*** the rule of alternative remedy is a rule of self-imposed restraint and not a rule of compulsion. In the present case, since the adjudication had already attained the shape of a detailed Order-in-Original passed after due opportunity, and the core dispute involved appreciation of facts, the Court found no exceptional circumstance warranting interference under Article 226 of the Constitution of India.

<u>Supreme Court clarifies parallel proceedings under GST</u> **in *Armour Security (India) Ltd. v. Commissioner, CGST [SLP (C) No. 6092 of 2025]***

It is pertinent to note that the very same assessee has been at the centre of another landmark ruling under the GST law. The Hon'ble Supreme Court, in ***Armour Security (India) Ltd. v. Commissioner, CGST [SLP (C) No. 6092 of 2025],*** clarified that parallel proceedings by the Central and State GST authorities are permitted only for investigative actions and not for assessment. The Court held that the issuance of summons or the conduct of searches under Section 70 of the CGST Act are preliminary steps for collection of evidence and do not constitute "initiation of proceedings" within the meaning of Section 6(2)(b) of the CGST Act. Formal proceedings are triggered only upon issuance of a Show Cause Notice, which marks the commencement of assessment, demand or penalty actions.

The judgment reinforced that the statutory bar under Section 6(2)(b) of the CGST Act applies solely to parallel assessment or adjudicatory actions on the same subject matter, and not to simultaneous investigations by the two authorities. The Hon'ble Supreme Court further issued key guidelines mandating the authorities to communicate with each other and avoid duplication of proceedings, to quash overlapping Show Cause Notices, and requiring taxpayers to duly cooperate with summons. The ruling strengthens the "single interface" and cross-empowerment architecture of the GST regime, prevents harassment of taxpayers at the hands of multiple authorities, and recommends real-time data sharing between the Central and State authorities for efficient and fair tax administration. Viewed in this backdrop, the Petitioner's decision not to press the Section 6(2)(b) ground before the Hon'ble Delhi High Court assumes significance, as the contours of that provision now stand authoritatively settled by the Hon'ble Supreme Court in the Petitioner's own case.

The takeaway for taxpayers is two-fold. *First*, the plea of delay in issuance of an SCN under Section 76 of the CGST Act, being fact-dependent, would ordinarily have to be canvassed before the Appellate Authority and would not, by itself, furnish a ground for invoking writ jurisdiction. *Second*, where a detailed adjudication has already taken place after due opportunity of hearing, the High Courts would be loath to short-circuit the statutory appellate mechanism, and taxpayers should be mindful of the pre-deposit requirement and the limitation period prescribed under Section 107 of the CGST Act while pursuing the appellate remedy.

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