WTAX No. - 7515 of 2025

A.F.R.

2026:AHC:14559-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 7515 of 2025

M/S SA Aromatics Pvt Ltd and another

…..Petitioner(s)

Versus

Union of India and 5 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Upasna Agrawal
Counsel for Respondent(s)	:	A.S.G.I., Krishna Agarawal, Parv Agarwal, Saumitra Singh

Along with :

1. **Writ Tax No. 2569 of 2025:**
M/S R.C. Brothers Jangal Bhelampur Jainualbedin, Gorakhpur
Versus
Union of India and another

2. **Writ Tax No. 7500 of 2025:**
M/S S.D. Freshners Ltd. Through its Director Shri Mahesh Prasad and another
Versus
Union of India and 5 others

3. **Writ Tax No. 1119 of 2025:**
M/S Mandakini Heaven Huts Pvt Ltd
Versus
Union of India and another

4. **Writ Tax No. 2247 of 2025:**
Raj Trade Link Corporation
Versus
Union of India and 3 others

5. **Writ Tax No. 2795 of 2025:**
PSR Metals Private Limited
Versus

Additional Commissioner Central Gst and 2 others

6. **Writ Tax No. 2537 of 2025:**
M/S DBL Lucknow Sultanpur Highways Ltd.
Versus
Union of India and 3 others

7. **Writ Tax No. 2246 of 2025:**
Raj Trade Link Corporation
Versus
Union of India and 2 others

8. **Writ Tax No. 1000 of 2025:**
M/S Mandakini Accommodation Pvt. Ltd.
Versus
Union of India and another

9. **Writ Tax No. 2838 of 2025:**
Anukul Bindal
Versus
Union of India and 2 others

10. **Writ Tax No. 2456 of 2025:**
Raj Trade Link Corporation
Versus
Union of India and 3 others

11. **Writ Tax No. 4965 of 2025:**
M/S NGT Nirmaan Pvt. Ltd.
Versus
Union of India and 2 others

12. **Writ Tax No. 2454 of 2025:**
Raj Trade Link Corporation
Versus
Union of India and 3 others

13. **Writ Tax No. 8725 of 2025:**
M/S Indian Enterprises
Versus
State of U.P. and 2 others

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.

1. Heard Mr. Dhruv Agarwal, learned Senior Advocate, assisted by Ms. Upasna Agrawal, Mr. Varun Srivastava, Mr Salil Arora, Mr.

Nalin Talwar, Mr. Rajesh Kumar Thakur, Mr. Suyash Agarwal, Mr. Praveen Kumar, Mr. Pranjal Shukla, Mr. Bharat Raichandani (through video conferencing) alongwith Namit Kumar Sharma, Mr. Sudhanshu Yadav and Mr. Rishi Raj Kapoor, learned counsel for the petitioners; Mr. N.C. Gupta, learned Senior Counsel assisted by Mr. Sudarshan Singh, learned counsel for Union of India; Mr. Dhananjay Awasthi, Mr. Gaurav Mahajan, Mr. Krishna Agarwal, Mr. Amit Mahajan and Mr. Parv Agarwal, learned counsel for the revenue, Mr. Nimai Das, learned Additional Chief Standing Counsel, Mr. Arvind Mishra, learned Standing Counsel and Mr. Ankur Agarwal, learned Standing Counsel for the State.

2. The present batch of petitions has been filed to challenge the proceedings initiated under sections 74 and 73 of the Central Goods and Service Tax Act, 2017 and UP Goods and Service Tax Act, 2017, (collectively described as the Acts). Since these petitions raise common issues, they have been heard together. Broadly, it has been canvassed:

(i) it is not open to the revenue authorities to issue a composite Show Cause Notice (in short ‘SCN’) for different tax periods or to more than one noticee, especially for different Financial Years (in short ‘FYs’); (ii) in some of the cases such SCNs and Adjudication Orders have been passed in violation of the statutory prohibition contained in Section 6(2)(b) of the Acts. That may never be done. (iii) another, objection has arisen in one of the petitions - that in any case, it may be impermissible in law for two different authorities/Proper Officers, to pass separate orders both referable to one SCN; (iv) Further challenge has been raised in one petition to direction issued by the respondent authorities (to the service recipients of the petitioner), to withhold all payments due to the petitioners.

3. Reliance has been placed on the decisions of other High Courts. It has been strenuously urged, in same set of facts involving the same legal context, i.e. the Acts, the interpretation made by the High Courts at Calcutta, Karnataka, Kerala, Bombay, Madras and Andhra Pradesh may be followed.

4. On the other hand, learned counsel for the revenue have relied on another set of decisions of other High Courts to contend, the view taken by the Delhi High Court, High Court of Jammu & Kashmir and Ladakh, Calcutta High Court, Kerala High Court and Bombay High Court, to contend that a composite notice may be issued as it does not cause any prejudice and it does not involve any violation of the law. To the extent, the basis of the proposed demands and the proposed demands of tax and penalty have been clearly quantified, it remains with the noticee to respond to such notices in such way and in such manner as may be advised.

5. As to the remaining contentions, it has been submitted, statutory remedy of reply and appeal is available to the noticees. Therefore, no interference is warranted in the present batch of petitions.

6. Before proceeding further, we may reduce the bare facts involved in these cases in tabular form:

Sl. No.	***Writ Tax***	***Name***	***Show Cause Notice***	***Adjudication Order/Rectification Order***	***Passed under Section***	***F.Y.***
1.	*7515/2025*	*M/s SA Aromatics Pvt. Ltd. and another Vs. Union of India and 5 others*	*30.09.2025 & 04.10.2025*	-	*74*	
2.	*7500/2025*	*M/s S.D. Freshners Ltd. Through its Director Shri Mahesh Prasad and another Vs. Union of India and 5 others*	*30.09.2025*	-	*74*	
3.	*1000/2025*	*M/s Mandakini*	*27.03.2024*	*26.11.2024*	*74*	*2017-*

		Accommodation Pvt.Ltd. Vs. Union of India and another				*18, 2018-19, 2019-20, 2020-21 & 2021-22*
4.	*2537/2025*	*M/s DBL Lucknow Sultanpur Highways Ltd. Vs. Union of India and 3 others*	*-*	*04.02.2025 & rectification order dated 11.04.2025*	*74*	*2017-18*
5.	*4965/2025*	*M/s NGT Nirman Pvt. Ltd. Vs. Union of India and 2 others*	*28.05.2025*	*-*	*74*	*2018-19, 2019-20, 2020-21, 2021-22 & 2022-23*
6.	*1119/2025*	*M/s Mandakini Heaven Huts Pvt. Ltd. Vs. Union of India and another*	*30.08.2024*	*28.03.2024*	*74*	*2017-18, 2018-19, 2019-20, 2020-21 & 2021-22*
7.	*2246/2025*	*Raj Trade Link Corporation Vs. Union of India and 2 others*	*-*	*01.02.2025*	*74(1)*	*2024-25*
8.	*2247/2025*	*Raj Trade Link Corporation Vs. Union of India and 3 others*	*-*	*01.02.2025*	*74(1)*	*2024-25*
9.	*2454/2025*	*Raj Trade Link Corporation Vs. Union of India and 3 others*	*-*	*23.09.2024*	*74(1)*	*2024-25*
10.	*2456/2025*	*Raj Trade Link Corporation Vs. Union of India and 3 others*	*-*	*23.09.2024*	*74(1)*	*2024-25*
11.	*2569/2025*	*M/s R.C. Brothers Jangal Bhelampur Jainualbedin Gorakhpur Vs. Union of India and another*	*09.11.2023 and 06.12.2023*	*20.01.2025 & DRC-07 dated 30.01.2025*	*74*	*2017-18, 2018-19, 2019-20 & 2020-21*
12.	*2795/2025*	*PSR Metals Pvt. Ltd. Vs. Additional*	*-*	*01.02.2025 and DRC-07 dated 03.02.2025*	*74*	*2017-18, 2018-19*

		Commissioner Central GST and 2 others				*& 2019-20*
13.	*2838/2025*	*Anukul Bindal Vs. Union of India and 2 others*	*31.03.2023*	*28.01.2025/ 30.01.2025*	*122(1)(ii)*	*2024-25*
14	*8725/2025*	*M/s Indian Enterprises Vs. State of U.P. and 2 others*	*08.01.2024*	*29.04.2024 and rectification order dated 24.10.2024*	*73*	

7. Next, the facts giving rise to Writ Tax No. 7515 of 2025 (M/S S.A. Aromatics Pvt. Ltd. Vs. Union of India and others), may be noted in brief. On 07.06.2019, a search was conducted in the case of that petitioner M/S S.A. Aromatics Pvt. Ltd. by the Central GST Authorities. Also, on 24.2.2020 officers of the State GST Department conducted a search at the premises of the said petitioner and seized a consignment of scented tobacco and books of accounts. A summary order was issued under Section 67 of the West Bengal GST Act, 2017/CGST Act, 2017, on 28.2.2020. On 11.3.2020, the said petitioner paid the demand of CGST and SGST together with cess, interest and penalty, for the Financial Year 2019-20 amounting to Rs. 7,91,668/-. On 24.03.2020, the said petitioner further paid tax, interest and penalty against the DRC-03. It was issued acknowledgement of such voluntary payment made under Section 74 (5) of the West Bengal GST Act, 2017, on 30.03.2021.

8. Thereafter, another search was conducted in the case of petitioner no. 2 on 17.04.2023. Yet, another search was conducted in the case of petitioner no. 1 M/S S.A. Aromatics Pvt. Ltd., on 18.04.2023. Statement made by petitioner no. 2 during his search was later retracted. In any case, petitioner no. 1 again made payment Rs. 15,53,522/- towards tax, interest and penalty, on 24.5.2023 against DRC-03. On 03.08.2023, another search was carried out by the officers of West Bengal GST Authority in the case of petitioner no.

1. On 11.09.2024, the premises of petitioner no. 1 were again inspected by the West Bengal GST Authority. However, a closure report was issued in that respect, on 17.03.2025. Thereafter, proceedings were initiated and continued calling for statements to be recorded and replies to be furnished. Later, the impugned SCN dated 30.09.2025, was issued to petitioner nos. 1 and 2.

9. In these facts, the petitioner M/S S.A. Aromatics Pvt. Ltd. has approached the Court, with the grievance noted earlier in this order. At the same time, in the two cases involving the petitioners - M/S S.A. Aromatics Pvt. Ltd., M/S S.D. Fresheners Limited, an additional ground has been pressed that the SCN impugned in these writ petitions suffer from jurisdictional error on account of violation of Section 6(2)(b) of the Acts. Details of the same have been given in a tabular form, as below:

DATE	INVESTIGATING AGENCY	COMPANY NAME	SECTION	SCN DATE	ORDER DATE	TAX	PENALTY	INTEREST	TOTAL AMOUNT	PERIODS	DRC 03 FILLED	DRC-04 RECD
24.02.2020	DRI&E	S.D. FRESHNERS LIMITED	74(5)	NO	24.06.2020	16610154	2491524	3609942	22711620	APR2019 TO MAR2020	25.03.2021	07.02.2025
		S.A. AROMATICS PVT LTD	74(5)	NO	24.06.2020	2506668	376000	216064	3101732	APR2019TO MAR2020	24.03.2021	22.01.2025
DATE	**INVESTIGATING AGENCY**	**COMPANY NAME**	**SECTION**	**SCN DATE**	**ORDER DATE**	**TAX**	**PENALTY**	**INTEREST**	**TOTAL AMOUNT**	**PERIODS**	**DRC 07 FILLED**	**DRC-04 RECD**
02.08.2023	BI SOUTH BENGAL (HQ)	S.D. FRESHNERS LIMITED	122(1)	01.09.2023	20.09.2023	0	3896670	0	3896670	AUG 2023 TO AUG2023	21.09.2023	NO ACKN
		S.A. AROMATICS PVT LTD	122(1)	01.09.2023	20.09.2023	0	1104051	0	1104051	AUG2023 TO AUG2023	21.09.2023	NO ACKN
02.08.2023	BI SOUTH BENGAL (HQ)	S.D. FRESHNERS LIMITED	122(1)	01.09.2023	20.09.2023	0	3896670	0	3896670	AUG 2023 TO AUG2023	21.09.2023	NO ACKN
		S.A. AROMATICS PVT LTD	122(1)	01.09.2023	20.09.2023	0	1104051	0	1104051	AUG2023 TO AUG2023	21.09.2023	NO ACKN
DATE	**INVESTIGATING AGENCY**	**COMPANY NAME**	**SECTION**	**SCN DATE**	**ORDER DATE**	**TAX**	**PENALTY**	**INTEREST**	**TOTAL AMOUNT**	**PERIODS**	**DRC 03 FILLED**	**CLOSURE REPORT**
11.09.2024	B.I. SOUGH BENGAL (HWH)	S.A. AROMATICS PVT LTD	74(5)	NO	12.09.2024	1023400	153510	78510	1255420	APR2021 TO SEP2024	12.09.2024	17.03.2025
		S.D. FRESHNERS LIMITED	VERY MUCH RELEVANT WITH S.A. AROMATICS PVT LTD								05.03.2025 (A33, P457)	

DATE	INVESTIGATING AGENCY	COMPANY NAME	SECTION	SCN DATE	ORDER DATE	TAX	PENALTY	INTEREST	TOTAL AMOUNT	PERIODS	DRC 03 FILLED	CLOSURE REPORT
13.06.2025	B.I. SOUTH BENGAL (HWH)	S.D. FRESHNERS LIMITED S.A. AROMATICS PVT LTD	74(5) 74(5)	NO NO	18.06.2025 18.06.2025	337677 3057597	50651 458638	40521 1273168	428849 4789403	APR 2024 TO MAR2025 comparative to 2021-22, 2022-23, 2023-24, 2024-25) APR 2021 TO MAR 2024 comparative to (2021-22, 2022-23, 2023-24, 2024-25)	24.06.2025 24.06.2025	21.07.2025 21.07.2025
DATE	**INVESTIGATING AGENCY**	**COMPANY NAME**	**SECTION**	**SCN DATE**	**ORDER DATE**	**TAX**	**PENALTY**	**INTEREST**	**TOTAL AMOUNT**	**PERIODS**	**DRC 03 FILLED**	**CLOSURE REPORT**
17.04.2023	DGGI,GHAZIABAD	S.D. FRESHNERS LIMITED S.A. AROMATICS PVT LTD	74(1), 122 74(1), 122	30.09.2025 30.09.2025	NA NA	NIL NIL	NIL NIL	NIL NIL	NIL NIL	AUG2019 TO SPE2023 AUG2019 TO SPE2023		

"Comments:-It has been seen that the search by DRI&E, Kolkata dated 24-02-2020, periods covered was from April'2019 to March'2020

search by SGST dated 11.09.2024, periods covered was from April2021 to Sep'2024

search by SGST dated 13.06.2025 based on comparison of sales of Pan Masala with Tobacco, periods covered was from April'2021 to March'2025

in S.A.Aromatics Pvt Ltd and in S D Freshners Limited periods covered was from April'2024 to March'2025 but it was comperative to Apr'2021 to March'2025

search by DGGI dated 17.04.2023 period covered was Oct'2019 to Sep'2023

Remarks:- So it is clear that the periods covered by DGGI is already covered in case DRI&E dt. 24-02-2020, SGST dt. 11-09-2024 and SGST dt. 13-06-2025."

10. These petitions involving common issues have been heard together. Mr. Dhruv Agarwal, learned Senior Counsel would submit that the power to tax a subject must be express. He relied on **State of West Bengal Vs. Kesoram Industries Ltd. and others, (2004) 10 SCC 201**, wherein it has been observed as below:

> ***"106.*** *The judicial opinion of binding authority flowing from several pronouncements of this Court has settled these principles: (i) in interpreting a taxing statute, equitable considerations are entirely out of place. Taxing statutes cannot be interpreted on any presumption or assumption. A taxing statute has to be interpreted in the light of what is clearly expressed; it cannot imply anything which is not expressed; it cannot import provisions in the statute so as to supply any deficiency; (ii) before taxing any person it must be shown that he falls within the ambit of the charging section by clear words used in the section; and (iii) if the words are ambiguous and open to two interpretations, the benefit of interpretation is given to the subject. There is nothing unjust in the taxpayer escaping if the letter of the law fails to catch him on account of the legislature's failure to express itself clearly.*

> ***107.*** *Power to tax is not an incidental power. According to Seervai, although legislative power includes all incidental and subsidiary power, the power to impose a tax is not such a power under our Constitution. It is for this reason that it was held that the power to legislate in respect of inter-State trade and commerce (Entry 42 List I Schedule 7) did not carry with it the power to tax the sale of goods in inter-State trade and commerce before the insertion of Entry 92-A in List I and such power belonged to the States under Entry 54 in List II. Entry 97 in List I also militated against the contention that the power to tax is an incidental power under our Constitution."*
>
> *(emphasis supplied)*

11. Second, he has invoked the principle - where a power is conferred to do a certain thing in a certain manner, that thing must be done in that way or not at all. Thus, he has relied on **Dhananjaya Reddy Vs. State of Karnataka, (2001) 4 SCC 9; CIT, Mumbai Vs. Anjum M.H. Ghaswala and others, (2002) 1 SCC 633; Mehsana District Central Cooperative Vs. State of Gujarat and others, (2004) 2 SCC 463**.

12. Third, referring to the language of Section 73 and comparing the same with Section 74 of the Acts, specifically referring to the provisions pertaining to Section 73/74 (1), 73/74 (2) and 73/74 (10), it has been stressed - the limitation to finalize any adjudication order is fixed/rigid. It has been prescribed with reference to the last date to furnish annual return for a Financial Year or (in the alternative) with reference to the date of refund. Cases of refund apart, the period of limitation is clearly referable to a Financial Year and/or tax period for which a return is to be filed.

13. That period of limitation being rigid and fixed, the limitation to issue a notice under Section 73/74 (1) ends three months (in cases falling under Section 73) and six months (in the case of Section 74 proceedings), before the end of the limitation to frame the order. To the extent the SCN dated 30.09.2025 has been first received by petitioner no. 2 in Writ Tax No. 7515 of 2025 on 8.10.2025, after

expiry of minimum time limitation prescribed under Section 74 (3) read with Section 74 (10), clearly those proceedings are time barred. Reliance has been placed on a coordinate bench decision of this Court in **Daujee Abhushan Bhandar Pvt. Ltd. Vs. Union of India**. That petition arose from re-assessment proceedings under the Income Tax Act, 1961. At present, it has been submitted, the notice to petitioner no.2 was not issued at any point in time before it was dispatched through e-mail, on 08.10.2025.

14. Elaborating his submission, learned Senior Counsel has relied on **Maharao Bheem Singh of Kota Vs. CIT (2017) 1 SCC 554**, **State of Gujarat Vs Arcelor Mittal Nippon Steel (India) Ltd., (2022) 6 SCC 459** to submit - each Financial Year is an independent unit of assessment. Therefore, all SCNs required to be issued under Section 73/74 of the Acts may be issued only with reference to one or the other FY or tax period but not for more than one FY. Thus, in view of obligation to file annual returns, though it may be permissible for a proper officer to issue a SCN to a noticee for more than one tax period falling under one FY, a composite notice may never be issued for more than one tax period, falling in two different FYs.

15. Further, he would submit, wherever the legislature intended to provide for such composite notices to be issued, it has provided for the same, by enacting specific provisions to that effect such as those enacted under Chapter XIV - B of the Income Tax Act 1961 - for block assessment proceedings. Referring to those provisions, he has taken us to the definition of ‘block period’ (under the Act) and its effect - enabling the assessing authority to seek assessment of undisclosed income across more than one unit of assessment i.e. Assessment Year. In absence of any parallel provision existing

under the Acts, that effect of substantive law may not arise during adjudication proceedings under the Acts.

16. In the same way, referring to Section 158-BD of the Income Tax Act 1961, it has been submitted, wherever the legislature intended to provide for assessment of any person, based on facts found against another, it has provided for the same through a specific provision. In absence of similar provisions existing under the Acts, the revenue authorities, i.e. the Proper Officers under the Acts, do not have jurisdiction to issue a composite notice to multiple/more than one noticee.

17. Fourth, objecting to considerations of administrative exigency or convenience, learned Senior Counsel has relied on **State of U.P. and others Vs. Jai Prakash Associates Ltd., (2014) 4 SCC 720**, to submit that the defence of administrative chaos may not be recognized as a good ground to defend a proceeding that lacks jurisdiction. To the same effect, reliance has been placed on **B. Prabhakar Rao & others Vs. State of Andhra Pradeswh & others, 1985 (SUPP) SCC 432**.

18. The above submissions are described to have found acceptance of the Karnataka High Court in **M/S Pramur Homes and Shelters Vs. Union of India and others, 2025:KHC:52750**. That High Court has reasoned - occasioned by the requirement to file monthly, quarterly and annual returns and the time limit prescribed, the requirement to issue individual SCNs for the purposes of adjudication may remain referable to the ‘tax period’ or a FY. Keeping in mind the principle applicable to assessment and payment of tax linked to the tax period and the timelines arising with reference thereto, it has been further reasoned that the decision of the Delhi High Court in **M/s Mathur Polymers Vs. Union of India, 2025:DHC:7435-DB** may not be a good law. The fact that the

Special Leave Petition arising therefrom came to be dismissed by the Supreme Court may not cause any precedential effect in law.

19. Reliance has also been placed on a decision of Bombay High Court in **M/s Milroc Good Earth Developers Vs. Union of India, (2025) 36 Centax, 97 (Bom)** wherein the decision of the Delhi High Court in **Ambika Traders Vs. Additional Commissioner, (2025) 33 Centax 189** has been distinguished.

20. Further, the Bombay High Court (Goa Bench) has applied the ratio of the decisions of Madras and Kerala High Courts in **Titan Company Ltd. Vs. Joint Commissioner, (2024) 15 Centax 118 (Mad.)**; **R.A. & Co. Vs. Additional Commissioner of Central Taxes, Chennai South, (2025) 33 Centax 14 (Mad.)** and **Tharayil Medicals Vs. Deputy Commissioner, SGST Department, (2025) 29 Centax 395 (Ker.)**. In that the Bombay High Court has also taken note of the principle of law laid down by the Supreme Court in **State of Jammu and Kashmir Vs. Caltex (India) Ltd., AIR 1966 SC 1350** wherein it was observed as below:

> *"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. The said law was laid down keeping in mind that each and every Assessment Year will have a separate period of limitation and the limitation will start independently and that is the reason why the Hon'ble Supreme Court has held that each assessment year could be easily split up and dissected and the items can be separated and taxed for different period. The said principle would apply to the present case as well."*

21. Fifth, on the applicability of Section 6(2)(b) of the Acts, it has been submitted, that issue is no longer *res integra.* Directly, in the case of **G. K. Trading Company Vs. Union of India & Ors., 2020 SCC OnLine All 1907**, a coordinate bench of this Court had clearly ruled against multiple proceedings initiated in violation of Section

6(2)(b) of the Acts. That decision of this Court has been considered and the same principle applied recently by the Supreme Court in **Armour Security (India) Ltd. Vs. Commissioner, CGST, Delhi East Commissionerate & Anr., 2025 SCC OnLine SC 1700**. Referring to the chart (relied by him) i.e. the second table extracted above, it has been submitted, except for FY 2020-21, all other proceedings for all other 'tax periods' are covered under Section 74(5) of the Acts. To that extent, the impugned show-cause notice would remain barred on the strength of Section 6(2)(b) of the Acts.

22. Last, it has been submitted, the view taken by the Delhi High Court in **M/s Mathur Polymers (supra)** and **Ambika Traders (supra)** has not attained finality as may lend strong persuasive value to it. In a later case - **M/s Aparna Collection Vs. Union of India & Ors. W.P. (C) No. 890/2025**, the writ petition filed directly before the Supreme Court under Article 32 of the Constitution of India was disposed of with the following observation:

> *"The petitioner will be at liberty to bring to the notice of High Court the decisions of the Madras High Court and the Andhra Pradesh High Court and it can be considered and disposed of by the High Court on its own merits."*

Thus, the issue is again engaging attention of the Delhi High Court. It has issued notice on the petition filed by **M/s Aparna Collection (supra)**.

23. Mr. Suyash Agrawal, learned counsel for some of the petitioners, has first adopted the submissions advanced by Mr. Dhruv Agarwal, learned Senior Advocate. He has pointed out that the adjudication proceedings challenged in Writ Tax Nos. 2247 of 2025 and 2454 of 2025 are barred on the principle contained in Section 6(2)(b) of the Acts.

24. An additional ground has been pressed by Mr. Suyash Agrawal in Writ Tax No. 2246 of 2025; 2247 of 2025; 2454 of 2025 and

2456 of 2025. It is thus submitted, against one SCN issued by the authority at Meerut, two adjudication orders have emerged - one by the Meerut authority and the other by the authority at Lucknow. Such proceedings are inherently defective as may never be sustained. The details of those proceedings thus assailed are summarized as below:

Sl. No.	*Writ Tax*	*Name*	*Show Cause Notice*	*Adjudication Order/Rectification Order*	*Passed under Section*	*F.Y.*
1.	*2246/2025*	*Raj Trade Link Corporation Vs. Union of India and 2 others*	*30.04.2022*	*01.02.2025*	*74(1)*	*2024-25*
2.	*2247/2025*	*Raj Trade Link Corporation Vs. Union of India and 3 others*	*30.04.2022*	*01.02.2025*	*74(1)*	*2024-25*
3.	*2454/2025*	*Raj Trade Link Corporation Vs. Union of India and 3 others*	*30.04.2022*	*23.09.2024*	*74(1)*	*2024-25*
4.	*2456/2025*	*Raj Trade Link Corporation Vs. Union of India and 3 others*	*30.04.2022*	*23.09.2024*	*74(1)*	*2024-25*

25. In addition, he has further referred to the liabilities of persons registered under the Acts and persons not liable to registration. With reference to persons liable to registration, he has referred to the compliance obligation imposed on those persons - to file monthly and annual returns. He has referred to provisions of Section 74(3) of the Acts and relied on the words ‘any period’ and the phrase ‘for such tax periods’ appearing in Sub-Section 4 of the said Section. He would submit-allegations of fraud or willful suppression etc. must be recorded with reference to each ‘tax period’, separately. There can be no omnibus recital of those jurisdictional facts, pertaining to different ‘tax periods’, spread across different/more than one Financial Year, in a single Show Cause Notice. Elaborating his submission, he would submit, the word ‘period’ is not defined under the Acts, though the phrase ‘tax period’ is defined under Section 2(108) of the Acts. This means and refers only to a ‘period’ for which a return is required to be furnished under the Acts.

26. Next, he would submit, under Section 73 of the Acts, adjudication proceedings are preceded by search, scrutiny or audit. Under Section 61(3) of the Acts, the return may be processed. Only if no satisfactory explanation is furnished 'for the month', appropriate action may be initiated, including adjudication. Further, by virtue of Section 74(10) of the Acts, an adjudication order itself is required to be passed within time prescribed with reference to the date of furnishing return. Since return may be furnished only with respect to a 'tax period', inherently under Section 74 of the Acts, such proceedings must arise and be restricted to one 'tax period', not exceeding a FY, against one SCN.

27. Then, referring to Rule 142 of the Rules framed under the Acts, it has been submitted that DRC-07 itself may not be issued for more than one FY. Hence adjudication proceedings may also be initiated, conducted and included, for one FY at a time, only.

28. With respect to challenge raised in Writ Tax No. 2247 of 2025, an additional ground based on Section 6(2)(b) of the Acts has been pressed. It has been pointed out that a SCN was issued on 18.01.2021 and order passed on 08.12.2021 under Section 122 of the U.P.G.S.T. Act. Later, the impugned Show Cause Notice dated 30.04.2022 was issued by the CGST authorities. That is clearly barred on the principle contained in Section 6(2)(b) of the Acts.

29. Next, Mr. Praveen Kumar, learned counsel for the petitioner in Writ Tax No. 4965 of 2025 has also adopted the submissions advanced by Mr. Dhruv Agarwal, learned Senior Advocate. He has pressed additional ground that no adjudication proceeding may have arisen because the recipient disclosed higher value and for that reason only short payment has been alleged.

30. Mr. Pranjal Shukla, learned counsel appearing in Writ Tax Nos. 1000 of 2025 and 1119 of 2025, has adopted the submissions advanced by Mr. Dhruv Agarwal, learned Senior Advocate.

31. Last, besides adopting the submissions advanced by other counsel for the petitioners, Mr. Bharat Raichandani, learned counsel appearing in Writ Tax No. 2537 of 2025 would submit, in the present case, the assessee was issued a composite notice for FYs 2017-18 and 2018-19. Referring extensively to the provisions of the Acts, he would stress that assessment may be made for a FY or its part, but never for more than one FY. He has taken us through the provisions for registration; Section 31 providing for issuance of Tax Invoice; Section 36 pertaining to period of retention of books of account; Section 37 pertaining to furnishing details of outward supplies; Section 39 pertaining to filing of annual returns; Section 49 pertaining to payment of tax, interest penalty and other amounts; the provisions falling under Chapter XII of the Acts pertaining to assessment including Section 59 pertaining to self-assessment, Section 60 pertaining to provisional assessment, Section 62 pertaining to assessment of non-filers (of return), Section 63 pertaining to assessment of unregistered persons. Reference has also been made to Section 35 of the Acts pertaining to audit provisions to be read with Rule 101, that clearly stipulates that audit may be done for a FY or a part thereof, or multiples thereof. Thus, wherever the legislature has permitted a single proceeding to encompass ‘tax period’ beyond one FY, it has specifically provided for the same using the expression "multiples thereof". To the extent no legislative intendment may exist either on a plain reading of Section 73 or Section 74 of the Acts, those proceedings must remain confined to ‘period’ not exceeding one FY, through one SCN.

32. Reference has also been made to the amnesty schemes brought under the Acts that were introduced and enforced keeping in mind the principle of one FY being one assessment unit. The concept of multiple ‘tax periods’ being bunched into a single proceeding under the Acts is alien to the basic scheme of the Acts. Even offences and compounding measures have been provided under the Acts on a Financial Year basis only.

33. Meeting the above submissions, Mr. Dhananjay Awasthi, learned counsel for the revenue has first pointed out that the provisions of Section 74 of the Acts are *pari materia* to provisions of Section 11A of the Central Excise Act, 1944. Heavily relying on the reasoning offered by the Delhi High Court in **Ambika Traders (supra)**, he would submit, there is no bar in law to issue a single SCN for multiple ‘tax periods’. He has placed great reliance on the true import of Section 74 (10) of the Acts, to submit - the same is only a time limitation provision but not a provision to limit the scope of the proceedings initiated under a SCN. The said provision only provides the end date for termination of an adjudication proceeding. For that purpose, the legislature thought it fit to prescribe the outside time limit with reference to the last date of filing annual return for a tax period for which adjudication notice may have been issued. It does not limit or define the scope of the SCN. Rather, it defines the end point of time for such proceedings. Relying by the dozen, Shri Awasthi has placed before us decisions and orders of other High Courts including some not interfered with by the Supreme Court, upon Special Leave to Appeal filed there against. Reliance has also been placed on **M/s Mathur Polymers (supra)** against which Special Leave Petition (Civil) No. 50279 of 2025 was dismissed by the Supreme Court on 07.11.2025 and other decisions of the High Court of Jammu & Kashmir and Ladakh in

R.K. Ispat Ltd. vs Union of India & Ors., dated 30.9.2025; Kerala High Court in **X.L. Interiors vs Deputy Commissioner (Intelligence), (2024) 25 Centax 416 (Ker.)**, Calcutta High Court in **Britannia Industries Ltd. vs Union of India, (2024) 25 Centax 430 (Cal.)**; Delhi High Court in **Delhi Foils vs Additional Commissioner, (2025) 31 Centax 253 (Del.)**; Bombay High Court in **Riocare India Pvt. Ltd. vs Assistant Commissioner, CGST and C.Ex., (2025) 95 GSTL 39 (Bom.)**

34. Relying on a Circular issued by the CBIC dated 15.09.2025, it has been stressed, in view of pan-India application of the C.G.S.T. Act, 2017, a singular interpretation made in favour of the revenue is being enforced.

35. Then relying on **Sangeeta Singh vs Union of India (UOI) & Ors., (2005) 7 SCC 484**, it has been stressed, the decisions of the other High Courts relied by the learned counsel for the petitioners, to the extent they seek to supply *casus omissus* without pre-conditions established therefor, do not lay down the correct law.

36. Next, reliance has been placed on **Palm Groves Cooperative Housing Society Ltd. vs Magar Girme and Gaikwad Associates & Ors., (2025) INSC 1023** and **Grasim Industries Ltd. vs Collector of Customs, Bombay, (2002) 4 SCC 297**.

37. Mr. Gaurav Mahajan learned counsel for the revenue in some of the other matters has first adopted the submissions advanced by Mr. Dhananjay Awasthi. Second, he would submit, GST laws are unique. They are transaction based, not only for the purpose of levy or impost of tax but also for adjudication of disputes as well. To the extent a dispute may arise with respect to levy or collection of the correct tax amount, the same may be settled through proper adjudication proceedings involving similar transactions, by the

same assessee or the same set of assessees. For resolution of such disputes, the adjudication proceedings do not recognize the end boundaries of individual FYs, arising from regular returns filed by the parties to a dispute i.e. assessees. If a SCN issued involves other disputes for which jurisdictional facts may not be established, that issue may remain open to challenge in proper facts.

38. Last, it has been submitted, no prejudice may be caused to the petitioners by issuance of a common Show Cause Notice.

39. Mr. N.C. Gupta learned Senior Advocate assisted by Mr. Sudarshan Singh learned counsel for Union has also adopted the submissions advanced by Mr. Dhananjay Awasthi. He has also stressed that Section 2(106) is relevant only for the purpose of a ‘tax period’ for which a return may be filed. Referring to Section 73(3), he would submit that it permits the Proper Officer to demand tax for more than the period for which the initial SCN may have been issued. Also, it has been stressed that Section 73(10) is only a time limitation provision.

40. In rejoinder, Mr. Dhruv Agarwal learned Senior Counsel for the petitioners has also referred to Section 74A of the Acts to clarify - from FY 2024-25 the scheme of Section 73 and 74 stands merged but not for the prior periods. Referring to **Caltex (India) Ltd (supra)**, he would submit that the said decision clarifies the position in law that an order of assessment may be passed for one AY, but not more.

41. Before we discuss the exact submissions advanced by learned counsel, on either side, certain provisions of the Acts are necessary to be noted. The words ‘adjudicating authority’, ‘assessment’, ‘proper officer’,’quarter’, ‘return' and ‘tax period’ (amongst others)

are defined under Section 2(4), 2(11), (91), (92), (97) and (106) of the Acts. They read as below:

> *"**Section 2. Definitions.-***
>
> *(4) "adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the [Central Board of Indirect Taxes and Customs], the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, [the National Appellate Authority for Advance Ruling,] [the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171]*
>
> *(11). "assessment" means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;*
>
> *(91) "proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the Central tax who is assigned that function by the Commissioner in the Board;*
>
> *(92) "quarter" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;"*
>
> *(97) "return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;*
>
> *(106) "tax period" means the period for which the return is required to be furnished;"*
>
> *(emphasis supplied)*

42. Then, levy provision is contained in Section 9 of the Acts. Those provisions provide for tax on all intra-State and inter-State supplies of goods or services, except alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption.

43. Furnishing of details for outward supplies is prescribed under Section 37 of the Acts. Relevant to our discussion, Sections 37(1) of the Acts reads as below:

> *"**Section 37. Furnishing details of outward supplies.-***
>
> *(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically [subject to such conditions and restrictions and] in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details [shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies]:"*
>
> *(emphasis supplied)*

44. Then, the provision for furnishing of monthly and other returns is contained in Section 39 of the Acts. Relevant to our discussion, provisions of Section 39(1) and (2) of the Acts read as below:

> *"**Section 39. Furnishing of returns.-***
>
> *(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, [within such time, and subject to such conditions and restrictions], as may be prescribed:*
>
> *Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified herein.*
>
> *(2) A registered person paying tax under the provisions of section 10, shall, for each Financial Year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward*

supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed."

(emphasis supplied)

45. Next, provision for furnishing of annual returns as it exists today, reads as below:

"***Section 44. Annual return. -***

(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the Financial Year, with the audited annual financial statement for every Financial Year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.]"

(emphasis supplied)

46. Then, assessments are provided under Chapter XII of the Acts. In that, Sections 59, 60(1) and (3), 61(1), 62(1), 63 and 64(1), to the extent they are relevant to our discussion, read as below:

"***59-Self-assessment***

Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.

60. Provisional assessment.-

(1) Subject to the provisions of sub-section (2), where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer

in writing giving reasons for payment of tax on provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

...

(3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided *that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.*

61. Scrutiny of returns-

(1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

62. Assessment of non-filers of returns-

(1) Notwithstanding anything to the contrary contained in section 73 or section 74 [or section 74A], where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 or furnishing of the annual return for the Financial Year to which the tax not paid relates.

63. Assessment of unregistered persons-

Notwithstanding anything to the contrary contained in section 73 or section 74 [or section 74A], where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the

best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the Financial Year to which the tax not paid relates:

Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

64. Summary assessment in certain special cases -

(1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section."

(emphasis supplied)

47. Since audit provisions have also been referred to during submissions advanced, we may take note of provisions of Section 65(1) and 66(1) of the Acts and Rule 101 of the Rules framed thereunder. They read as below:

*"**Section 65. Audit by tax authorities-***

(1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

66. Special audit-

(1) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit

availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.

Rule 101 of CGST Rules 2017

101. Audit-

(1) The period of audit to be conducted under sub-section (1) of section 65 shall be a Financial Year [or part thereof] or multiples thereof.

*(2) Where it is decided to undertake the audit of a registered person in accordance with the provisions of section 65, the proper officer shall issue a notice in **FORM GST ADT-01** in accordance with the provisions of sub-section (3) of the said section.*

(3) The proper officer authorised to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilised ,refund claimed, and other relevant issues and record the observations in his audit notes.

(4) The proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply and the proper officer shall finalise the findings of the audit after due consideration of the reply furnished.

*(5) On conclusion of the audit, the proper officer shall inform the findings of audit to the registered person in accordance with the provisions of sub-section (6) of section 65 in **FORM GST ADT-02 .**"*

(emphasis supplied)

48. In that background, we may now notice the provisions of Section 73, 74 and 74A of the Acts. They read as below:

*"**73. 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 for any reason other than 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 for any reason, other than the 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 leviable under the provisions of this Act or the rules made thereunder.

(2) The proper officer shall issue the notice under sub-section (1) at least three 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 such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under subsection (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 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) or, as the case may be, the statement under sub-section (3), 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) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of Show Cause Notice, no penalty shall be payable and 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 person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section (9) within three 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 three years from the date of erroneous refund.

(11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

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

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.

(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 [sections 122 and 125] are deemed to be concluded.

74A. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onward.-

(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, 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 leviable under the provisions of this Act or the rules made thereunder:

Provided *that no notice shall be issued, if the tax which has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised in a Financial Year is less than one thousand rupees.*

(2) The proper officer shall issue the notice under sub-section (1) within forty-two months 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 forty-two months from the date of erroneous refund.

(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 such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The penalty in case where any tax which has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised,—

(i) for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, shall be equivalent to ten per cent. of tax due from such person or ten thousand rupees, whichever is higher;

(ii) for the reason of fraud or any wilful-misstatement or suppression of facts to evade tax shall be equivalent to the tax due from such person.

(6) 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.

(7) The proper officer shall issue the order under sub-section (6) within twelve months from the date of issuance of notice specified in sub-section (2):

Provided that where the proper officer is not able to issue the order within the specified period, the Commissioner, or an officer authorised by the Commissioner senior in rank to the proper officer

but not below the rank of Joint Commissioner of Central Tax, may, having regard to the reasons for delay in issuance of the order under sub-section (6), to be recorded in writing, before the expiry of the specified period, extend the said period further by a maximum of six months.

(8) The person chargeable with tax where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, may,—

(i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 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, and the proper officer, on receipt of such information shall not serve any notice under sub-section (1) or the statement under sub-section (3), as the case may be, in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;

(ii) pay the said tax along with interest payable under section 50 within sixty days of issue of Show Cause Notice, and on doing so, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The person chargeable with tax, where 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, may,—

(i) 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, and 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;

(ii) pay the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within sixty days of issue of the notice, and on doing so, all proceedings in

respect of the said notice shall be deemed to be concluded;

(iii) pay the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within sixty days of communication of the order, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded.

(10) Where the proper officer is of the opinion that the amount paid under clause (i) of sub-section (8) or clause (i) of sub-section (9) 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.

(11) Notwithstanding anything contained in clause (i) or clause (ii) of sub-section (8), penalty under clause (i) of sub-section (5) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

(12) The provisions of this section shall be applicable for determination of tax pertaining to the Financial Year 2024-25 onwards.

Explanation 1*.—For the purposes of 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 this section, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded.

Explanation 2.*—For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.]"*

(emphasis supplied)

49. For ready reference, Sections 75(4) and 75(10) of the Acts read as below:

"75. General provisions relating to determination of taxpayer.

(1)...

(2)...

(3)...

(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

(1)...

(2)...

(3)...

(4)...

(5)...

(6)...

(7)...

(8)...

(9)...

(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within the period specified in sub-section (10) of section 73 or in sub-section (10) of section 74 or in sub-section (7) of section 74A."

50. The judicial opinion on the core issue raised in this batch of petitions is divided between different High Courts. In that, this Court has yet not taken a view. On one hand, there are decisions of the Delhi High Court in **M/s Mathur Polymers (supra); Ambika Traders (supra)** and, **Delhi Foils (supra)** as also of the High Court of Jammu and Kashmir and Laddakh in **R.K. Ispat Ltd. (supra)**; of the Kerala High Court in **X.L. Interiors (supra)**; of the Calcutta High Court in **Britannia Industries Ltd. (supra)** as also a decision of Bombay High Court in **Riocare India Private Ltd. (supra)**. Those have been relied by learned counsel for the revenue. On the other hand, there are decisions of the Karnataka High Court in M/**S**

Pramur Homes and Shelters (supra); Bombay High Court in **M/s Milroc Good Earth Developers (supra)**; Madras High Court in **Titan Company Ltd. (supra)**; and **R.A. & Co. (supra)** and Kerala High Court in **Tharayil Medicals (supra).**

51. Though there is no direct decision of the Supreme Court laying down the binding law, at the same time, it is a fact-after Special Leave to Appeal against **M/s Mathur Polymers (supra) and Ambika Traders (supra)** were dismissed, in **M/s Aparna Collection (supra)** on a writ petition being filed directly before the Supreme Court under Article 32 of the Constitution of India, the matter has been required to be examined by the Delhi High Court. That proceeding is pending.

52. We are benefited by the views and the counter views that have enriched the legal discourse experienced before different High Courts and their decisions that help us carry that discourse further on the issue - whether a SCN notice may be issued under Section 73/74 of the Acts involving more than one tax period, stretching beyond one FY and/or involving more than one noticee. Primarily, the interpretation made in favour of the revenue has sprung from the language of Sections 73 & 74 of the Acts. The decisions of the High Courts in favour of the revenue tend to reason that there is no warrant to read the word ‘period’ used in those provisions narrowly-to include therein a single tax period and in any case tax periods falling in one FY, only. In doing that, the other provisions of the Acts have also to be read.

53. On the other hand, the decisions in favour of the petitioners tend to reason that strict construction must be offered to the language of the Acts. Further, it is fundamental to tax jurisprudence that the unit of assessment is an AY or a FY. Also, enquiries,

assessment and adjudication are based on filing of returns, therefore, adjudication process must also be referable only to that unit of assessment i.e. AY or FY only.

54. With respect, we are unable to subscribe to either view. Undeniably, the Acts are new/latest addition to the tax legislations. They came into existence and derive force of law from the 101st Constitutional Amendment and the consequent infusion of legislative competence. To that extent, the Acts do not offer continuance of the pre-existing Sales Tax or Central Excise or State Excise or Service Tax or Entry Tax laws. The Acts are not a continuance of the pre-existing laws. Rather, they are completely new legislations providing for a new levy together with a mechanism for levy, assessment as also determination of tax short paid or short levied etc.

55. Therefore, before the exact language of Sections 73 and 74 may be examined, to us it appears imperative to look at the general scheme of the Acts. For that purpose, we have extracted in extenso, the provisions of the Acts. Under the definition clause, namely Section 2 of the Acts ‘Adjudicating Authority’ has been defined to mean an authority that may make an order or decision under the Acts. Clearly, Adjudicating Authority, amongst others, may Act with respect to proceedings that may arise under Sections 73 and 74 of the Acts. Also defined under Section 2(91) of the Acts is the phrase “Proper Officer,” meaning an Officer, who may be assigned to perform any function under the Acts. Again, amongst others, it is also referable to proceedings under Sections 73 and 74 of the Acts. Thus, the Proper Officer may act as the Adjudicating Authority under Sections 73 or 74 of the Acts.

56. Then, there are provisions defining the term “quarter” [under Section 2(92) of the Acts], as the period of three consecutive calendar months ending on the last days of March, June, September and December, of every calendar year. The word “return” defined under Section 2(97) of the Acts, means a return that may be prescribed under the Rules. Also, the words “Tax Period” mean the period for which a return is required to be furnished. Read together with the substantive provisions, they do create a concept of FY as a unit of assessment.

57. As to furnishing returns, obligations have been created under Section 37 of the Acts, (to be complied with by suppliers); under Section 39, on every registered person, for every calendar month or part thereof and under Section 44, to file annual returns. That obligation may be further extended - to require filing of returns for every “quarter”, as well. Therefore, the obligation to file returns for each unit of assessment is clearly linked to a calendar month and FY, as understood in the realm of fiscal regimes. It may also extend to a quarter. To that extent there is no doubt. However, that obligation created by the law appears to be for the purpose of filing returns and payment of tax on self-assessment basis only.

58. Coming to the modes of assessment of tax liability, the Acts provide for a ‘self-assessment’ as the first mode for assessment and for payment of taxes under the Acts. It is directly linked to furnishing of returns. Therefore, it is return based i.e. linked to “period”, be it a month, quarter or Financial Year. Thus, under Section 59 of the Act, every registered person is obligated to self-assess his tax liability and furnish returns for that tax period, i.e., month or part thereof and Financial Year, and quarter, if required. If such person is unable to determine the value of goods or services or both or is unable to determine the rate of tax applicable thereto, he

may be subjected to ‘provisional assessment’ in terms of Section 60 of the Act, at his request. That assessment may be followed by a ‘final assessment’. In terms of section 60 (3) of the Act.

59. Thereafter, under Section 61 of the Acts, the legislature has provided for scrutiny of returns by way of another assessment procedure under Chapter XII of the Acts. Thereunder, the Proper Officer may scrutinize the return to verify the correctness of the return and to examine the discrepancies, if any. Deficiencies left unattended may lead to proceedings under Sections 73 and 74 of the Acts.

60. The Acts also provide for ‘best judgment assessment’ procedure, against registered persons who fail to file their returns. Similarly, under Section 63 of the Acts, failure to obtain registration (where required under the Acts), may also invite ‘best judgment assessment’ procedure to be adopted against such person as well.

61. Last, under Section 64 of the Acts, a summary assessment is contemplated. However, it may only be resorted to in limited circumstances of some information or evidence coming to the hands of the Proper Officer, who may adopt such procedure with the prior approval of the Additional Commissioner or the Joint Commissioner, purely in the interest of revenue, if such Officer is of the belief that any delay in adopting such procedure would affect the interests of revenue.

62. To us, this part of the scheme of the Acts is based on obligation to file returns for different ‘periods’ and therefore, such proceedings and processes involve assessment-unit based determination of tax liability by way of ‘assessment’, whether by way of ‘self-assessment’ or ‘provisional assessment’ or ‘best judgment assessment’ either against non-filers of returns or against

unregistered persons or in certain circumstances ‘summary assessment’. Primarily, in that context FY or its part, is the unit of assessment. Hence, that concept is relevant to and may be applied in those circumstances, without any exception.

63. Thus, in the provisions pertaining to ‘assessment’ falling under Chapter XII of the Acts, their scheme clearly creates the concept of return-based assessment or assessment for a tax ‘period’. That leads to the concept of assessment-unit whether a month or quarter or a FY. To the extent, such assessment may be made on the strength of or based on a pre-existing obligation to file a return of tax, the unit of assessment may remain a FY for which ‘annual return’ may have been filed or was mandatory to be filed. Therefore, for the purpose of assessment under Chapter XII of the Acts, a FY or its parts, i.e. months, quarter and FY may constitute assessment units to which that procedure to determine the tax liability may be applied.

64. It is equally true that with respect to audit, falling under Section 65 of the Acts read with Rule 101 of the Rules framed under the Acts, the plurality of periods transcending on FY is specifically intended by the enabling Rule. It uses the words "multiples thereof", clearly indicating that the audit may arise for multiple ‘periods’, that may cut across the terminal boundaries of a FY. However, audit is a provision to aid the provisions for assessment or determination of tax liability but not to determine or demand tax liability. Also, it is not a necessary part of provisions for assessment or determination of tax liability.

65. Therefore, it requires examination, whether by exclusion of such words or by not using same or similar phrases under Section 73 and 74 of the Acts, the legislature has intended otherwise. To us, it appears that the scheme of the Acts is in two parts, first with

respect to assessment as has been discussed above and the other with respect to demand of tax or penalty short paid or short levied or refund wrongly paid or ITC wrongly availed etc.

66. While the assessment procedure traces its legacy to the pre-existing sales tax laws, whether under sales tax or entry tax laws and is comparable to assessment procedures under Income Tax Act, 1961, Sections 73 and 74 of the Acts trace their legacy primarily to the Central Excise and Service Tax laws. These are popularly referred to as adjudication proceedings.

67. Thus, an assessment may be made primarily to test the correctness and completeness of returns filed for any tax period referable to a FY or part thereof. However, adjudication provisions are separate. They stand on a completely different footing and must be read and understood in the context of the own language of the relevant provisions.

68. Keeping that in mind, Sections 73 and 74 appear after Chapter XIII (pertaining to Audits) and Chapter XIV (pertaining to Inspection, Search, Seizure and Arrest). They are part of Chapter XV pertaining to Demand of Recovery. Yet, they deliberately do not begin with any word, phrase or sentence indicating that they are subject to assessment of tax liability for any specific tax period.

69. On the contrary, they refer to a dispute with respect to specified tax amount, or penalty that may not have been paid, or may have been short-paid or erroneously refunded or where Input Tax Credit may have been wrongly availed or utilized for any reason. The use of the words “where it appears” that “any tax has not been...” enable the Proper Officer to identify a dispute of the nature specified in the later part of Sections 73(1) and 74(1) of the Acts.

70. In that context, sub-Section (1) of Sections 73 and 74 provide that the Proper Officer ‘shall serve notice’ - with respect to specified amount of tax not paid, tax short-paid or tax, wrongly refunded or ITC that may have been erroneously granted or wrongly availed or wrongly utilized. With respect to that dispute, the noticee is required to “show cause” as to why they may not be required to pay the disputed amount of tax, along with interest and penalty.

71. By very nature of that proceeding contemplated by the legislature, the legislature has avoided conditioning it within the limits of a ‘period’ or ‘tax period’ or to one FY. Therefore, there is no warrant to restrict the application of Sections 73 and 74 of the Acts to singular ‘tax period’, emerging from obligation to file return for such tax period. It further appears that the legislature has deliberately avoided the language used under Chapter XII of the Acts pertaining to assessments, whether on the strength of returns or on a best judgment assessment basis and whether provisional or summary. On the contrary, the legislative intent is to demand specified amount of tax, penalty etc., arising from a dispute as to liability on a transaction or nature of transaction etc.

72. Thus, the legislative scheme is - where returns or obligation to file returns exist for any ‘tax period’ and doubts emerge as to their correctness or completeness, it is open to the Proper Officer to adopt the assessment procedure and make a return-based assessment for that ‘tax period’. By very nature of that proceeding, it would be confined to the ‘unit of assessment’ for which that proceeding is drawn, being linked to the obligation to file return for such assessment unit i.e. month, quarter or year.

73. However, when a dispute arises - of the nature contemplated under Sections 73(1) and 74(1) of the Acts, the obligation to file returns and the tax period for which such returns are to be filed lose significance for the purpose of subject matter of the notice. The demand may be of (i) tax, or penalty short levied or short paid; (ii) refund wrongly granted or (iii) ITC wrongly granted or availed or utilized. Therefore, we reason, for the purposes of adjudicating a dispute under Sections 73 and 74 of the Acts, the return-based assessment procedure is extraneous. The legal prescriptions with respect to such demands may neither be introduced nor inferred by force of artificial legal reasoning, as they do not spring from the plain language employed by the legislature. Rather, those provisions refer to dispute of 'specified tax amount' that the revenue seeks to recover.

74. To introduce assessment procedures and its concepts, to adjudication proceedings would not only be alien to the concept of adjudication as created by the legislature, but if taken to its logical end, it would result in duplication of procedures to deal with the same contingencies; one by way of assessment and another by way of adjudication. That duplicity or surplusage of provisions is not desirable on first principle test. As noted above, we are of the opinion that assessment is a return-based procedure, whereas adjudication is a dispute-based procedure linked to specified tax amount etc. If that line of distinction is maintained between these two sets of procedures prescribed by the Acts, no dispute may survive.

75. In this regard, we may also note, under the classic return-based assessment procedures under the sales tax laws, there existed provisions for reassessment in certain circumstances, involving escapement of turnover, etc. That concept does not find any place

under the Acts. To that extent, the adjudication procedure, especially under Section 73 of the Acts, is a clear replacement for reassessment procedure. Thus, the adjudication procedure is traceable to the procedures of Central Excise and Service Tax regimes. The primary difference is - the reassessment procedure recognizes the FY or AY as a distinct unit of assessment, whereas the adjudication procedure breaches the end boundaries thereof and looks at the 'dispute' with respect to payability of specified amounts of tax or penalty or reversal of refund or availment of ITC etc., as the subject matter of the proceedings to be drawn.

76. In support of the above, we find further validation in the statutory provisions in Sections 73(3) and 74(3) of the Acts. The Proper Officer is permitted to issue a statement containing details of tax not paid or short-paid for 'such (other) periods', that may not have been included in or for which notice may not have been issued under Sections 73(1) and/or 74(1) of the Acts. By virtue of Sections 73(4) and 74(4), the Proper Officer has been specifically enabled to include within the scope of a pending adjudication - 'periods', involving the same dispute irrespective of FY or unit of assessment to which such 'periods' may relate, or to which the initial notice may relate.

77. The legislature has carefully avoided the use of the words 'tax period' under those sections as may have required a further reference of FY to which they may relate. Even though, by way of a general rule, the definition clause may apply unless the context otherwise requires, there is no ambiguity here. The legislative intent is not to link the statement issued by the Proper Officer under Sections 73(3) and/or 74(3) to a specific 'tax period'. Instead, it refers to any another 'period', including a 'tax period' or unit of

assessment that may fall outside the FY to which the original notice under Sections 73(1) or 74 (1) relates.

78. The said sub-section further defines the scope of an adjudication proceeding to settle a ‘dispute’ for a specified tax amount etc. and not to make an assessment. It is so because the legislature has chosen to allow the Proper Officer to issue a statement and thus raise demand for other ‘period’, based solely on the consideration that such demand may spring on the same grounds for which the notice may have been issued, either under Section 73(1) or 74(1), the only difference being that for the purposes of Section 74(3), reasons have to be same for those other ‘period/ periods’, and it may not be extended to cases of fraud etc.

79. Coming to the contention based on Section 73(10) [read with 73(3)] and Section 74(10) [read with 74(3)], those provisions do not govern the subject matter of the notice itself. Rather, those provisions refer only to the time limitation to initiate and conclude adjudication proceedings. They prescribe clear, predefined time limitation of three years or five years, respectively, from the due date of furnishing the ‘annual return’. The mere fact that the legislature has chosen to use the phrase ‘due date for furnishing of annual return’ under sub-section (10) of Sections 73 and 74 to prescribe such limitation, it does not commend to us that therefore the proceedings initiated under those sections may only relate to or be referable to the individual ‘tax period’ for which an annual or other return may be filed.

80. The legislative wisdom is to be deciphered from the intent of the legislature as expressed by specific words used by it. To the extent, the legislature has clearly provided for the scope of proceedings; the manner of their initiation and conduct, and their

time limitations through the various sub-clauses of Sections 73 and 74, we find no conflict between the language used in Sections 73(1), (2), (3) and (4) or 74 (1), (2), (3) and (4) with that used in Section 73(10) or 74(10). While Sections 73(1) and 74(1) are provisions providing for the scope/ subject matter of those proceedings, Sections 73(2) read with 73(10) and 74(2) read with 74(10), ensure that notices are issued and proceedings are concluded within the time limitations prescribed under those provisions. Sections 73(3) read with 73(4) and Section 74(3) and 74(4), are provisions for the issuance of further statements by the Proper Officer that naturally cause increase of the specified tax dispute etc. arising on same facts, that may be adjudicated together. These provisions exist for the benefit of the revenue, not the assessee. They enlarge the pre-specified subject matter of the dispute, without extending the limitation therefor.

81. Barring cases of fraud etc. [falling under Section 74(4)], the legislature did not intend that the scope of the adjudication proceedings be curtailed or limited to a single tax period or to multiple tax periods falling within one Financial Year. That intent being absent, we are unable to subscribe to the contrary view taken by some of the other High Courts. With humility, we may add that we also do not find ourselves completely aligned to the reasoning of the other High Courts (at the other end of the spectrum), chiefly the Delhi High Court. Respectfully, we draw this point of distinction based on our interpretation of the scheme of the Acts, that provide for dual mechanisms - one return-based assessment referable to a ‘tax period’ and the other being adjudication based, for a pre-specified amount-based dispute pertaining to tax, penalty or ITC.

82. To read "tax period not beyond the Financial Year", into Sections 73(1) and 74(1) would be to introduce an artificial restriction in the scope of Sections 73(1) and 74(1), not on strength of legislative language, but based on imagined restriction. In contrast, the adjudication procedure contemplates decision on disputes pertaining to specified tax, penalty, refund and ITC amounts. The legislature has specifically authorised the Proper Officer to, in addition to issuing notices under Section 73(1)/74(1), issue further statements with respect to other periods beyond that specified in the notice itself. Once that specific provision has been made, there is no room to introduce the concept of adjudication proceedings being confined to a unit of assessment/FY. To do that would be to do violence to the plain language of Section 73 (3)/74(3) and 73(4)/74(4) of the Acts. Standard rule to be applied in matters of interpretation of statutes being that every word used by the legislature be given its full and natural meaning unless a conflict arises, we find no occasion to restrict the scope of Section 73(3)/ 74(3) and 73(4)/74(4), by introducing an alien concept of unit of assessment/FY to adjudication proceedings.

83. Insofar as the concept discussed in **Caltex (India) Ltd (supra)** is concerned, it arose under the Income Tax Act and the Sales Tax Act, that only contemplated assessment procedures rather than adjudication procedures. As discussed above, and without being repetitive, we find that the said decision is wholly distinguishable. Assessments would remain return-based and therefore referable to individual 'tax period' only, even under the Act. However, the opposite is true for adjudications.

84. As to the rule of strict interpretation invoked, we may remain reminded that that rule applies to levy provisions or charging provisions of a taxing statute and not to its machinery provisions. In

CIT vs. Mahaliram Ramjidas, AIR (1940) PC 1224, the Privy Council stated:

> *"The Section, although it is part of a taxing Act, imposes no charge on the subject, and deals merely with the machinery of assessment. In interpreting provisions of this kind the rule is that that construction should be preferred which makes the machinery workable utres valeat potius quam pereat"*

85. Then, applying that rule, in **India United Mills vs. Commissioner of Excess Profits Tax, (1955) SCR 810**, the Supreme Court adopted that rule and observed as below:

> *"That section is, it should be emphasised, not a charging section, but a machinery and a machinery section should be so construed as to effectuate the charging sections."*

86. In **State of West Bengal Vs. Kesoram Industries Ltd. (supra)** that rule of interpretation was discussed and applied in the context of a charging section. It was laid down, before a subject is taxed it must be shown that it falls within the ambit of the charging section by clear use of words to that effect, by the legislature. Ambiguity in that regard may always result in a benefit of doubt to the subject. Here as noted above, the charging section is Section 9 of the Act. There is no dispute as to the interpretation of that charging section. Therefore, that rule of strict interpretation of taxing statutes invoked to interpret the language of Section 73 and 74 of the Acts, not being charging sections but sections pertaining to demand of specified amounts of tax, penalty, refund (wrongly granted) and ITC (wrongly availed or utilized), is not applicable.

87. Insofar as further objection has been raised to composite notice being issued to multiple noticees, adjudication proceedings are referable to pre-identified and quantified disputes with respect to non-payment or short payment of tax, wrongful refund or wrongful availment or utilization of ITC. The challenge to the proceedings on the ground of multiple noticees has arisen (in this batch of

petitions), in adjudication proceedings arising under Section 74 of the Acts and not under Section 73 of the Acts. As extracted above, the provisions of Section 74(12) of the Acts are specific. Clearly, they allow for multiple noticees to be included in one notice. Upon that specific inclusion made by the legislature, the submission to the contrary carries no weight. Suffice to note, there is no challenge to the validity of Section 74 (12) of the Acts. Once the legislature clearly contemplates issuance of one notice with respect to disputed quantified demand, there survives no room to consider that submission, any further.

88. Wherever it may be disputed that multiple noticees have been wrongly roped in together, that issue by very nature, would remain a mixed question of fact and law. Evidence would have to be led before any firm conclusion may be drawn, i.e. whether the dispute is such as may involve more than one noticee. It may normally be examined during statutory proceedings.

89. Therefore, while we are not inclined to accept on principle that a composite notice may never be issued under Section 74 of the Acts, we leave that question of validity of individual notices issued to individual noticees open to be examined in individual adjudication proceedings, subject to appropriate objections being raised. Thus, if any noticee objects that he is not liable for a disputed transaction giving rise to the adjudication proceeding or he has been wrongly included as a noticee, it may give rise to an objection in that case. That objection once raised would have to be dealt with and decided by the Adjudicating Authority on the own strength of the objection.

90. Further, we find no room to apply **Dhananjay Reddy (supra)** or **CIT, Mumbai (supra)** or **Mehsana District Central Cooperative**

(supra). To the extent, according to us adjudication proceedings do not arise by way of processing of returns filed for any 'tax period' and to the extent Sections 73 and 74 of the Acts do not use that phrase, there is no prescription in law to link adjudication proceedings to a 'tax period'. Therefore, the principle being invoked is inapplicable. Hypothetically, that principle may be invoked if in the course of an assessment procedure falling under Chapter XXII of the Acts, a Proper Officer seeks to make assessment beyond the unit of assessment/FY for which such exercise is undertaken, either with reference to a return filed or not filed, for a 'tax period'.

91. For such reasons, we also do not find any room to apply the ratio of **Maharao Bheem Singh of Kota (supra)** and **State of Gujarat Vs Arcelor Mittal Nippon Steel (India) Ltd.(supra).**

92. Coming to the other issues of Section 6(2)(b) of the Acts, we find the issue is no longer *res-integra*. First in the case of **G.K. Trading Company (supra)** and now after pronouncement of the Supreme Court in **Armour Security (supra)** the issue rests finally and firmly decided in favour of the petitioners. Suffice to note that in **G.K. Trading Company (supra)** it was observed as below:

> *"19. In view of the above, we have reached to the following conclusions:*
>
> *(i).....*
>
> *(ii) The words "any proceeding" on the same "subject-matter" used in section 6(2)(b) of the Act, which is subject to conditions specified in the notification issued under sub-section (1) ; means any proceeding on the same cause of action and for the same dispute involving some adjudication proceedings which may include assessment proceedings, proceedings for penalties, etc., proceedings for demands and recovery under sections 73 and 74, etc."*

93. If any doubt may have survived, the issue has been elaborately dealt with by the Supreme Court in **Armour Security (supra)**. There, it has been observed as below:

> ***97.****We summarize our final conclusion as under:*
>
> *(i) Clause (b) of sub-section (2) of section 6 of the CGST Act and the equivalent State enactments bars the "initiation of any proceedings" on the "same subject-matter".*
>
> *(ii) Any action arising from the audit of accounts or detailed scrutiny of returns must be initiated by the tax administration to which the taxpayer is assigned.*
>
> *(iii) Intelligence based enforcement action can be initiated by any one of the Central or the State tax administrations despite the taxpayer having been assigned to the other administration.*
>
> *(iv) Parallel proceedings should not be initiated by other tax administration when one of the tax administrations has already initiated intelligence-based enforcement action.*
>
> *(v) All actions that are initiated as a measure for probing an inquiry or gathering of evidence or information do not constitute "proceedings" within the meaning of section 6(2)(b) of the CGST Act.*
>
> *(vi) The expression "initiation of any proceedings" occurring in section 6(2)(b) refers to the formal commencement of adjudicatory proceedings by way of issuance of a show-cause notice, and does not encompass the issuance of summons, or the conduct of any search, or seizure, etc.*
>
> *(vii) The expression "subject-matter" refers to any tax liability, deficiency, or obligation arising from any particular contravention which the Department seeks to assess or recover.*
>
> *(viii) Where any two proceedings initiated by the Department seek to assess or recover an identical or a partial overlap in the tax liability, deficiency or obligation arising from any particular contravention, the bar of section 6(2)(b) would be immediately attracted.*
>
> *(ix) Where the proceedings concern distinct infractions, the same would not constitute a "same subject-matter" even if the tax liability, deficiency, or obligation is same or similar, and the bar under section 6(2)(b) would not be attracted.*
>
> *(x) The twofold test for determining whether a subject-matter is "same" entails, first, determining if an authority has already proceeded on an identical liability of tax or*

alleged offence by the assessee on the same facts, and secondly, if the demand or relief sought is identical.

98. *We issue the following guidelines to be followed in cases where, after the commencement of an inquiry or investigation by one authority, another inquiry or investigation on the same subject-matter is initiated by a different authority.*

(a) Where a summons or a show-cause notice is issued by either the Central or the State tax authority to an assessee, the assessee is, in the first instance, obliged to comply by appearing and furnishing the requisite response, as the case may be. We say, so because, mere issuance of a summons does not enable either the issuing authority or the recipient to ascertain that proceedings have been initiated.

(b) Where an assessee becomes aware that the matter being inquired into or investigated is already the subject of an inquiry or investigation by another authority, the assessee shall forthwith inform, in writing, the authority that has initiated the subsequent inquiry or investigation.

(c) Upon receipt of such intimation from the assessee, the respective tax authorities shall communicate with each other to verify the veracity of the assessee's claim. We say, so as this course of action would obviate needless duplication of proceedings and ensure optimal utilization of the Department's time, effort, and resources, bearing in mind that action initiated by one authority enures to benefit of all.

(d) If the claim of the taxable person regarding the overlap of inquiries is found untenable, and the investigations of the two authorities pertain to different "subject-matters", an intimation to this effect, along with the reasons and a specification of the distinct subject-matters, shall be immediately conveyed in writing to the taxable person.

(e) The taxing authorities are well within their rights to conduct an inquiry or investigation until it is ascertained that both authorities are examining the identical liability to be discharged, the same contravention alleged, or the issuance of a show-cause notice. Any show-cause notice issued in respect of a liability already covered by an existing show-cause notice shall be quashed.

(f) However, if the Central or the State tax authority, as the case may be finds that the matter being inquired into or investigated by it is already the subject of inquiry or investigation by another authority, both authorities shall decide inter se which of them shall continue with the inquiry or investigation. In such a scenario the other authority shall duly forward all material and information relating to its inquiry or investigation into the matter to the authority designated to carry the inquiry or investigation to its logical conclusion. We say, so because, the taxable

person except for being afforded the statutory protection from duplication of proceedings, otherwise has no locus to claim which authority should proceed with the inquiry or investigation in a particular matter.

(g) However, where the authorities are unable to reach a decision as to which of them shall continue with the inquiry or investigation, then in such circumstances, the authority that first initiated the inquiry or investigation shall be empowered to carry it to its logical conclusion, and the courts in such a case would be competent to pass an order for transferring the inquiry or investigation to that authority.

(h) If it is found that the authorities are not complying with these aforementioned guidelines, it shall be open to the taxable person to file a writ petition before the concerned High Court under article 226 of the Constitution of India.

(i) At the same time, taxable persons shall ensure complete cooperation with the authorities. It is incumbent upon them to appear in response to a summons and/or reply to a notice."

94. The third issue of limitation to issue a notice under Section 73 and 74 requires consideration. As noted above, the provision of Section 73(10) & 74(10) leave no doubt that the limitation to pass an adjudication order has been fixed with reference to the due date for furnishing annual return for the FY, to which the dispute may relate. Thus, if the dispute sought to be adjudicated pertains to or falls in 'tax periods' falling in three different FYs, the period of limitation to make a composite order would start running from the due date of furnishing of annual return for earliest/first FY (to which any 'period' may relate), such that if that date is crossed, the adjudication proceedings with respect to that FY would lapse but not the entire notice if segregation of the dispute exists, 'period' wise. The entire proceedings initiated by such notice may be declared time barred only if the limitation to make the order from the due date of filling annual return for the last FY (for which dispute is referred to adjudication), also lapses. In short, that issue will have to be dealt with, on individual facts.

95. Besides the use of word ‘shall’ in Section 73(10) & 74(10), Section 75(10) clearly stipulates that the time to pass the final order of adjudication, under those provisions, is rigid. Upon breach of time limitation (to pass adjudication order), expressly prescribed, the provisions of Sections 73(10) and 74(10) and therefore Sections 73(2) and 74(2) remain mandatory and may never be described as directory. There is no general or special power to relax that limitation. To that extent, we conclude that the period of limitation contemplated under Section 73(10) & 74(10) of the Acts is a hard/fixed period of limitation which admits to absolutely no relaxation. It is wholly mandatory.

96. If we admit any room to relaxing limitations, it will dilute the spirit of the provisions fundamentally. It is so, because not only those provisions provide for limitation to conclude the proceedings but they also provide for limitation to initiate the proceedings. Thus, under Section 73(1) read with Section 73(10) of the Acts, proceeding to adjudicate a dispute pertaining to tax not paid or short paid or erroneously refunded or ITC wrongly availed or utilized may be drawn within a period of three months before the end of limitation to pass the adjudication order. No other period of limitation to initiate the proceedings is permissible. Any relaxation in time to initiate the proceedings would necessarily involve either curtailment of minimal period prescribed by law to allow for compliance of rules of natural justice or extension of period of limitation to conclude the proceedings. Neither is permissible, in the context of the language of the Acts, as discussed above.

97. Considered in that light, the prescription contained in Section 73(2) and 74(2) of three months and six months (before the end of termination of limitation to make the order) to initiate the proceedings, must also be read and understood as a hard/fixed

period of limitation. In the context of adjudication proceedings contemplated and in view of the statutory mandate of the law under Sections 75(4) of the Acts, opportunity of hearing is mandatory before such orders may be passed. Therefore, the minimal period of three months or six months provided under Section 73(2) and 74(2), cannot be violated. Thus, there is inherent logic to accept such fixed period of limitation to issue the notices. In face of similar language used under Section 73(2) and 74(2) and consequences provided under Section 73(10) and 74(10) of the Acts, no different interpretation may be attempted to the similar words used in the same statute, in the same context. Doubt if any stands removed by the clear legislative intent contained in Section 75(4) of the Acts. Failure to conclude the adjudication proceedings within time granted by the Acts, would necessarily lead to such proceedings being deemed concluded.

98. Insofar as the audit provisions are concerned, we are unimpressed by the submissions advanced by learned counsel for the petitioners. Though audit may also lead to assessment and/or adjudication, it is not part of those proceedings. Thus, legislature has provided audit for ‘tax period’ or multiples thereof, by use of specific words and terms, to that effect. The legislature has also used the words ‘such period’ under Section 65 of the Acts and its delegate, the government has used the words ‘multiples thereof’. Therefore, there can be no doubt that an audit may be directed for much longer period than a ‘tax period’ or a ‘Financial Year’, with the only limitation that it must be for completed periods and not for fractions thereof. However, it cannot be forgotten that an audit provision remains distinct and different in scope from proceedings for assessment for a FY or ‘tax period’ or for adjudication of a dispute of demand of specified amount of tax, penalty or ITC. At

most, audit is part of the general power and scope of inquiries and investigation, to ascertain correct facts. What follows from an audit report is not a necessary part of either the assessment or adjudication proceeding. To that extent, there is no occasion to read or contrast the language of Section 65 of the Acts read with Rule 101 of the Rules framed thereunder, with the language used under Chapter XII of the Acts and Sections 73 and 74 of the Acts.

99. Insofar as Mr. Suyash Agarwal, learned counsel for one of the petitioners has raised another submission that one SCN may never give rise to two separate adjudication orders, by two different authorities, the same must be accepted as correct, without any reservation. It is in the very nature of things that an adjudication order is the culmination of proceedings initiated by an adjudication notice. In fact, that is generally true of all orders passed by statutory authorities arising from any statutory notice. Once an order is passed, the authority is rendered *functus officio* except to the extent of rectifications etc., where permitted. Also, unless a proceeding is transferred, in accordance with the governing law, to another authority, the proceedings initiated on the strength of a notice issued by one authority may be conducted and concluded by that authority and not by any other. The Acts do not contemplate an automatic transfer of proceedings. Here no objection has been raised by the revenue to the submissions thus advanced.

100. In view of the above conclusion drawn, the writ petitions must meet mixed results. While issue of composite notice is served under Section 74 of the Acts, both for different tax periods and FYs and also multiple assesses, is decided against the petitioners; the other objection based on Section 6(2)(b) of the Acts; multiple orders arising from a single notice, and the issue of limitation provision being mandatory, are decided in favour of the petitioners such that

any notice issued within six months from the end of the limitation to make the adjudication order is time barred. The issue of composite notice, for different FYs and multiple noticees, is decided against the petitioners. Accordingly:

(i) **Writ Tax No. 7515 of 2025** and **7500 of 2025** are **allowed**, except for challenge raised to adjudication proceedings initiated under Section 74 of the Central Act for the Financial Year 2020-21, to which Section 6(2)(b) of the Acts does not apply. Those proceedings may be conducted and concluded in accordance with law. Additionally, the notice issued to petitioner No. 2 upto the Financial Year 2019-20 is time-barred for the reason - the SCN was issued within six months from the end of limitation to make adjudication order. Thus, the remaining proceedings in these petitions are quashed.

(ii) **Writ Tax No. 2454 of 2025** and **2456 of 2025** are **allowed**. The SCN were issued by respondent No. 2, Directorate General of Goods and Service Tax, Intelligence, Meerut. The petitioner filed replies to the notices and was heard by the said authority, resulting in the order dated 01.02.2025. Parallelly, arising from the same SCN, two other orders came to be passed by the authority at Lucknow. Plainly, there is no order for transfer of proceedings to the authority at Lucknow and that authority had not issued the adjudication notice. Therefore, those proceedings are clearly bad besides being duplication of adjudication proceedings arising from one Show Cause Notice. Accordingly, the order dated 23.09.2024 passed by respondent no.3 is quashed.

(iii) In **Writ Tax No. 2247 of 2025**, the proceedings for the period July 2017 to April 2018 are also found to be hit by the bar of

Section 6(2)(b) of the CGST Act, 2017. Accordingly, the said proceeding is quashed.

(iv) In **Writ Tax No. 4965 of 2025**, while no relief may be granted with respect to grounds of challenge to composite notice issued at the same time, the direction issued by respondent no.3 to the recipient of service provided by the petitioner - to withhold payments due to the petitioner, calls for interference. In absence of any power vested in the revenue authorities to issue such directions without any demand having arisen, the said direction is found to be not traceable to any power vested under the Acts. To that extent, direction is issued to respondent no.3 to not compel the recipient of service (of the petitioner) to withhold payments to the petitioner, in absence of any lawful garnishee proceedings.

(v) **Writ Tax Nos. 2247 of 2025 and 4965 of 2025** are **partly allowed** to the extent noted above.

(vi) **Writ Tax Nos. 2569 of 2025, 1119 of 2025, 2795 of 2025, 2537 of 2025, 2246 of 2025, 1000 of 2025, 2838 of 2025** and **8725 of 2025** stand **dismissed**.

101. No orders as to costs.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

January 20, 2026
Anurag/Mohit/Abhilash/Prakhar/Pratima/Faraz