2026:CGHC:18273

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 59 of 2026

- Gajendra Agrawal S/o Shri Radheshyam Agrawal Aged About 50 Years Proprietor of M/s Ambika Industries, Having GSTIN 22AFGPA1497J1ZN, R/o Plot No. 265, Samta Colony, Meera Dattar Road, Raipur, District Raipur (C.G.)

--- Petitioner

versus

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Tax, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur (C.G.)
2. Assistant Commissioner Of State Tax Raipur- 6, Raipur Division-2, Chhattisgarh
3. State Tax Officer Raipur- 6, Raipur Division-2, Chhattisgarh

--- Respondent(s)

WPT No. 60 of 2026

- Gajendra Agrawal S/o Shri Radheshyam Agrawal Aged About 50 Years Proprietor Of M/s Ambika Industries, Having GSTIN 22AFGPA1497J1ZN, R/o Plot No. 265, Samta Colony, Meera Dattar Road, Raipur, District Raipur (C.G.)

---Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Commercial Tax, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur (C.G.)
2. Assistant Commissioner Of State Tax Raipur- 6, Raipur Division-2, Chhattisgarh
3. State Tax Officer Raipur- 6, Raipur Division-2, Chhattisgarh

--- Respondent(s)

For Petitioner : Ms. Monika Singh, Advocate

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For State : Ms. Anuradha Jain, Dy. Government Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

22.04.2026

1. The petitioner has filed this petition(WPT No. 59 of 2026) challenging the order was passed by the Assistant Commissioner, State Tax, Raipur under the provisions of Section 73 of Central Goods and Services Tax Act, 2017 dated 21.12.2021, whereby demand notice to the tune of Rs. 7,10,397/- was issued.

2. The petitioner has filed this petition(WPT No. 60 of 2026) challenging the order was passed by the Assistant Commissioner, State Tax, Raipur under the provisions of Section 73 of Central Goods and Services Tax Act, 2017 dated 22.12.2023, whereby demand notice to the tune of Rs. 31,81,567/- was issued.

3. Learned counsel appearing for the petitioner would submit that without affording opportunity of hearing the orders impugned were passed by the Assistant Commissioner. She would submit that as no opportunity of hearing was afforded, orders are bad in law.

4. On the other hand, learned counsel appearing for the State would submit that the petitioner has approached this Court after lapse of five years and 3 years respectively from date of orders. She would submit that the petitioner has not explained delay part properly. It is also contend that the petitioner has taken a plea that the Charted Accountant did not communicate the order to the petitioner, therefore, impugned orders could not be challenged before this Court. She would submit that the stand taken by the petitioner is not tenable.

5. I have heard learned counsel for the parties and perused the documents placed on record.

6. Admittedly, impugned orders were passed on 21.12.2021 and 22.12.2023 respectively. The petitioner has filed these two petitions challenging those orders on 01.04.2026. The period of limitation prescribed under Section 107 of the Central Goods and Services Tax Act, 2017 is 3 months + 1 month, whereas, the petitioner has approached this Court after couple of years. This Court cannot disregard the statutory period for redressal of the grievance and entertain the writ petition of such a party as a matter of course.

7. The Hon'ble Supreme Court in the matter of ***Assistant Commissioner (CT) LTU, Kakinada and Others vs. Glaxo Smith Kline Consumer Health Care Limited*** reported in ***(2020) 19 SCC 681***, while dealing with the similar issue in para 19 held as under :-

> ***"19.*** *We may now revert to the Full Bench decision of the Andhra Pradesh High Court in Electronics Corporation of India Ltd.[1], which had adopted the view taken by the Full Bench of the Gujarat High Court in Panoli Intermediate (India) Pvt. Ltd. vs. Union of India & Ors.[2] and also of the Karnataka High Court in Phoenix Plasts Company vs. Commissioner of Central Excise[3]. The logic applied in these decisions proceeds on fallacious premise. For, these decisions are premised on the logic that provision such as Section 31 of the 1995 Act, cannot curtail the jurisdiction of the High Court under Articles 226 and 227 of the Constitution. This approach is faulty. It is not a matter of taking away the jurisdiction of the High Court. In a given case, the assessee may approach the High Court before the statutory period of appeal expires to challenge the assessment order by way of writ petition on the ground that the same is without jurisdiction or passed in excess of jurisdiction by overstepping or crossing the limits of jurisdiction including in flagrant disregard of law and rules of procedure or in violation of principles of natural justice, where no*

1 Electronics Corpn. Of India Ltd. v. Union of India, 2018 SCC OnLine Hyd 21
2 2015 SCC OnLine Guj 570
3 2013 SCC OnLine Kar 10432

> *procedure is specified. The High Court may accede to such a challenge and can also nonsuit the petitioner on the ground that alternative efficacious remedy is available and that be invoked by the writ petitioner. However, if the writ petitioner choses to approach the High Court after expiry of the maximum limitation period of 60 days prescribed under Section 31 of the 2005 Act, the High Court cannot disregard the statutory period for redressal of the grievance and entertain the writ petition of such a party as a matter of course. Doing so would be in the teeth of the principle underlying the dictum of a three Judge Bench of this Court in ONGC[4]. In other words, the fact that the High Court has wide powers, does not mean that it would issue a writ which may be inconsistent with the legislative intent regarding the dispensation explicitly prescribed under Section 31 of the 2005 Act. That would render the legislative scheme and intention behind the stated provision otiose.*

8. Taking into consideration the facts of the present case and the law laid down by the Hon'ble Supreme Court, no case is made out for interference. Accordingly, both the writ petitions are hereby **dismissed.**

Sd/-
(Rakesh Mohan Pandey)
JUDGE

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4 ONGC v. Gujarat Energy Transmission Corpn. Ltd., (2017) 5 SCC 42