

19.05.2026
Item No 30
Ct. No. 10
BR

WPA 10419 of 2026
S. S. Iron & Steel & Anr.
-vs-
Union of India and Ors.

Mr. Sudhir Malhotra.
Mr. Bhaskar Sengupta,
.... For the petitioners

Mr. Uday Sankar Bhattacharya.
Mr. Tapan Bhanja.
... for the CGST Authority.

- 1.** Affidavit-of-service filed by the petitioner is kept with the records.
- 2.** The petitioners in the instant case challenges inter alia, the legality, validity and the sustainability of the order dated 2.3.2026 passed by the respondent/GST Authorities under Section 74 (9) of the GST Authorities under the Central Goods and Service Tax Act, 2017 (hereinafter referred to as the said 'Act').
- 3.** The petitioners submit that the "order in original" has been passed without jurisdiction, by issuing a consolidated show cause notice for the period from financial year 2019-20 upto 2023-24.
- 4.** In this context the learned counsel for the petitioner places reliance on the judgment of the Supreme Court in the case of **Whirlpool Corporation -Vs- Registrar of Trademarks**, reported in **Mumbai (1998)**

8 SCC 1 relying upon paragraph 15

which is reproduced below:

“15. The question so raised by the Supreme Court in the very first para of the report were discussed by it in para 3 where respective arguments made in support and opposition of the controversy were noticed. It was contended on behalf of Rainbow Industries (supra) that the classification and the price list submitted by them having been accepted and acted upon under Rule 173 C (2) of the Central Excise Rules, 1994, the department was precluded from challenging it and therefore is stopped from claiming that the appellant was guilty of suppression of facts, hence the proceedings under Section 11A of the act could not be taken. It is also argued on behalf of M/s Rainbow Industries that the department could not have changed its opinion upon it and the goods were cleared with the knowledge of the department, then in absence of any amendment in law or judicial pronouncement, the reclassification should be effective from the date the Department issued the show cause notice. The reason for it is clearance with the knowledge of the department and no intention to evade payment of duty.”

5. The petitioner also places reliance on another judgment of the Hon’ble Madras High Court in the case of **Titan Company Ltd. -vs- Joint Commissioner of GST in WP No. 33163 of 2023** by placing reliance upon paragraphs 13 and 14, which are reproduced below:

“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.”

6. The petitioner submits that issuance of consolidated show cause notices is not sustainable in law, being de hors the mandate of the statutory provision.
7. The petitioner draws the attention of this Court to Section 74 (9) and (10) of the said Act.
8. It is submitted that the proper officer shall determine the amount of tax, interest and penalty within a period of five years from the date of furnishing of the annual return for the financial year to which unpaid tax relates.
9. In this context, the respondent raises an objection to the point of maintainability and submits that the issue involved herein stands settled by the Hon’ble Apex Court as observed in the case of **M/s**

Mathur Polymers –vs- Uniof of India & Ors. Reported in **Special Leave Petition (Civil) Diary no. 50279 2025**, order dated 7.11.2025 which is reproduced below:

“ However, we find no good ground and reason to interfere with the impugned judgment/order passed by the High Court. The special leave petition is, accordingly, dismissed.”

10. It is further submitted by the respondents by placing reliance on another judgment of the Coordinate Bench in the case of **UBS Exports International Pvt. Ltd. And Another – Vs- State of West Bengal and Others** reported in **2025 SCC Online Cal 3966** by placing reliance upon paragraph 9 wherein the writ petition stands dismissed on the ground of the alternative remedy. The respondent places reliance on paragraph 9 of the said judgment, which is reproduced hereunder:

“ 9. As rightly pointed out by Mr. Siddiqui, learned Additional Government Pleader the aforesaid judgments have been delivered under Section 73 of the said Act. Be that as it may, taking into consideration the fact that the petitioners have an efficacious alternative remedy, all such issues which the petitioners seeks to raise can be decided by the appellate authority, I am of the view that there is no scope to entertain the writ petition especially having regard to the fact that the petitioners at the first instance after the aforesaid show cause was issued, did not proceed to challenge the same. The belated attempt made the petitioners to challenge the show cause along with the final order appear to be an attempt

made by the petitioners to abruptly stall the multitiered adjudicatory process provided for in the scheme of the said Act. No exceptional case for interference has been made out. There is no explanation for the delay in filing the petition as well.”

11. The petitioners further relies upon the judgment of the Bombay High Court in the case of **Mirloc Good Earth Developers -vs- Union of India** reported in **2026 (104) GSTL 45 (Bom)** wherein an identical issue has been referred to a Larger Bench for a decision on the question of law formulated by the Hon'ble Bombay High Court.
12. After hearing both parties and upon perusing the materials on record, I am of the considered view that the challenge in the writ petition is to a consolidated show cause notice issued under Section 74 of the CGST Act, covering the period from financial years 2019-20 to 2023-24 and the consequent order in original dated 2.3.2026.
13. The primary contention of the petitioner is that the bunching of show cause notices accrues multiple financial year, is contrary to the scheme of Section 73(10) of the said Act, which prescribes a limitation period of three years from the due date of furnishing the annual return for each financial year.
14. Reliance has been placed on the judgment of the Hon'ble Apex Court in **Whirlpool Corporation (supra)** and the judgment of Bombay High Court in **Milroc Good Earth Developers (supra)**
15. The respondents on the other hand have raised a preliminary objection as to

the maintainability of the writ petition on the ground of availability of an efficacious alternative remedy. Reliance has been placed on the judgment of a coordinate Bench of the Court in UBS Exports International Pvt. Ltd (supra) and the orders of the Hon'ble Supreme Court in M/S Mathur Polymers (supra) wherein interference with proceedings under the GST has been declined.

- 16.** It is well settled proposition of law that the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India, does not ordinarily entertain a writ petition where an efficacious alternative statutory remedy is available, under an exceptional case of violation of principles of natural justice, lack of jurisdiction or challenge to vires of a statute is made out.
- 17.** In the present case the petitioner did not challenge the show cause notice at the first instance and have approached this Court only after the adjudication order has been passed. The issue raised, including limitation and jurisdiction can be effectively agitated before the authority under Section 107 of the said Act. The belated challenge appears to be an attempt to stall the multi tiered adjudicatory process envisaged under the statute.
- 18.** Further an identical issue as to the permissibility of consolidated show cause notices is presently under consideration before a larger Bench of the Hon'ble Bombay High Court in Mirloc Good Earth Developers (supra), judicial prppriety

demands that this Court refrains from expressing any opinion on merits at this stage.

- 19.** No exceptional circumstances, warranting interference under Article 226 have been made out. There is no explanation for the delay in filing the present writ petition.
- 20.** In view of the above the writ petition stands dismissed on the ground of availability of efficacious alternative statutory remedy. The petitioners are at liberty to prefer an appeal before the appropriate appellate authority under Section 107 of CGST Act within a period of thirty days from the date of communication of this order.
- 21.** If such an appeal is prepared within the period stipulated above the appellate authority shall consider and dispose of the same on merits, in accordance with law, without being influenced by any observation made in this order and without raising any objection on the ground of limitation.
- 22.** All questions of law, including the issue of limitation and jurisdiction are kept open to be urged before the appellate authority.
- 23.** With the above observation and direction writ petition is dismissed.

(Smita Das De, J.)