Form J(2)
JPD Sl.No. 32
Moumita/AB

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

Present:

The Hon'ble Justice Aniruddha Roy

WPA 1055 OF 2026

M/s. Rathi Cement House
Vs.
The Union of India & Ors.

For the Petitioner	:	Mr. Vikram Nankani, Sr. Adv. (VC) Mr. Rohan Vasa, Adv. (VC) Mr. Ananda Paul, Adv.
For the Respondents-State	:	Mr. Ratan Banik, Adv. Mr. Biswaraj Agarwal, Adv.
Heard on	:	August 12, 2026.
Judgment on	:	August 12, 2026.

[**In Court**]

Aniruddha Roy, J. :

Facts:

1. Mr. Vikram Nankani, learned Senior Advocate (VC) with Mr. Rohan Vasa, learned Advocate (VC) and Mr. Ananda Paul, learned Advocate appears for the petitioner.

2. Mr. Ratan Banik, learned Advocate with Mr. Biswaraj Agarwal, learned Advocate appears for the respondents-State.
3. Through this writ petition, the petitioner has challenged the impugned order in original dated ***March 27, 2026*** passed by the respondent no. 3, ***annexure p-15 at page 113*** of the writ petition and the impugned show cause notice dated ***September 2, 2025, annexure P-1*** at ***page 25*** to the writ petition.
4. The GST Authority on ***September 2, 2025*** had issued a single show-cause notice dated ***September 2, 2025 annexure p-3 at page 58*** to the writ petition for multiple financial years. The petitioner has submitted its preliminary reply dated ***February 14, 2026 annexure p-4 at page 110*** to the writ petition.
5. The respondent no. 3 after considering the said reply had passed the said impugned order in original dated ***March 27, 2026***. The demand is for ***about Rs.65,23,50,938/-***. The show-cause notice is one but the financial years are multiple, on which the said single show-cause notice had been issued, as would be evident from ***paragraph 5.3 at page 95*** of the writ petition.
6. On the identical fact situation this Court had the occasion to deal with a writ petition being ***WPA 433 of 2026***, ***In the matter of: State Bank of India Vs. The Commercial Central Goods and Service Tax and Central Excise SLG Commissionerate, Central Revenue Building and Ors***., reported at ***2026 SSC Online CAL 7539,*** wherein by its judgment dated

June 30, 2026 this Court had entertained and maintained the writ petition and had quashed and set aside the impugned single show-cause notice issued for multiple financial years. The relevant observations from the said judgment are quoted below:

> ***"40. By issuing single show-cause notice for multiple financial years under Section 74 of the 2017 Act, the revenue authority seeks to invoke its power not only for the relevant financial year but also for the previous financial years, for which no show-cause notice can be issued, having been barred by the period of limitation mentioned under sub-Section (10) to Section 74 of 2017 Act. In effect, the revenue seeks to achieve to lay their hands on the previous assessment years having been barred by limitation, which it could not and cannot do directly but seeks to do indirectly, is not permissible in law.***
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> ***41. The golden rule is that if the law states that a particular action has to be taken or step to be done in a particular manner and within a particular period of time fixed under the statute, such an act has to be carried out in that manner and within the fixed time only or not at all. All other modes are expressly forbidden in law. Limitation period for five years as provided under sub-Section (10) to Section 74 of 2017 Act cannot be carried over or cannot or should not***

continue perpetually by clubbing the previous financial years with the current relevant financial year.

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

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

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48. If on a close scrutiny of an act of an authority, on record, it appears that the

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

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

> ***Hence, this Court is of the firm and considered view and holds that the instant writ petition is maintainable."***

7. Mr. Ratan Banik, learned Advocate appearing for the Revenue submits that, the proper officer can issue show cause for any period under ***Sub-Section (3) to Section 74 of the 2017 Act.*** Nowhere in the CGST Act it is mentioned that, separate show cause notice is required to be issued for the separate financial years.

8. Relying upon a decision of the Hon'ble Bombay High Court ***In the matter of: M/S. Rollmet LLP & Ors. Vs. Union of India*** reported at ***(BOM-HC) 2026 ITL(GST) 874***, Mr. Banik submits that, the issue has been referred for consideration by a Larger Bench.

9. Mr. Banik then refers to a decision of a co-ordinate Bench ***In the matter of: S.S. Iron & Steel & Authority Vs. Union of India & Others*** reported at ***(CAL-HC) 2026 ITL(GST) 1243*** and submits that, since appellate remedy is available under the statute, the writ petition should be dismissed.

10. On enquiry of the Court, Mr. Banik, learned Revenue counsel further submits that no appeal has yet been preferred from the decision of this Court ***In the matter of: State Bank of India (Supra)***.

11. Mr. Banik further submits that, although admittedly one single show cause notice has been issued for multiple financial years but demands were separately raised for each financial year by issuing DRC-01.

Decision :

12. After considering the rival submissions of the parties and on perusal of the materials on record, it appears to this Court that, the show cause notice in the instant case is a single one issued for multiple financial years. This Court has held ***In the matter of State Bank of India (Supra)*** that such notice is not permitted to be issued under the 2017 Act and the same has been issued without and/or in excess of jurisdiction, hence, in exercise of power under Article 226 of the Constitution of India, the said notice can be examined under prerogative writ jurisdiction.

13. ***In the matter of : M/S. Rollmet LLP & Ors. (Supra)*** the issue has merely been referred before the Larger Bench and no principle has been laid down. Therefore, the said judgment would have no application in the facts of this case.

14. ***In the matter of: S.S. Iron & Steel & Authority (Supra)***, the co-ordinate Bench did not entertain the writ petition, since appellate authority is available. In the facts of this case relying upon the ratio laid down by the Hon'ble Supreme Court ***In the matter of: Godrej Sara Lee Ltd. Vs. Excise and Taxation Officer-cum-Assessing Authority and others*** reported at ***2023 SCC OnLine SC 95***, this Court holds that, in the facts of this case alternative remedy would not be a bar and the instant writ petition is maintainable.

15. In view of the foregoing reasons and discussions the show cause notice issued under ***Section 74*** and ***Section 122*** of ***2017 Act*** dated ***September***

2, 2025, annexure P-3 at ***page 58*** to the writ petition stands ***set aside*** and ***quashed***.

16. Since the show cause notice has been quashed having been held to be without jurisdiction and in violation of the statute, all consequential steps arising therein or there under including the said ***impugned order in original*** dated ***March 27, 2026, annexure P-5*** at ***page 113*** to the writ petition also stands ***set aside*** and ***quashed***.

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

18. This Court further holds that, since the show cause notice is bad in law and shall not sustain in law even if, the demands raised separately for separate financial years, as a consequence to the said show cause notice, the same cannot cure the invalidity and illegality in the said show cause notice.

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

20. With the above observations and directions, this writ petition ***WPA 1055 of 2026*** stands ***disposed of,*** without any order as to costs.

21. Parties shall act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)