ITEM NO.34   COURT NO.13   SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 28059/2026

[Arising out of impugned judgment and order dated 06-07-2026 in WP No. 24931/2026 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

M/S PVCON ENGINEERING CO.   Petitioner(s)

VERSUS

CGST AND CENTRAL EXCISE, BHOPAL & ORS.   Respondent(s)

(IA No. 237971/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 07-09-2026 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE ARUN PALLI

For Petitioner(s) :
Mr. Abhishek Garg, AOR
Mr. Yash Gaih, Adv.
Mr. Ranesh Singh Mankotia, Adv.
Mr. Naman Mehta, Adv.

For Respondent(s) :
Mr. V.Chandrashekara Bharathi,Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Application for exemption from filing certified copy of the impugned judgment is allowed.

2. Heard Mr. Abhishek Garg, learned counsel appearing for the petitioner and Mr. V.Chandrashekara Bharathi, learned counsel appearing on advance notice for the respondents.

3. Learned counsel for the petitioner submits that in this case, a Show Cause Notice was issued on 26th July, 2024 and the Order-in-Original was passed on 3rd October, 2024. Learned counsel submits that the amendment prescribing pre-deposit came into effect only from 1st October, 2025. Learned counsel submits that in view of that, the condition of pre-deposit cannot be a condition for filing further appeal in this case before the Goods and Services Tax Appellate Tribunal (for short,"GSTAT"). Learned counsel also submits that the Show Cause Notice was not issued by a proper officer.

4. Issue notice.

5. In the meanwhile, the petitioner is permitted to file an appeal before the GSTAT and the appeal shall be entertained without a pre-deposit. However, this will be subject to the outcome of the present petition.

6. Tag with SLP (Civil) Diary No.28833 of 2026.

(ANITA MALHOTRA) **DEPUTY REGISTRAR**	**(MANOJ KUMAR)** **COURT MASTER**

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA,

ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 6th OF JULY, 2026

WRIT PETITION No. 24931 of 2026

M/S PVCON ENGINEERING

Versus

CGST AND CENTRAL EXCISE BHOPAL AND OTHERS

Appearance:

Shri Abhishek Garg, learned & Shri Aditya Khandekar, learned Advocates for petitioner.

Shri Abhijeet Shrivastava, learned Advocate for the respondent through Video Conferencing.

ORDER

Per: *Vivek Rusia, Acting Chief Justice*

In this writ petition the petitioner has challenged the show-cause notice issued by respondent No.2 dated 26/7/2024; the impugned order dated 03.10.2024 (Annexure P/1), whereby respondent No.1/Additional Commissioner, CGST and Central Excise, Bhopal imposed penalty upon the petitioner under Section 122(1)(ii) & (vii) of the CGST Act, 2017 and Section 20 of the IGST Act, 2017 as also the impugned Order-in-Appeal dated 21.10.2025 passed by the Appellate Authority. In the alternative, prayer has been made to declare that provision mandating pre-deposit under section 112 of CGST Act cannot be applied retrospectively.

Facts of the case, in short, are as under :-

2. The petitioner is engaged in the business of construction work, site development, road construction, etc. having GSTIN registration. On 02.12.2020, an investigation was initiated against the petitioner by respondent No.2 on the ground that it was found involved in passing on irregular input tax credit without actual supply of goods. On 24.3.2021, the registration of the petitioner has been cancelled. The respondent No.2 issued show-cause notice dated 26.7.2024 proposing penalty u/s 122(1)(ii) & (iv) of CGST Act and section 20 of IGST Act, 2017 in respect of financial years 2017-18 & 2018-19. The respondent No.1 vide impugned Order-in-Original dated 03.10.2024 imposed penalty under aforesaid provisions. Being dissatisfied with the Order-in-Original the petitioner preferred an appeal before the Appellate Authority u/s 107 of CGST Act. The Appellate Authority vide impugned order dated 21.10.2025 dismissed the appeal u/s 107 of the CGST Act on the ground of limitation. Hence, this petition.

3. Learned counsel for the petitioner submitted that respondent No.3 vide circular dated 27.10.2025 assigned functions of proper officer to respondents No.1 & 2, therefore, the impugned show-cause notice and impugned Order-in-Original by the respondents No.1 & 2 are without jurisdiction as aforesaid circular cannot be made effective retrospectively. According to the petitioner, the Impugned Show Cause Notice issued by Respondent No. 2 (DGGI officer) proposing to impose penalty under Section 122 (1) (vii) of the CGST Act is without any jurisdiction as Respondent No. 2, is not the ‘proper officer’ for the purpose of issuing the Impugned Show Cause Notice under Section 122 of the CGST Act as the

Circular No. 31/05/2018-GST only permits DGGI officers to issue show cause notice only under Section 73 or 74 of CGST/ Act.

4. Learned counsel for the respondents has supported the impugned action of the respondents and submitted that the impugned orders are just and proper.

5. The petitioner has a remedy under section 112 of the CGST Act before the GST Tribunal. Now, the Presiding Officers have been appointed, and they have been directed to join their concerned GST Tribunal. The Central Government has issued a circular granting 30 days' time to file an appeal from the date of starting of filing before the Tribunal.

6. Even otherwise, there are disputed questions of fact as to whether entire proceedings were conducted in violation of principles of natural justice and whether the respondent no. 2 was a "proper officer" which are required to be examined by the GST Tribunal based on documents to be filed by the petitioner. As far as relief relating to declaring the mandatory provision of pre-deposit for preferring appeal u/s 112 of CGST Act is concerned, it is observed that in order to avoid the condition of pre-deposit, the petitioner cannot be permitted to invoke the writ jurisdiction of this Court. Once the statute has created a tribunal comprising judicial as well as technical members to deal with the matter related to the GST disputes, the High Court cannot be permitted to entertain the petition under Article 226 of the Constitution of India. The parties should be relegated to the GST Tribunal for redressal of their grievance relating to GST. If the High Court is required to entertain each and every matter, then what would be the use of the

constitution of the tribunal, comprising judicial as well as expert members, to deal with the case on judicial as well as technical side, both?

7. In view of the aspect that remedy of an appeal u/s 112 of the CGST Act is available to the petitioner, the instant petition is dismissed with liberty to the petitioner to approach the concerned Tribunal to avail the remedy of an appeal.

(VIVEK RUSIA)
ACTING CHIEF JUSTICE

(PRADEEP MITTAL)
JUDGE

RM