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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12067 of 2025

Evergreen Recyclekaro (India) Limited ...Petitioner  
*Versus*  
Principal Commissioner of State Tax, Konkan ...Respondents  
Bhavan, Belapur & Ors.

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Mr. Devendra Jain, for the Petitioner.  
Ms. Shruti D. Vyas, Addl. G.P a/w Ms. P.J. Gavhane, AGP, for the  
Respondents.

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CORAM: SUMAN SHYAM &  
ADVAIT M. SETHNA, JJ.

DATED: 24<sup>th</sup> JUNE 2026.

JUDGMENT (Per:- Advait M. Sethna, J)

1. This Petition is filed under Article 226 of the Constitution of India. The Petitioner has assailed the Show Cause Notice issued by the second Respondent along with DRC-01 both dated 18<sup>th</sup> October 2024 and the resultant Order dated 20<sup>th</sup> December 2024 issued by the Respondent No. 2, along with DRC-07, in relation to FY-2020-2021.
2. Heard Mr. Jain, learned counsel for the Petitioner and Ms. Shruti Vyas, Additional Government Pleader, for the Respondents.
3. Rule. Rule made returnable forthwith with the consent of the parties.

4. The facts necessary for the adjudication of the Petition are as under.
5. The Petitioner is a private limited company incorporated under the provisions of the Companies Act, 1956. It is engaged, *inter alia*, in the business of manufacturing of cobalt sulphate, manganese sulphate, nickel sulphate solutions.
6. The Respondents commenced an investigation dated 10<sup>th</sup> April, 2023 at the place of business/registered office of the Petitioner for alleged violations under the CGST and MGST Act, 2017.
7. The Respondent No. 2 issued an Intimation dated 6<sup>th</sup> March 2024 in FORM GST DRC-01A- Part A, to the Petitioner. The Petitioner filed its reply thereto on 18<sup>th</sup> May 2024 in Part -B.
8. The Respondent No. 2 issued a Show Cause Notice dated 18<sup>th</sup> October 2024 in Form GST DRC-01.
9. The said Show Cause Notice culminated in an Order dated 20<sup>th</sup> December 2024 passed under Section 74(9) of the MGST and CGST Act, 2017 in Form GST DRC-07.
10. Aggrieved by the issuance of the said Show Cause Notice and the Order of the Respondents, the Petitioner attempted to file a First Appeal in July, 2025 under Section 107 of the CGST/MGST Act, 2017, on the GST portal. However, as the time limit for filing the statutory Appeal had expired such Appeal proposed to be filed by the Petitioner could not be accepted.

11. The Petitioner has approached this Court assailing the said Show Cause Notice dated 18<sup>th</sup> October 2024 and the Order dated 20<sup>th</sup> December 2024 (supra) which are Impugned in this Petition.

12. In the aforesaid backdrop, we have heard learned counsel for the respective parties.

13. Ms. Vyas, learned Additional Government Pleader, has raised a preliminary objection to the maintainability of the Petition. This being on the ground that the Impugned Order resulting from the Impugned Show Cause Notice is statutorily appealable, under Section 107 of the CSGT/MGST Act.

14. Mr. Jain, learned counsel for the Petitioner has refuted the preliminary objection raised on behalf of the Respondents. He would submit that this is a case where the Impugned Show Cause Notice and the Order are in brazen violation of the principles of natural justice. It is on such ground that the Petition is clearly maintainable before this Court.

15. Mr. Jain, would submit that it was incumbent upon the Respondents to place all notices and orders in the “View Notices and Orders” window portal. However, despite such mandate the Impugned Show Cause Notice and Order in the given case were uploaded on “Additional Notices and Order” section. Moreover, the Petitioner was never served with the Impugned Show Cause Notice causing grave and irreparable prejudice to the Petitioner.

16. Mr. Jain, would then contend that the Impugned Order was passed without hearing the Petitioner, thus violating the well

settled principles of natural justice, mandating a hearing to the Petitioner, before passing the Impugned Order.

17. Ms. Vyas, learned Additional Government Pleader for the Respondents would urge that prior to the issuance of the Impugned Show Cause Notice, the Petitioner was served with an Intimation dated 6<sup>th</sup> March 2024 (supra). The Impugned Show Cause Notice was in fact uploaded on the Portal which constituted due notice to the Petitioner. She would therefore support the impugned action of the Respondents.

18. We have duly noted the submissions raised by the learned counsel for the parties. It is an admitted fact that the Impugned Show Cause Notices though placed on the Portal were not uploaded on the “View Notices and Orders” window/portal as required. Besides this, it appears from the record that the Petitioner was not served with copy of the Impugned Show Cause Notice. The Petitioner was thus deprived of a reasonable opportunity to deal with the Impugned Show Cause Notice.

19. On hearing the parties and perusing the record, we find that there has been no effective service of the Impugned Show Cause Notice to the Petitioner by the Respondents. In such facts and circumstances, the mode of displaying the Notice on the portal, which is also incorrectly done by the Respondents, would further prejudice the Petitioner. In view thereof, failure to serve the same would have a vitiating effect on the consequential Order passed.

20. In our view, for the Respondents to contend that the Petitioner has waived the requirements/mandate of the principles

of natural justice, at the least, the Petitioner ought to be put to due notice, which is absent in the present case. We find that there is no 'effective service' of the Impugned Show Cause Notice on the Petitioner by the Respondents. This would result in denial of a reasonable opportunity to the Petitioner to justify itself, which would be contrary to contours of the well settled principles of natural justice.

21. As far as the Impugned Order is concerned, Ms. Vyas, in her usual fairness has on instructions clarified that there was no personal hearing given to the Petitioner, before passing of the Impugned Order by the Respondents. This, in our considered view, would deprive the Petitioner of the right to be heard in accordance with *audi alteram partem* which is both essential and vital to our jurisprudence.

22. At this juncture, it is apposite to refer to a decision of the Coordinate Bench of this Court in ***T.S. Lines India Pvt. Ltd. Vs. The State of Maharashtra and Ors***<sup>1</sup> where the Court was confronted with a similar fact situation as in the given case. This Court held that no mistake can be attributed to the Petitioner for not having noticed the Notice and/or the Order on the portal. Moreover, the Petitioner was not heard pursuant to the issuance of the show cause notice and had no opportunity to file its reply to the same. The proceedings were accordingly remanded to the Respondents for passing a fresh order after granting an opportunity of hearing to the Petitioner.

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**1** Writ Petition No. 2869 of 2023 dated 25<sup>th</sup> January 2024

23. Before parting with the record, we may observe that natural justice is an essential concomitant of procedural fairness. Any breach and/or non-compliance thereof leads to arbitrariness which would make the actions of the authorities vulnerable. In view thereof, in the given facts and circumstances, instead of relegating the parties to the alternative remedy of appeal, this Court deems it just, fit and proper to exercise its jurisdiction under Article 226 of the Constitution.

24. For the above reasons, we are in agreement with the submissions advanced by the learned counsel for the Petitioner so as to warrant interference, in exercise of Writ jurisdiction. Therefore, in our view, the following Order would meet the ends of justice:-

**ORDER**

(i) The Impugned Show Cause Notice and consequential Impugned Order are hereby quashed and set aside.

(ii) The proceedings are remanded to the Competent Authority of the Respondents with a direction to issue a fresh order after giving an opportunity to the Petitioner to file its reply to the Show Cause Notice and to pass such order after affording an opportunity of being heard to the Petitioner.

(iii) The Respondents shall subject to the completion of the above requirements pass a fresh reasoned Order independently, on its own merits and in accordance with law.

(iv) The said Authority of the Respondents shall endeavour to pass such Order, as directed as expeditiously as possible.

(v) In the event, that the Order is passed against the Petitioner, it is at liberty to resort to the appropriate legal remedy available in law to assail the same. In the exercise of our discretionary jurisdiction and to facilitate this course, we consider it fit to direct that such Order if passed against the Petitioner shall be kept in abeyance for a period of two weeks thereafter, as the Petitioner is relegated to pursue the alternate statutory remedies in accordance with law.

(vi) We clarify that, we have not delved into the merits of the matter which are expressly left open to the parties to be urged before the said Competent Authority of the Respondents.

**25.** With the above directions, the Writ Petition is Disposed of.

**26.** All concerned to act on an authenticated copy of this Judgment/Order.

**(ADVAIT M. SETHNA, J.)**

**(SUMAN SHYAM, J.)**