



drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4061 OF 2026

M/s Rithwik Projects Private Limited
A Company incorporated under the
Companies Act, 1956 and having its office at
Plot No. 37 and 39, Navodaya Colony,
Road No.2, Banjara Hills,
Hyderabad – 500 034
Through its Senior Vice President

PETITIONER

VERSUS

1. Union of India
Through the Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi 110 001
2. Commissioner of Goods & Service Tax (GST)
N-5, Town Centre, Cidco,
Aurangabad – 431 003
Maharashtra 400 707
3. Additional Commissioner CGST and
Central Excise
N-5, Town Centre, Cidco
Aurangabad 431 003
Maharashtra 400 707
4. Assistant Commissioner CGST and
Central Excise
N-5, Town Center, Cidco
Aurangabad – 431 003,
Maharashtra – 400 707

RESPONDENTS

.....
Mr. V. D. Sapkal, Senior Advocate i/b Mr. Abhijit C. Darandale,
Advocate for the Petitioner

Mr. D. S. Ladda and Mr. P. P. Kothar, Advocates for Respondents

.....



[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]

RESERVED ON : 18th APRIL, 2026
PRONOUNCED ON : 9th JUNE, 2026

JUDGMENT (PER NITIN B. SURYAWANSHI, J.):

1. Rule. Rule is made returnable forthwith. Heard finally with the consent of the learned Advocates for the parties.
2. This Petition, filed under Article 226 of the Constitution of India, challenges show cause notice dated 29th June, 2022 and the order dated 21st December, 2023 passed by Respondent No.3 and consequential recovery notice dated 21st November, 2025 issued by Respondent No.4, being arbitrary and violative of Articles 14 and 19 (1) (g) of the Constitution of India.
3. The Petitioner is a Private Limited Company, registered under the provisions of the Companies Act, 1956. It is engaged in the business of integrated construction, infrastructure development and management. It is the case of the Petitioner that, in the normal course of business, the Petitioner has received services related to allocation / permission / leasing use of natural resources from the Government and in turn had paid fees and royalties to the government as consideration towards receipt of such services. Royalty was paid by the Petitioner from



1st July, 2017 to 31st August, 2021.

4. A show cause notice dated 29th June, 2022 was issued by Respondent No.3 proposing a demand of total GST of Rs.2,54,40,532/- for the period from 1st July, 2017 to 31st August, 2021, (CGST and MGST of Rs.1,27,20,266/- each) along with proposal to levy interest and imposition of penalty. The Petitioner submitted letter dated 13th September, 2022 and attended personal hearings on 14th September, 2023 and 19th December, 2023 and sought time to make payment of taxes in installments. By the impugned order dated 21st December, 2023, Respondent No.3 confirmed the demand of Rs.2,54,40,532/- along with interest and imposed a penalty of Rs.2,54,40,532/- under section 122 (2) (b) of the Central Goods and Services Tax Act, 2017 (for short "CGST Act") and Maharashtra Goods and Service Tax Act, 2018 (for Short "MGST Act").

5. Pursuant to the impugned order, Respondent No.4 issued third party recovery notice dated 21st November, 2025 to the Punjab National Bank, where the Petitioner holds his account, directing the Bank to pay outstanding taxes, by debiting account of the Petitioner. Aggrieved by these actions, the Petitioner has approached this Court.



6. Heard learned Senior Advocate for the Petitioner and learned Advocates for the Respondents, at length. Perused the Memo of the Petition and the reply filed on behalf of the Respondents so also the citations relied on by the parties.

7. By relying on the decision of this Court in Writ Petition No. 2203 of 2025 (filing) (*M/s Milroc Good Earth Developers V/s Union of India and Others*), learned Senior Advocate submits that the issues raised in this Petition are squarely covered by the said decision. He submits that the decision in "*Milroc*" (*supra*), is consistently followed by this Court. He also relied on the decision of the Nagpur Bench in Writ Petition No. 7718 of 2025 (*Paras Stone Industries V/s Union of India and Others*) and in Writ Petition No. 736 of 2026 (*ICAD School of Learning Pvt. Ltd., V/s Union of India*). Reliance is also placed in the decision of co-ordinate bench of this Court in Writ Petition No. 11644 of 2025 (*Asawa Brothers Crporate Avenue V/s Union of India and Others*), to which one of us (Vaishali Patil Jadhav, J.) is a party. In the said decision the decision in "*Milroc*" (*supra*), is relied on.

8. Learned advocates for the Respondents have strenuously opposed the Petition by relying on the decision of Co-ordinate Bench of this Court in Writ Petition No. 12116 of 2025 (*M/s Ritwik Projects Pvt Ltd., V/s Union of India and Others*) and the



decision of the Apex Court in "**Rikhab Chand Jain V/s Union of India and Others**" in Civil Appeal No. 6719 of 2012, to contend that, the Petitioner has alternate efficacious statutory remedy and, therefore, the Writ Petition may not be entertained. They further submitted that since the Petitioner has accepted the liability to pay GST dues and has requested for permission to pay the dues in installments, now the Petitioner cannot challenge the said show cause notice and the order passed by Respondent No.3.

9. With the assistance of learned Senior Advocate and learned Advocates for the Respondents, we have gone through the Writ Petition memo, annexures thereto and the citations relied on by both the sides.

10. On perusal of the judgment in **Milroc**" (*supra*), it is clear that, the issue which fell for consideration of the Co-ordinate bench of this Court at Goa, was "**whether it is permissible to issue Show Cause Notice covering different tax periods?**" by considering the relevant provisions, it is held :

"19. From the perusal of the entire Scheme, it is evidently clear to us that the statutory provision for assessment of tax for each financial year except the Show Cause Notice to be issued at least 3 months prior to the time limit specified in Section 73 (10) and 74



(10) of the Act, for issuance of assessment order as sub-section (10) provide that the proper officer shall issue the order 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/short paid or input tax credit wrongly availed or utilized relates to or within five years from the date of erroneous Return. Thus, there is limitation prescribed for demand of tax and its recovery.

The Act of 2017, therefore involve a definite tax period, based on the filing of the Return, which can be either monthly or annual Return and if the assessment is based on annual Return, the tax period shall be relevant financial year.

In the light of the statutory scheme, we find that there is no scope for consolidating various financial years / tax period which is attempted by the impugned Show Cause Notices assailed in the Petition.

26. *For the reasons recorded above, by overruling the objections raised by Ms. Desai for entertaining the Petition is merely based on the show cause notice as we find that there is no provision to club various tax periods and apart from the fact that it is also beyond the period of limitation, we find that the action of Respondent No.2 in issuing consolidated show cause notices for multiple assessment years is without jurisdiction and since it is a judicial overreach, we quash and set aside the same.”*

11. This decision is consistently followed by this Court at Nagpur Bench in Writ Petition No. 7718 of 2025 and even Co-ordinate Bench of this Court has followed the same in "**Asawa Brothers**" (*supra*). The Petitioner's case is squarely covered by



the ratio in *Milroc*” (*supra*), hence, we are inclined to allow the Writ Petition.

12. In “*Chief Justice of Andhra Pradesh and Another Vs. L.V.A. Dikshitulu and Others*” Reported in [1979] 1 SCR 26, the Apex Court has held that the order passed by a person lacking inherent jurisdiction would be a nullity. Any order passed by a Court without jurisdiction would be coram *non judice* being a nullity and principles of estoppel, waiver and acquiescence or even *res judicata* being procedural in nature, would have no application in a case where an order has been passed by Tribunal / Court which has no authority in that behalf.

13. In “*Lalita Panjabrao Phalke and Others Vs. Jeevan Tulshiram Phalke and Others*”, reported in 2023 (6) Mh.L.J. 619, it is held that,

“50. It is a well settled law that any order passed by a Court without jurisdiction would be coram *non judice* being a nullity and the same ordinarily should not be given effect to as it is *non est* i.e. non-existent in the eyes of law. Moreover, any order passed or action taken pursuant to any order which is a nullity or in furtherance thereof, would also be nullities.”

14. In view of the above settled legal position, since the show-cause notice and the impugned order are without jurisdiction, the same are *void ab initio* and cannot be acted upon,



irrespective of admission of liability on the part of petitioner.

15. In view of the observations made by us in forgoing paragraphs and as the show-cause notice and the impugned order are wholly without jurisdiction, availability of statutory remedy cannot be a bar to entertain present writ petition.

16. The Respondents relied on the decision of the Apex Court in "*Rikhab Chand Jain*" (*supra*), which was a case under the Customs Act. In that case the Petitioner disabled himself from availing the efficacious statutory remedy (e.g. appeal / reference to the High Court under section 130 / 130A of 1962 Act) by his own fault and did not act within the prescribed time, it was held that he cannot use his failure as ground for the High Court to exercise discretion in his favour under Article 226 of the Constitution of India.

17. For the aforestated reasons, the Writ Petition is allowed. The impugned show cause notice dated 29th June, 2022 and the impugned order dated 21st December, 2023 passed by Respondent No.3 are hereby quashed and set aside. Consequently, the recovery notice dated 21st November, 2025 issued by Respondent No.4 to the Punjab National Bank, is also quashed and set aside. Liberty is granted to the Respondents to



issue fresh notices, strictly in accordance with section 74 of the CGST Act for respective financial years, if it is otherwise permissible in law. Rule is made absolute in above terms with no order as to costs.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE