Case Citation: (2026) taxcode.in 1727 HC

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ALPESH Y. KOGJE,

CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 14th OF OCTOBER, 2026

WRIT PETITION No. 40186 of 2026

CNR No.: MPHC020386802026

GR INFRA PROJECTS LIMITED RATLAM THROUGH ITS AUTHORIZED SIGNATORY MR. PANKAJ DAS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Ms. Priyal Jain and Shri Palash Gupta appearing on behalf of Shri Jatin Harjai - Advocate for the petitioner.

Shri Rahul Sethi - Additional Advocate General for the respondents.

ORDER

***Per**: Vinay Saraf, J :*

1. The instant writ petition is preferred by the petitioner-Company impugning show-cause notice dated 25.8.2026 issued by the Joint Commissioner (ST), Commercial Tax Department, Division Ratlam, Indore Zone-2, Madhya Pradesh under Section 74 of the CGST Act, 2017.

2. The petitioner M/s GR Infra Projects Limited is a company incorporated under the provisions of the Companies Act, 1956 and engaged in the design and construction of various roads and highway projects. The petitioner-Company is registered under the provisions of the Central Goods

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and Service Tax Act, 2017 and M.P. Goods and Service Tax Act, 2017. It is pleaded by the petitioner in the petition that the petitioner-Company is filing all the GST Returns regularly and maintaining all the books of accounts and documents as required by law, which are duly audited on a regular basis.

3. Summon was issued under Section 70 of the Act 2017 on 3.3.2021 by the Assistant Commissioner, State Tax, Anti-Evasion Bureau, Indore-B, Madhya Pradesh and the authorised signatory of the company was called upon to appear along with certain specified documents. The direction was complied with by the company and the petitioner submitted the requisite documents along with letter dated 5.3.2021. Thereafter a search was carried out in the premises of the petitioner by the GST Department in August 2022, wherein the petitioner fully cooperated and provided all the details and information required by the Department time to time. INS-01 dated 17.8.2022 was issued, which was responded along with the relevant documents by the petitioner-company. Thereafter, a pre show-cause notice intimation (DRC-01A) under Rule 142(1A) read with Section 73 of the CGST/SGST Act was issued to the petitioner on 31.5.2024 by the Dy. Commissioner, State Tax, Neemuch, which was duly responded by the petitioner through reply dated 26.6.2024 and uploaded on GSTN Portal on 29.6.2024.

4. Subsequently on 3.3.2025 a draft notice was issued and another pre show-cause notice (DRC-01A) was issued under Rule 142(1A) on 15.7.2026. The petitioner-company submitted preliminary objection on initiation of proceedings under Section 74 of the Act on all the issues raised in the

intimation dated 15.7.2026 by its reply dated 30.7.2026. Thereafter, on 25.8.2026 the Joint Commissioner (ST), Commercial Tax Department, Division Ratlam, Indore Zone-2, Madhya Pradesh issued a show-cause notice (DRC-01) under Section 74 of the CGST Act read with MPGST Act along with the summary of tax demand to the petitioner-company, which has been challenged by the petitioner in this petition on various grounds inter-alia the provisions of Section 74 can be invoked only when the alleged violation is due to fraud, willful misstatement of facts to evade tax or willful suppression of facts to evade tax. However, no such details have been disclosed in the show-cause notice for invoking jurisdiction under Section 74. No essential elements were incorporated in the said notice and earlier a notice was issued under Section 73 of the Act, which was replied by the petitioner-company and the said proceedings have not been concluded or withdrawn or adjudicated and the impugned SCN dated 25.8.2026 has been issued under Section 74 without mentioning any element of fraud or willful misstatement or suppression of facts to evade tax on the part of the petitioner.

5. Learned Additional Advocate General appeared on behalf of the respondents on advance copy and with the consent of counsel for the parties, the arguments heard for the purpose of final disposal of this petition.

6. Learned counsel for the petitioner submits that for invoking the provisions of Section 74 of the Act, it is essential to satisfy that there is any element of fraud, willful misstatement of facts or willful suppression of facts to evade tax and it is also essential for the competent authority to describe the details of these elements in show-cause notice. The counsel for the petitioner

further submits that similar show-cause notice was earlier also issued by the Department for the assessment year 2018-19 dated 13.6.2025, which was assailed by the petitioner-company in Writ Petition No.40749/2025, however the petition was dismissed by order dated 29.10.2025 by the Coordinate Bench. Thereafter, by taking exception to the said order, the petitioner filed Civil Appeal No.11277/2026 before the Supreme Court of India, which was decided by order dated 19.8.2026 by holding that for the purpose of issuance of show-cause notice under Section 74 (DRC-01), it is essential to state the facts as to how fraud was inferred or concealment of material facts were detected and bald statement of facts or concealment of facts are not sufficient. Mechanical use of words 'fraud, willful misstatement or suppression of facts' without listing out the aspects, which persuades the assessing officer to conclude that there has been employed either of these surreptitious devices by the assessee, no notice under Section 74 of the Act can be issued.

7. The Supreme Court in Civil Appeal No.11277/2026 has held as under:-

> "9. The present proceedings were initiated by summons issued dated 03.03.202 relating to the business for the years 2017-2018 to 2020-2021. From the counter affidavit filed by the State, it is seen that the petitioner sought time initially, but did not produce the required documents before the assessing officer. An inspection was conducted in the premises of the assessee and statements were recorded from the Accountant, Authorized Signatory and the Director of the assessee on various dates. It is alleged that in the very many hearings scheduled between 01.09.2022 and 07.02.2025; on 20 occasions, the assessee did not appear. A draft notice-cum-investigation report dated 03.03.2025 was prepared and an intimation under Section 142 (1A) dated 29.04.2025 was issued to the petitioner. The petitioner raised preliminary objections by response dated 14.05.2025 specifically pointing out that the draft notice has not been served on them. The draft notice

was served on 27.05.2025 based on which additional response was submitted by the petitioner. It was later that SCN dated 13.06.2025 was issued under Section 74.

10. A bare reading of the notice would indicate that but for a bland statement of 'fraud or concealment of facts' nothing is stated as to how fraud was inferred or concealment of facts were detected. In fact, the 'or' employed indicates that even the assessing officer was not sure that the assessment was proceeded by reason of fraud or on the ground of concealment of facts. What is required for the extended time to be applied are the allegations, which lead to the inference of a fraud or the concealment as attempted by the assessee resulting in suppression of facts, should emanate from the notice itself. It cannot be a mechanical use of the words 'fraud, willful misstatement or suppression of facts' without listing out the aspects which persuades the assessing officer to conclude that there has been employed either of these surreptitious devices by the assessee.

11. We find absolutely no reason to sustain the SCN issued and find the High Court to have erroneously upheld the same. We set aside the impugned order as also the SCN and direct the respondent-State to desist from taking any further proceedings in pursuance of the SCN challenged before the High Court, which is set aside by this order."

8. The counsel further submits that once the similar show-cause notice has been quashed by the Supreme Court, the subject show-cause notice is also liable to be quashed on the same grounds. He prays for quashment of the show-cause notice dated 25.8.2026.

9. Learned Additional Advocate General appearing on behalf of the respondents on advance copy submits that before issuance of the show-cause notice, the Department issued DRC-01A, a pre show-cause notice intimation, demanding the clarification from the assessee and before issuance of show-cause notice (DRC-01), the reply submitted to the pre show-cause notice intimation was duly considered by the competent authority and thereafter the show-cause notice was issued under Section 74 of the Act considering the availability of the material of willful suppression of facts and misstatement

to evade tax and, therefore, the competent authority has decided to issue the show-cause notice under Section 74 of the Act. He submits that no illegality has been committed by the competent authority in issuing the show-cause notice as the same is based on the material available with the Department and the same is not liable to be quashed.

10. We have considered the arguments advanced by counsel for the parties and perused the documents available on record.10. After issuance of pre show-cause notice intimation - DRC-01A, Joint Commissioner (ST) has issued show-cause notice - DRC-01 under Section 74 of the Act of 2017. Though the show-cause notice has been issued upon the allegation of fraud, willful misstatement and/or suppression of facts to evade tax but in the show-cause notice there is no details of the facts to substantiate the ingredients of Section 74 of the Act. Section 73 prescribes the limitation of 3 years, whereas Section 74 prescribes the limitation of 5 years, therefore, only for the purpose of bringing the case within limitation the show-cause notice DRC-01 cannot be issued under Section 74 of the Act, if no grounds are disclosed in the show-cause notice. It is no more *res-integra* that mentioning of Section 74 itself is not sufficient. The specific allegations and material must be disclosed in the show-cause notice itself to bring it within the scope of Section 74 of the Act. In the subject show-cause notice no specific allegations have been levelled and *prima facie* no material has been shown that the Department is raising the demand upon the allegation of fraud, willful suppression or misstatement of facts to evade tax.

11. The subject show-cause notice is identical to the show-cause notice

dated 13.6.2025, which has been quashed by the Supreme Court. The judgment delivered by the Supreme Court is squarely applicable to the case in hand as the matter is similar and only the assessment year is different.

12. In view of the above conspectus, the Department cannot be permitted to continue the proceedings on the basis of the impugned show-cause notice dated 25.8.2026, which suffers from the non disclosure of the ingredients of Section 74 of the Act and consequently the same is liable to be quashed. However, considering the submissions made on behalf of the Revenue, the Court records that it is always open for department to issue fresh S.C.N. in accordance with law, particularly considering the requirement of Section 74 of the Act.

13. With the aforesaid, present writ petition is **allowed**. Show-cause notice dated 25.8.2026 and the proceedings started on the basis of the show-cause notice are hereby quashed.

(ALPESH Y. KOGJE)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

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