Form J(2)
JPD Sl.No. 01

In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

WPA 433 OF 2026

State Bank of India

Vs.

The Commercial Central Goods and Service Tax and Central Excise, SLG Commissionerate, Central Revenue Building and Ors.

For the Petitioner/State Bank of India : Mr. Sakya Sen, Sr. Adv.
Mr. Siddharth Dey, Adv.
Ms. Trisha Mukerjee, Adv.
Mr. Siddhartha Datta, Adv.
Ms. Payel Chanda, Adv.

For the Respondents / Union of India : Mr. Dilip Kumar Agarwal, Adv.
Mr. Bishwa Raj Agarwal, Adv.
Mr. Satyajit Paul, Adv.

Reserved on : May 21, 2026

Judgment on : June 30, 2026

Aniruddha Roy, J. :

Facts:

1. The writ petitioner/State Bank of India through its regional manager has filed the instant writ petition principally challenging a composite show-

cause notice dated **June 25, 2025** part of **Annexure P-8 at page 94** to the writ petition. The said show-cause notice (hereinafter, **the said show-cause notice**) has been issued by the Additional Commissioner under **Section 74** of the **Central Goods and Services Tax Act, 2017** (hereinafter **the said 2017 Act**).

2. By a letter dated **July 21, 2025**, **Annexure P-9 at page 425** (Volume-III) to the writ petition, the writ petitioner replied to the said show-cause notice. In the said reply for clarity and verification supporting documents were enclosed which, inter alia, include as follows :-

(a) Calculation worksheets demonstrating the methodology adopted for computing the taxable value, as submitted to the audit team. Annexure-4;

(b) Invoices-level details of the disputed transactions. Annexure-5; and

(c) A copy of every invoice. Annexure-6.

3. In the said reply, the writ petitioner had taken a specific point that single show-cause notice cannot be issued for multiple tax periods (**at page 439** to the writ petition).

4. By an email dated **June 12, 2025**, **Annexure P-6 at page 84** to the writ petition, the writ petitioner submitted inter-branch invoices for the period upto March 2024, which were 56 in numbers.

5. Under the **impugned order-in-original** dated **December 12, 2025 Annexure P-12 at Page 454** to the writ petition, the GST authorities have rejected the objection of the petitioner, inter alia, holding that the content of the reply was unjustified in lack of invoices, relevant details supporting the claim and passed its order, which is quoted below :

> ***"I also find that the other contents of the reply are unjustified in lack of the invoices/relevant details supporting the claim.***
>
> ***ORDER***
>
> ***In view of the above discussion and findings, I pass the following order in terms of Section 74(9) of the CGST Act 2017 read with identical provisions of the State GST Act 2017: -***
>
> ***(i) I confirm the demand of GST amounting to Rs.5,48,56,775/- (IGST Rs.5,48,56,775/-) tabulated as above (para 9.2), and order for recovery of the same under the provisions of Section 74(1) of CGST Act, 2017 and read with Section 20 of IGST Act 2017.***
>
> ***(ii) I order to charge and recover Interest in terms of Section 50 of CGST Act, 2017 read with Sections 5 and 20 of the IGST Act, 2017 on the (ii) amount as confirmed in para (i) above.***
>
> ***(iii) I impose Penalty to tune of Rs.5,48,56,775/- (IGST Rs.5,48,56,775/-) and order to recover the same in terms of Section 74(i) of the CGST Act, 2017 read with Sections 5 and 20 of the IGST Act, 2017 on the amount as confirmed in para (i) above.***
>
> ***(iv) The noticee can avail the benefit of reduced penalty to fifty percent of GST if the GST and interest under Section 50(1) of CGST Act, 2017 & IGST Act, 2017 along with such reduced penalty is paid within a period of thirty days of the communication of this order as per the provision of Section 74(11) of the CGST/IGST Act 2017.***
>
> ***(v) I order for entering the above liability in Part-II of Electronic Liability Register in Form PMT-01."***

6. Assailing the said impugned show-cause notice and the said impugned order, the writ petitioner has filed the instant writ petition.

7. The writ petition has been taken up for consideration for final disposal at its motion stage.

Submissions:

8. Mr. Sakya Sen, learned Senior Advocate appearing for the writ petitioner, at the threshold, submits that the impugned order has confirmed a demand of GST authorities amounting to Rs.5,48,56,775/- under Section 74(1) of 2017 Act with penalty under Section 17 of the Act and applicable interest under Section 50 of 2017 Act, aggregating a total liability for about a sum of **Rs.10,97,13,550/-** having been imposed on the petitioner. The disproportionate imposition of penalty is without jurisdiction and perverse, on the face of the impugned order.

9. Learned Senior Advocate, Mr. Sakya Sen, has primarily challenged the action of the GST authorities, inter alia, on the following grounds :-

(a) The impugned show-cause notice culminating in the impugned order was without jurisdiction;

(b) The impugned single show-cause notice clubbing multiple financial years is not only illegal and de hors the statute but also without jurisdiction;

(c) The impugned order was passed ignoring vital documentary evidence resulting in violation of principle of natural justice; and

(d) The invocation of power under Section 74 of 2017 Act is motivated, illegal, arbitrary and without jurisdiction.

10. On facts, learned Senior Advocate submits that the GST authorities through its letter dated June 04, 2025 Annexure P-2 at page 38 to the writ petition requested for certain documents. This correspondence was followed by an email dated June 10, 2025 attaching the said communication dated June 04, 2025 requesting the petitioner to submit documents for the financial years **2018-19 to 2023-24**, **Annexure P-4 at page 87** to the writ petition.

11. By an email dated June 12, 2025 all the documents were duly provided by the petitioner for the periods 2018-19 to 2023-24 along with 56 inter-branch invoices, Annexure P-6 at page 84 to the writ petition. On June 11, 2025 the GST authorities, without waiting for the response to the said email dated June 10, 2025 issued an audit observation for the period during April 2018 to March 2019 without considering the documents and invoices already provided by the petitioner to the GST authorities, Annexure P-4 at pages 45 to 46 to the writ petition.

12. On June 19, 2025 an audit report for the period of April 2018 to March 2024 was issued by the GST authorities, Annexure P-7 at Pages 88 to 91 to the writ petition, without considering the documents supplied.

13. While issuing the said impugned show-cause notice, the same did not refer to the documents already provided by the petitioner to the GST authorities at the pre-show-cause stage. However, the petitioner submitted a detailed reply to the said impugned show-cause notice dated

July 21, 2025 where all the invoices and every explanations and calculation were provided for consideration by the GST authorities but without considering of the same and without applying its mind, the GST authorities passed its impugned order dated December 12, 2025. The impugned order illegally records that the petitioner did not respond to the queries raised by the GST authorities at the pre-show-cause stage or even at the post show-cause stage.

14. Mr. Sakya Sen, learned Senior Advocate appearing for the petitioner then refers to **Section 73 of 2017** Act and submits that a period of limitation prescribed therein is **three years**. He further submits that as per CBIC notification dated **March 31, 2023** and **December 28, 2023** for the three financial years, namely, **2018-19, 2019-20, 2020-21**, the last date for issuance of show-cause notice were **January 30, 204, May 31, 2024** and **November 28, 2024** and for the order itself were **April 30, 2024**, **August 31, 2024** and **February 28, 2025**. The impugned show-cause notice was issued on June 25, 2025, accordingly, the demand for the three financial years for a total sum of Rs.2,76,84,879/- was barred by limitation.

15. He refers to **Section 74 of 2017 Act** and submits that the relevant show-cause notice is permitted to be issued within **five years** from the last date of filing of annual return of the relevant financial year. Each financial year is separate because the period of limitation as provided under the statute is separate. He then refers to **sub-Section (106) to Section 2 of 2017 Act**, where the period for which a return is to be

furnished is defined. He submits that, reading the said provision with Section 74, it would appear that clubbing of financial years for issuing a single show-cause notice is in contravention to Section 74, as no show-cause notice could be issued beyond five years thereunder.

16. Mr. Sakya Sen, learned Senior Advocate then submits that the limitation for each year could run separately for issuance of show-cause notice and thus, a consolidated show-cause notice could not be issued for multiple financial years. In support, he has relied the following decisions :

(i) In the matter of : Titan Company Limited Vs. Joint Commissioner of GST and Central Excise, Salem reported at 2023 SCC OnLine Mad 8082.

(ii) In the matter of : State of Jammu and Kashmir Vs. Caltex (India) Ltd. reported at AIR 1966 SC 1350.

(iii) A decision of the Hon'ble Bombay High Court In the matter of : Milrue Good Earth Developers Vs. Union of India rendered in WP No.2203 of 2025

17. Opposing the impugned action of the GST authorities in violation of Section 74 and thereby awarding a disproportionate penalty, Mr. Sakya Sen submits that even if the power of the authority is discretionary for awarding penalty but the same has to be exercised in a reasonable and bona fide manner based on established para meters of due process of law and it is the legitimate expectation of the assessee that the discretion should be used by the GST authorities not in an arbitrary and discriminatory manner. In support, reliance has been placed in a

decision of the Hon'ble Supreme Court ***In the matter of : Securities and Exchange Board of India Vs. Sunil Krishna Khaitan reported at (2023) 2 SCC 643***.

18. Mr. Sen, learned Senior Advocate submits that there is no finding in the impugned order about any of the inter-branch invoices and on the other relevant materials furnished by the petitioner both at pre and post show-cause, stages save and except a bald observation that details of the invoices are lacking. This clearly shows a gross non-application of mind on the part of the authority while passing the impugned order and the finding does not amount to a reasoned finding, which rendered the impugned order to nullity. In support, reliance has been placed on an order passed ***In the matter of : Maxxcab Wires & Cables Pvt. Ltd. & Anr. Vs. State Tax Officer (order dated 24th November, 2022).***

19. Inasmuch as, learned Senior Advocate further submits that there has been no clear finding with supporting materials against the petitioner. Therefore, the question of extending the period of limitation under Section 74 of the 2017 Act does not and cannot arise.

20. In the light of the above submissions, learned Senior Advocate, Mr. Sen, appearing for the petitioner prays for setting aside and quashing of the said impugned show-cause notice and the impugned order passed in pursuance thereof.

21. Mr. Dilip Kumar Agarwal, learned Advocate with Mr. Bishwa Raj Agarwal, learned Advocate appearing for the revenue authorities, at the threshold, has taken the point of maintainability of the writ petition in view of the

existences of the statutory **appellate remedy** under **Section 107 of 2017 Act.**

22. He submits that to adjudicate upon the point of limitation, if any, in respect of any financial year and to assess the impugned order, it requires a fact-finding enquiry to be conducted to a great extent. Limitation is a mixed question of law and fact. Whether all the materials placed before the authority by the petitioner had been considered or not while issuing the show-cause notice or passing the impugned order in pursuance thereof are also required to be gone into by examining the facts. Writ court is not the forum to conduct a detail fact-finding enquiry. The statutory appellate remedy is vested with the power to go into the facts. Hence, appellate remedy is the appropriate remedy for the writ petitioner.

23. Mr. Dilip Kumar Agarwal, learned Advocate appearing for the revenue then submits that while issuing the show-cause notice or passing the impugned order thereunder, the authority has not acted without jurisdiction. There is no inherent lack of jurisdiction. Thus, appellate remedy under Section 107 of the statute is the appropriate remedy and not the writ petition.

24. Mr. Agarwal, further submits that in the event of fraudulent availment of benefit under the said 2017 Act, where transactions are spread across several years, a consolidated show-cause notice is permitted in law. In support, learned Advocate for the revenue has relied upon following decisions :

(a) **A judgment of the Delhi High Court *In the matter of : M/s Mathur Polymers Vs. Union of India & Ors. rendered in WP (c) 2394/2025 ;***

(b) ***A decision of the Coordinate Bench of this High Court In the matter of : Sampa Das Vs. Union of India & Ors. rendered in WPA 4367 of 2023.***

25. In the light of the above submissions, learned Advocate appearing for the revenue prays for dismissal of the writ petition.

26. **In reply**, Mr. Sen, learned Senior Advocate appearing for the petitioner submits that clubbing of multiple financial years in one consolidated show-cause notice itself is not permitted in law, as decided in various judicial pronouncements referred to above and hence, it is without jurisdiction and the writ petition is maintainable. If on a prima facie look on the impugned show-cause notice, since it appears that the revenue authority while issuing the said impugned show-cause notice by clubbing the financial years had acted without jurisdiction and illegally, then the writ petition is maintainable instead of filing the statutory appeal. Existence of statutory appellate remedy is not an absolute bar in entertaining a writ petition. In support, Mr. Sen has relied upon a decision of the Hon'ble Supreme Court ***In the matter of : Godrej Sara Lee Ltd. Vs. Excise and Taxation Officer-cum-Assessing Authority and Others reported at 2023 SCC OnLine SC 95***.

27. Mr. Sen further submits that since a consolidated show-cause notice clubbing multiple financial years is impermissible under the scheme of

2017 Act, hence, the action of the respondent authorities is without and in excess of jurisdiction warranting exercise of writ powers. He further submits that invocation of Section 74 of 2017 Act without establishing the fundamental ingredience of fraud, willful misstatement or suppression of facts had rendered the said impugned show-cause notice and the impugned order passed in pursuance thereto without jurisdiction and challenging such jurisdictional error, the challenge is maintainable in the writ jurisdiction.

Decision:

28. After considering the rival contentions of the parties and on perusal of the materials on record, according to this Court, the foremost and principal issue require to be adjudicated, at the threshold, is that ***whether for multiple financial years a single show-cause notice is permitted to be issued***.

29. Since the impugned show-cause notice had been issued under **Section 74 of the 2017 Act**, the provision is quoted below :-

> ***"Section 74: Determination of tax , pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful- misstatement or suppression of facts.-***
>
> > ***(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the***

refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

(2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) 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 or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

(11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

[2][(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.]

Explanation 1.- ***For the purposes of section 73 and this section,-***

(i) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;

(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under [1][sections 122 and 125] are deemed to be concluded.

xxx"

30. **Section 74 of 2017 Act** provides for determination of tax pertaining to the period upto financial year 2023-24. The section provides that where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reasons of fraud, or any willful misstatement or suppression of facts to evade tax, such proper officer shall serve notice on the person chargeable with tax which has been so paid or which has been so short paid or to whom the refund has erroneously made, or who has wrongly availed or utilized input tax credit, requiring him to show-cause as to why he should not pay the amount specified in the notice along with interest thereupon payable under Section 50 and a penalty equivalent to tax specified in the notice. **Sub-Section (2)** specifically provides that proper officer shall issue the notice at least **six months prior to the time limit** specified under **sub-Section (10) to Section 74** for issuance of order. **Sub-Section (9)** provides that the proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty

due from such person and issue an order. **Sub-Section (10)** provides that the proper officer shall issue the order under sub-Section (9) to Section 74 of 2017 Act 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 or short paid or input tax credit wrongly availed or utilized relates to or within ***five years*** from the date of erroneous refund. **Sub-Section (12)** further specifically provides that the provision of Section 74 of 2017 Act shall be applicable for determination of tax pertaining to the period upto Financial Year 2023-24.

31. On a plain reading of the provisions laid down under both Section 73 and 74 of 2017 Act, this Court finds that period of limitation are imposed under sub-Section (10) to both Sections 73 and 74 of 2017 Act respectively. Under Section 73 of 2017 Act it is ***three years*** from the due date for furnishing of annual return for the relevant financial year and under Section 74 it is ***five years*** from the due date for furnishing of annual return for the relevant financial year.

32. **Sub-Section (10) to Section 74 of 2017 Act** specifically provides the time limit of five years from the last date for filing the annual return for the relevant financial year to such the taxes due. The expression and language used under **sub-Section (10)** to the effect **"... *from the due date for furnishing of annual return for the financial year*** ... ***or within five years from the date of issuance of refund ...*"** is of most important significance. While including the said language under sub-Section (10) to Section 74 of the 2017 Act, the legislature specifically

noted a **particular financial year** and as such used the expression**”** ..***for the financial year.*** Thus, 2017 Act considers each and every financial year as a separate unit, due to which the legislation has specified every financial year separately and independently.

33. It is trite that taxing statute should be interpreted and construed strictly. Sub-Section (1) to Section 74 empowers the proper officer for issuance of show-cause notice subject to the time limit provided under sub-Section (10), as enumerated under sub-Section (2) to Section 74. Sub-Section (10) imposses a restriction and bar by framing a specified time limit within which the show-cause notice has to be issued. On a harmonious and meaningful construction of the sub-Sections under Section 74, it is clear that clubbing of multiple financial years for the purpose of issuance of show-cause notice is not permitted under Section 74 of 2017 Act. Therefore, the limitation period of five years would be separately applicable for each and every financial year and thus, the limitation period would be different for every financial year.

34. When a limitation period is specifically provided under a statute any action taken or any act or deed done in contravention and violation of such limitation period and beyond that, would not only render the said act or action illegal and void but also without jurisdiction. Limitation cannot be carried forward or cannot be enlarged beyond the statutory prescription, unless specifically provided under the statute. Thus, the financial years which are beyond the period of limitation, in the light of conjoint reading of sub-Sections (1), (2) and (10) of Section 74 of 2017

Act, the provision for issuance of show-cause notice under Section 74 of the Act cannot and should not be invoked.

35. Constitution Bench of the Hon'ble Supreme Court ***In the matter of : State of Jammu and Kashmir (supra)*** had observed as under :-

> ***"where an assessment encompasses different assessment years, each assessment year could be easily split up and dissected and the items can be separated and taxed for different periods."***

36. Under sub-Section (4) to Section 74 of 2017 Act, the expression used is ***for periods***. Under sub-Section (1) and (3) to Section 74 of 2017 Act notice can be issued for ***any period***. Hence, the conjoint and harmonious reading of sub-Sections (1), (3) and (4) to Section 74 makes it clear that the expression ***any period*** should be accepted and read as ***tax period***. Thus, based on the relevant **tax period** show-cause notice has to be issued under Section 74 of 2017 Act by the revenue.

37. Sub-Section (106) to Section 2 of 2017 Act defines the expression ***tax period***, which means ***the period for which the return is required to be furnished***. A meaningful reading of the said provision shows that the expression ***period*** means the period for which, the return is required to be furnished. Thus, on the basis of returns ***tax period*** would be determined. Under 2017 Act, an assessee is required to file monthly return and also annual return. Therefore, on the basis of both monthly as well as annual return notices can be issued under Section 74 and when notice is issued based upon the annual return, the same has to be

for the entire relevant financial year only and not for any further financial year.

38. The expression ***return*** is defined under sub-Section (97) to Section 2 of 2017 Act, which means ***any return*** prescribed or otherwise required to be furnished by or under this Act or the Rules made thereunder. An assessee is required to file monthly return as well as annual return and issuance of show-cause notice should be strictly on the basis of the relevant tax period, which is determined based on filing of return. Thus, it is clear that the show-cause notice can be issued either based on monthly return or annual return for the entire year or part thereof as decided by the department. If any return is filed for more than one financial year, then, based on the said returns, one single show-cause notice can be issued. Since under the provisions of the 2017 Act there is no provision for filing of return other than the monthly and yearly for a particular financial year, single show-cause notice cannot be issued for multiple financial years.

39. As discussed above, on a meaningful and conjoint reading of the provisions under **sub-Section (106) to Section 2** read with **sub-Sections (1), (2), (3), (4) and (10) to Section 74 of the 2017 Act**, this Court finds and holds that there is a specific bar under Section 74 of the Act to issue a single show-cause notice in connection with multiple financial years.

40. By issuing single show-cause notice for multiple financial years under Section 74 of the 2017 Act, the revenue authority seeks to invoke its

power not only for the relevant financial year but also for the previous financial years, for which no show-cause notice can be issued, having been barred by the period of limitation mentioned under sub-Section (10) to Section 74 of 2017 Act. In effect, the revenue seeks to achieve to lay their hands on the previous assessment years having been barred by limitation, which it could not and cannot do directly but seeks to do indirectly, is not permissible in law.

41. The golden rule is that if the law states that a particular action has to be taken or step to be done in a particular manner and within a particular period of time fixed under the statute, such an act has to be carried out in that manner and within the fixed time only or not at all. All other modes are expressly forbidden in law. Limitation period for five years as provided under sub-Section (10) to Section 74 of 2017 Act cannot be carried over or cannot or should not continue perpetually by clubbing the previous financial years with the current relevant financial year.

42. The provision laid down by the legislature under sub-Section (10) to Section 74 of 2017 Act keeping in view that each and every assessment year would have a specific period of limitation and such period of limitation shall commence independently and would vary from year to year, as such, the Hon'ble Supreme Court ***In the matter of : State of Jammu and Kashmir (supra)*** had held that each assessment year would easily be split up and dissected and the items can be separated and taxed for different periods. The same view had also been taken by a

Coordinate Bench of the Hon'ble Madras High Court ***In the matter of : Titan Company Limited (supra)*** *and* it had been observed as under :-

> ***"16. For all these reasons, I do not find force in the submission made by the learned Senior Standing Counsel appearing on behalf of the respondents. Therefore, I find fault in the process of issuing of bunching of show cause notices and the same is liable to be quashed."***

43. A Division Bench of the Hon'ble Bombay High Court had also upheld the view ***In the matter of : Milrue Good Earth Developers (supra)*** and had observed as under :-

> ***"25. In our view, the aforesaid observations merely being of primary nature without appreciating the provisions in the Act of 2017 and Rules made therein, and recording a finding that there is no prohibition in issuance of notice calling upon payment of tax for different financial years, in our considered opinion, since the Petition before the Division Bench called for quashing of the demand notice referring to different financial years, but in any case the Court expressed the prima facie opinion and recorded that there is no issue of limitation as contemplated under Section 74(10).***
> ***In any case the Court refused to show indulgence and directed the Petitioner to face the show cause notice and therefore the Division Bench did not express it final opinion.***
> ***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.***

The Writ Petition is made absolute in the aforesaid terms."

44. ***In the matter of : M/s Mathur Polymers (supra)*** the Hon'ble Delhi High Court though had taken note of all the decisions referred to above under which it was held that single show-cause notice was not permitted for multiple financial years but had not dealt with those.

45. ***In the matter of : Sampa Das (supra)*** a Coordinate Bench of this Court had found that there were disputed questions on facts and requirements of re-appreciating evidence, which is not permissible in a writ petition. It was also observed on the question of authorities including multiple periods in one particular show-cause, that the revenue had proceeded with the failure on the part of the petitioner to make proper disclosure which was not a case where the limitation would have intervened if separate notices were issued for different periods. Such is not the case in the instant writ petition. Hence, the ratio decided in the judgment would not apply in the facts and circumstances of this case.

46. In the conspectus of the above, this Court holds that the **impugned show-cause notice dated June 25, 2025 at page 94 to the writ petition** being part of **Annexure-P8** is *de hors* and in violation of the provision laid down under Section 74 of 2017 Act and thus, the same is illegal, without jurisdiction and not tenable in law. Consequently the **impugned order-in-original dated December 12, 2025** is also held to be illegal, without jurisdiction and not tenable in law.

Alternative remedy and writ petition:

47. The law is trite that it is the self-imposed restriction of the Constitutional Court in exercising its power under Article 226 of the Constitution of India when an alternative and efficacious remedy exists under the statute. However, if the Constitutional Court finds on the face of record that an act committed by an Article 12 authority on the face of it is *de hors* and in violation of the statutory provisions and is without jurisdiction or in excess of jurisdiction, such self-imposed restriction is not an absolute bar before a writ Court.

48. If on a close scrutiny of an act of an authority, on record, it appears that the jurisdictional error is so apparent and *ex facie* for which no further fact or evidence is required to be enquired or looked into, existence of an alternative remedy is not a bar. The plenary power of the Constitutional Court in exercise of its plenary jurisdiction under Article 226 of the Constitution of India has the authority and jurisdiction to correct such a jurisdictional error. If a Constitutional Court finds that without going into any factual dispute or any triable issue, the jurisdictional error can be corrected or is required to quashed, it would always be open for judicial scrutiny.

49. The Hon'ble Supreme Court ***In the matter of : Godrej Sara Lee Ltd. (supra)*** had observed as under :-

> ***5.*** *A little after the dawn of the Constitution, a Constitution Bench of this Court in its decision reported in [1958] SCR 595 (State of Uttar Pradesh v. Mohd. Nooh) had the occasion to observe as follows:*

> *"10. In the next place it must be borne in mind that there is no rule, with regard to certiorari as there is with mandamus, that it will lie only where there is no other equally effective remedy. It is well established that, provided the requisite grounds exist, certiorari will lie although a right of appeal has been conferred by statute, (Halsbury's Laws of England, 3rd Edn., Vol. 11, p. 130 and the cases cited there). The fact that the aggrieved party has another and adequate remedy may be taken into consideration by the superior court in arriving at a conclusion as to whether it should, in exercise of its discretion, issue a writ of certiorari to quash the proceedings and decisions of inferior courts subordinate to it and ordinarily the superior court will decline to interfere until the aggrieved party has exhausted his other statutory remedies, if any. But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies.. . ."*

6. *At the end of the last century, this Court in paragraph 15 of the its decision reported in (1998) 8 SCC 1 (Whirlpool Corporation v. Registrar of Trade Marks, Mumbai) carved out the exceptions on the existence whereof a Writ Court would be justified in entertaining a writ petition despite the party approaching it not having availed the alternative remedy provided by the statute. The same read as under:*

> *(i) where the writ petition seeks enforcement of any of the fundamental rights;*
> *(ii) where there is violation of principles of natural justice;*
> *where the order or the proceedings are wholly without jurisdiction; or*
> *(iv) where the vires of an Act is challenged.*

7. *Not too long ago, this Court in its decision reported in [2021] SCC OnLine SC 884 (Assistant Commissioner of State Tax v. Commercial Steel Limited) has reiterated the same principles in paragraph 11.*

> ***8.*** *That apart, we may also usefully refer to the decisions of this Court reported in (1977) 2 SCC 724 (State of Uttar Pradesh v. Indian Hume Pipe Co. Ltd.)** and (2000) 10 SCC 482 (Union of India v. State of Haryana). What appears on a plain reading of the former decision is that whether a certain item falls within an entry in a sales tax statute, raises a pure question of law and if investigation into facts is unnecessary, the high court could entertain a writ petition in its discretion even though the alternative remedy was not availed of; and, unless exercise of discretion is shown to be unreasonable or perverse, this Court would not interfere. In the latter decision, this Court found the issue raised by the appellant to be pristinely legal requiring determination by the high court without putting the appellant through the mill of statutory appeals in the hierarchy. What follows from the said decisions is that where the controversy is a purely legal one and it does not*
>
> ** (2021) 93 GST 1 (SC).*
>
> *** (1977) 39 STC 355 (SC).*
>
> *involve disputed questions of fact but only questions of law, then it should be decided by the high court instead of dismissing the writ petition on the ground of an alternative remedy being available."*

50. It is true that statutory appellate remedy exists where the said impugned notice dated June 25, 2025 and the impugned order-in-original dated December 12, 2025 Annexure P-12 at page 454 to the writ petition could be challenged but since this Court has already held hereinabove that the said impugned show-cause notice is in violation of the statutory provision and has been issued without jurisdiction and/or in excess of jurisdiction of the revenue authority, the consequential impugned order dated December 12, 2025 is also without jurisdiction and the jurisdictional error is so apparent on the face of it, no further fact finding enquiry is required to be gone into. Hence, this Court is of the firm and

considered view and holds that the instant **writ petition is maintainable**.

51. In view of the forgoing reasons and discussions, the **impugned show-cause notice dated June 25, 2025 part of Annexure-P8 at page 94 to the writ petition and the consequential impugned order-in-original dated December 12, 2025 Annexure-P12 at page 454 to the writ petition** stand ***set aside*** and ***quashed***.

52. However, it is made clear that this Court has not gone into the rival contentions of the parties on merits. Since the impugned show-cause notice and the consequential order-in-original suffer from jurisdictional error on the face of it, this Court has proceeded on such jurisdictional issues, as narrated above and not beyond that. This Court has not expressed any opinion on the other points raised by the petitioner.

53. It is further made clear that the respondent revenue authorities shall be at liberty to proceed afresh but strictly in accordance with law.

54. The interim order stands ***vacated***.

55. Resultantly, with the above observations the instant **writ petition** being ***WPA 433 of 2026*** stands ***allowed***, without any order as to costs.

(Aniruddha Roy, J.)