IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA,

ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 13th OF AUGUST, 2026

WRIT PETITION No. 24703 of 2025

M/S JAISWAL CONSTRUCTION

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Ms.Pooja Shrivastava- Advocate through video conferencing with Shri Kanishk Raj Singh Chouhan- Advocate for the petitioner.

Shri Rajvardhan Dutt Padraha- Government Advocate for respondent/State.

ORDER

Per. Vivek Rusia, Acting Chief Justice

The petitioner has filed this present petition challenging the order dated 30.04.2024 (Annexure P-1) under section 73 of Goods and Service Tax Act (hereinafter referred as GST Act for short) for financial year from 2018-19 to 2021-22 passed by the respondent no.3/State Tax Officer, Singrauli and show-cause notice dated 27.12.2023 (Annexure P-2) issued under section 73 of the GST Act by the State Tax Officer, Waidhan.

2. The facts of the case, in short, are that :-

(i) The petitioner, M/s Jaiswal Construction, a proprietorship concern having its office at Waidhan, District Singrauli, has filed the present writ petition challenging the show-cause notice dated 27.12.2023 (Annexure P-2) and the consequential order dated 30.04.2024 (Annexure P-1) passed by the State Tax Officer, Waidhan Circle, District Singrauli, under Section 73 of the Goods and Services Tax Act, 2017. By the impugned order, a demand was raised against the petitioner towards alleged excess Input Tax Credit (ITC) claimed during the relevant period, along with interest.

(ii) According to the petitioner, the alleged summons issued under Section 70 of the GST Act was never served upon him, and he did not know of the proceedings pursuant thereto. A final report dated 13.07.2023(Annexure P-4) was thereafter issued alleging excess ITC. Subsequently, the show-cause notice dated 27.12.2023 was issued alleging discrepancy between the ITC claimed in GSTR-3B and that reflected in GSTR-2A/2B. According to the petitioner, the said notice was neither served through e-mail or post nor effectively communicated through the GST portal.

(iii) According to the petitioner, the show-cause notice did not mention any date, time or place for personal hearing and that, without affording an opportunity of hearing, the respondent proceeded *ex parte* and passed the impugned order dated 30.04.2024. The petitioner also disputes the computation of alleged excess ITC, stating that several invoices were not reflected in GSTR-2A and that, upon proper reconciliation of the accounts, the alleged liability would either not arise or would be substantially reduced.

(iv) Accordingly, the petitioner approached this Court seeking quashing of the show-cause notice dated 27.12.2023 and the demand order dated 30.04.2024, principally contending that the proceedings were conducted in violation of the principles of natural justice and the statutory provisions governing service of notice and opportunity of hearing under the GST Act.

APPRECIATION AND CONCLUSION:-

3. The petitioner has assailed the order dated 30.04.2024 (Annexure P-1) and show-cause notice dated 27.12.2023 (Annexure P-2) issued under section 73 of the GST Act inter alia on the ground that the petitioner was not given an opportunity of hearing by the competent authority. Vide order dated 16.10.2025, this Court issued notice only on the issue raised by the petitioner as to whether the right of personal opportunity of hearing is mandatory in terms of section 75 of the GST Act in the light of the decision of Co-ordinate Bench in the case of ***Concord Tieup Pvt. Ltd Vs. State of Madhya Pradesh & another (WP No. 26956/2022)*** decided on 25.04.2023.

4. After issuance of notice in this writ petition, the respondents have filed a reply by submitting that the petitioner has an alternative remedy of filing an appeal under section 107 of the GST Act. Before issuing show-cause notice, a notice under section 70 was issued to the petitioner seeking his explanation on the issue of mismatch in ITC for financial years 2018-19 to 2021-22. The petitioner did not respond to the authority and accordingly final order dated 13.07.2023 (Annexure P-4) was passed for recovery of additional tax liability of Rs.27,72,365/-. Thereafter, the petitioner was issued a show-cause notice dated 27.12.2023 (Annexure P-2). The petitioner did not submit any response to the show-cause notice. Thereafter, the

authority passed the final order dated 30.04.2024 (Annexure P-1). Since the petitioner did not respond to the show-cause notice by filing reply, therefore, the petitioner cannot claim that an opportunity of hearing was not given. Had the petitioner responded to the show-cause notice with a prayer for grant of opportunity of hearing, then the authority would have considered providing him a hearing, but the petitioner neither responded to the notice issued under Section 70 nor to the notice issued under Section 74 of the GST Act. It appears that the time for filing the regular appeal had expired; therefore, the petitioner has come in writ petition because the delay in filing the appeal is liable to be condoned only for a limited period. Hence, this petition is not maintainable.

5. Learned counsel for the petitioner submits that no such summons is being shown on the tab "Notice and order" in the GST portal nor the same was ever served upon personally either through post or electronic; therefore, the petitioner could not respond to the show-cause notice. The petitioner further alleges that no such show-cause notice dated 27.12.2023 was ever served. The petitioner has filed a screenshot of the portal (Annexure P-5), which shows that the notice was clearly visible; therefore, this ground is not tenable, especially when the time to file a regular appeal has expired, and there is a mandatory condition to deposit the amount in order to entertain the appeal on merit. Earlier, this Court has entertained writ petitions on various grounds because there was no GST Tribunal. Now, the GST Tribunal has started functioning; therefore, the petitioner has two remedies: one under section 107 before the appellate authority and second under section 121

before the GST Tribunal; therefore, this petition is accordingly dismissed. All grounds raised in this writ petition may be raised in the appeal. However, the dismissal of this writ petition will not come in the way and any observation made hereinabove only relates to the none entertainment of this writ petition under Article 226 of the Constitution of India. Accordingly the petition is dismissed.

(VIVEK RUSIA)
ACTING CHIEF JUSTICE

(PRADEEP MITTAL)
JUDGE

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