HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF DECEMBER, 2025

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BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 33081 OF 2025 (T-RES)

BETWEEN:

M/S PRAMUR HOMES AND SHELTERS
A PARTNERSHIP FIRM
HAVING ITS REGISTERED OFFICE AT
4TH FLOOR, NO. 37, VENJAY EDIFICE,
JLB ROAD, CHAMARAJAPURAM,
MYSORE – 570 005
REPRESENTED BY ITS MANAGING PARTNER
SHRI SRINIVASAMURTHY PRAKASH,
AGED ABOUT 66 YEARS
S/O LATE K. S. MURTHY

…PETITIONER

(BY SRI. BHARAT B. RAICHANDANI, SRI. RAAGHUL PIRAANESH,
AND SRI. CHANDRA KIRAN, ADVOCATES)

AND:

1. THE UNION OF INDIA
REPRESENTED HEREIN BY THE SECRETARY
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI – 110 001

2. THE CENTRAL BOARD OF INDIRECT TAXES
AND CUSTOMS (CBIC),
THROUGH ITS CHAIRMAN,
NORTH BLOCK,
NEW DELHI – 110 001

3. PRINCIPAL COMMISSIONER OF CENTRAL TAX,
MYSORE GST COMMISSIONERATE,
VINAYA MARGA, SIDDHARTHA NAGAR
MYSURU – 570 011

4. ADDITIONAL COMMISSIONER OF CENTRAL TAX
MYSORE GST COMMISSIONERATE,
S1, S2, VINAYA MARGA, SIDDHARTHA NAGAR
MYSURU – 570 011

5. SUPERINTENDENT OF CENTRAL TAX (HPU)
MYSORE GST COMMISSIONERATE,
S1, S2, VINAYA MARGA, SIDDHARTHA NAGAR,
MYSURU – 570 011

…RESPONDENTS

(BY SRI. JEEVAN J. NEERALAGI, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED SHOW CAUSE NOTICE BEARING NO. GEXCOM/MYS-HPU/GST/ADC/13-2025-26 AND DIN 20250957YY00006606D0 DATED 30.09.2025 (ANNEXURE-A) ISSUED BY THE RESPONDENT NO. 4 ADDITIONAL COMMISSIONER OF CENTRAL TAX, MYSURU COMMISSIONERATE, AS BEING WHOLLY WITHOUT JURISDICTION, ARBITRARY, VIOLATIVE OF PRINCIPLES OF NATURAL JUSTICE, AND CONTRARY TO THE PROVISIONS OF THE CGST/KGST ACTS, 2017 AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, the petitioner seeks for the following reliefs:

"a) Issue a writ of certiorari or any other appropriate writ, order or direction, quashing the impugned Show-Cause Notice bearing No.GEXCOM/MYS-HPU/GST/ADC/13-2025-26 and DIN:20250957YY00006606D0 dated 30.09.2025 (Annexure-A) issued by the Respondent No.4 – Additional Commissioner of Central Tax, Mysuru

Commissionerate, as being wholly without jurisdiction, arbitrary, violative of principles of natural justice, and contrary to the provisions of the CGST/KGST Acts, 2017;

b) Issue a writ of prohibition or any other appropriate writ, order or direction, restraining the Respondents, their officers and subordinates from proceedings further or taking any coercive or adjudicatory steps pursuant to the impugned Show cause notice dated 30.09.2025;

c) Declare that the transfer of development rights under the Joint Development Agreements executed for the projects "Pramur Aster" and "Pramur Meadows"; and the sale of developed plots and completed apartments post-completion certificate – do not constitute "supply" within the meaning of Section 7 read with Schedule III of the CGST Act, 2017, and are therefore not exigible to GST;

d) Issue a writ of mandamus or any other appropriate direction restraining the Respondents, their officers, and subordinates from taking any coercive steps or adjudicatory action pursuant to the impugned Show cause notice dated 30.09.2025, pending disposal of this Writ Petition (Annexure-A) issued by the Respondent No.4 – Additional Commissioner of Central Tax, Mysuru Commissionerate,;

e) Issue any other direction or grant any other relief, as deemed fit in the facts and circumstances of this case, in the interest of justice.

f) Issue a direction to provide for the cost of this petition."

2. A perusal of the material on record will indicate that the petitioner is a registered partnership firm engaged in the business of real estate development including development of layouts and construction of residential apartments and is duly registered under the Central Goods and Services Act, 2017 (CGST Act) w.e.f. 04.02.2020. Being aggrieved by the impugned Show cause notice dated 30.09.2025 issued by the respondents under Section 74(1) of the CGST/KGST Act, proposing demand in a sum of Rs.11,86,86,292/- towards tax, interest and penalty, petitioner is before this Court by way of the present petition.

3. Heard learned counsel for the petitioner and learned counsel for the respondents-revenue and perused the material on record.

4. Learned counsel for the petitioner would reiterate the various contentions urged in the petition and refer to the material on record and submit that since the impugned show cause notice is a composite notice encompassing multiple/several financial years/assessment periods from 2019-20 to 2023-24 and the

demands contained therein pertain/relate to as well as seek and purport to bunch/consolidate/club multiple tax periods/financial years, i.e., more than one tax period/financial year, the impugned show cause notice issued under Section 73/74 of the CGST/KGST Act, 2017 is illegal, arbitrary and without jurisdiction or authority of law and contrary to the provisions of the CGST/KGST Act and the impugned show cause notice and proceedings, orders, notices etc., pursuant thereto deserve to be quashed. In support of his submissions, learned counsel placed reliance upon the following judgments:

(i) Veremax Technologies Services Ltd. Vs. Assistant Commissioner of Central Tax, Bengaluru – (2024) 167 taxmann.com 332 (Karnataka).

(ii) Bangalore Golf Club Vs. Assistant Commissioner of Commercial Taxes (Enforcement), Bengaluru – (2024) 166 taxmann.com 642 (Karnataka).

(iii) Chimney Hills Education Society vs. Additional Commissioner of Central Tax – (2024) 168 taxmann.com 12 (Karnataka).

(iv) Albatross Builders and Developers LLP Vs. Assistant Commissioner of Central Tax (A.E.), Bengaluru – (2024) 169 taxmann.com 598 (Karnataka).

(v) Milroc Good Earth Developers v. Union of India – (2025) 179 taxmann.com 465 (Bombay).

(vi) Rite Water Solutions (India) Ltd. Vs. Joint Commissioner, CGST & Central Excise, Nagpur & Ors. – W.P.No.466/20225 (Bombay HC, Nagpur Bench).

(vii) Titan Company Ltd. Vs. Joint Commissioner of GST & Central Excise – (2024) 159 taxmann.com 162 (Madras).

(viii) Joint Commissioner (Intelligence & Enforcement) Vs. Lakshmi Mobile Accessories – (2025) 171 taxmann.com 214 (Kerala) (DB).

(ix) Lakshmi Mobile Accessories Vs. Joint commissioner (Intelligence & Endorsement), Thiruvananthapuram – (2025) 170 taxmann.com 874 (Kerala).

(x) Tharayil Medicals Vs. Deputy Commissioner, SGST Department, Thrissur – (2025) 173 taxmann.com 867 (Kerala) (DB).

(xi) Tharayil Medicals Vs. The Deputy Commissioner, SGST Departmetn Thrissur – W.P.(C) No.40063/2024.

(xii) Biju Kollamparambil Abraham Vs. State Tax Officer – (2025) 34 Centax 176 (Ker).

(xiii) R A and Co. Vs. Additional Commissioner of Central Taxes – (2025) 176 taxmann.com 731 (Madraas).

(xiv) Instakart Services Private Limited Vs. The Additional Commissioner – W.P.No.31551/2025.

(xv) S J Constructions Vs. Assistant Commissioner – (2025) 178 taxmann.com 570 (Andhra Pradesh).

(xvi) Commissioner of Income Tax Vs. Simon Carves Ltd. – (1976) 105 ITR 212 (SC) (17.08.1976).

5. Per contra, learned counsel for the respondents-revenue would reiterate the contentions urged in the statement of objections and submit that in the absence of any bar/embargo in any of the provisions of the CGST/KGST Act, which prohibits raising demands on the tax payer for more than one financial year/tax period, it is permissible in law to bunch/club/consolidate multiple tax periods/financial years in a single show cause notice especially when the transactions in question traverse beyond and span across several/multiple financial years/tax periods and the same has been clarified by the respondents in their Communication/Circular dated 16.09.2025 and as such, there is no merit in the petition and the same is liable to be dismissed. In support of his submissions, learned counsel placed reliance upon the following judgments:

(xvii) Ambika Traders Vs. Additional Commissioner – (2025) 177 taxmann.com 134 (Delhi).

(xviii) Mathur Polymers Vs. Union of India – (2025) 177 taxmann.com 860 (Delhi).

(xix) Mathur Polymers Vs. Union of India – SLP (C) No.50279/2025(SC).

6. I have given my anxious consideration to the rival submissions and perused the material on record.

7. The following issues arise for consideration in the present petition:

(i) Whether clubbing/consolidation/bunching/combining of multiple tax periods/financial years in a Single/Composite Show cause notice issued under Section 73 / 74 of the CGST/ KGST Act , 2017 is permissible and valid in law?

(ii) Whether the impugned Show cause notice dated 30.09.2025 issued by the 4th respondent to the petitioner for the tax periods/financial years from 2019-20 to 2023-24 under Section 74 of the CGST/ KGST Act, 2017 warrants interference by this Court in the present petition?

Re: Point No.(i)

8. Before adverting to the rival contentions, it would be apposite to refer to Sections 73 and 74 of the CGST/KGST Act which are extracted hereunder:

Section 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.]

Section 74. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful- misstatement or suppression of facts.-

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

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

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

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

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

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

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

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

proceedings in respect of the said notice shall be deemed to be concluded.

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

(10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

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

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

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

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

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

***Explanation 2**.- [***]*

8.1 A conspectus of the provisions of the CGST/KGST Act will indicate that the said Act, in its very architecture and statutory framework, is designed around financial-year-specific assessment, and every stage of the statutory process i.e., registration, maintenance of accounts, filing of returns, reconciliation, determination of liability, adjudication and limitation, are all structured independently for each financial year. A consolidated show cause notice collapses this entire legislative framework, causing jurisdictional illegality.

8.2 To appreciate this, one must examine the statutory design. Chapter VI requires registration in the State from where supplies are made and imposes responsibilities on the registered person to maintain accounts under Section 35(1) which includes production, inward supplies, outward supplies, stock, ITC availed, output tax, etc. These are necessarily year-specific, because

Section 36 requires retention for 72 months from the due date of the annual return for that year.

8.3 Similarly, Chapter IX on returns reinforces the annual structure. Section 37 (outward supplies) and Section 39 (monthly/quarterly returns) govern the furnishing of returns for each tax period, and Section 44 requires the furnishing of an annual return and reconciliation statement for every financial year. The annual return statutorily closes the year's tax position, and all subsequent proceedings must be tied to that financial year alone.

8.4 The same year-wise discipline runs through Chapter X relating to payment of tax. Section 49 provides the machinery for payment through electronic ledgers and defines "tax dues" and "other dues" as tax, interest, penalty, fee, etc., only for the period to which they relate. ITC utilisation is linked to returns filed for each period, further affirming the year-bound nature of GST liability.

8.5 Moving to Chapter XII, which deals with assessment, Section 59 contemplates self-assessment, requiring a return for each tax period. Even provisional assessment applies only where value or rate cannot be determined for that specific period, not for a bundle of years. Scrutiny of returns, assessment of non-filers,

and assessment of unregistered persons are also period-specific. Section 65 empowers the Commissioner to conduct audits, but even this exceptional power can be exercised only “for a financial year or part thereof, or multiples thereof”, always distinctly, never in a consolidated manner unless each year is separately examined.

8.6 In Chapter XV, the determination provisions make the financial-year foundation even more explicit. Sections 73(2) and 74(2) require a show-cause notice to be issued within the limitation applicable for that financial year, and Sections 73(10) and 74(10) mandate that the final order must be passed within three or five years, respectively, from the due date of the annual return for the relevant financial year. These provisions make it clear that:

- The starting point for limitation is the due date of the annual return for that specific financial year when actually filed or when it should have been filed or in cases of erroneous refund, the date of such refund;
- The ending point is a fixed three-year or five-year window tied exclusively to that financial year;
- The show cause notice must necessarily be issued at least three months before expiry of the limitation for that year;

- These timelines are meticulously carved in the statute and cannot be diluted by clubbing multiple financial years into a single notice.

8.7 An even clearer expression of this intent is found in the insertion of Section 74A by the Finance Act, 2024 (dated 16.08.2024), effective from 01.11.2024, which begins with the words “pertaining to the financial year 2024–25 onwards”. The Legislature has expressly tied the determination of tax not paid or short paid to a single financial year, confirming that GST assessments are intrinsically financial-year-specific. The introduction of Section 74A does not change the earlier law; it clarifies the legislative scheme which already existed.

8.8 It is also significant to note that a composite notice for multiple financial years enables the Department to blur the statutory distinction between Section 73 (non-fraud, etc.,- 3 year limitation) and Section 74 (fraud etc., - 5 year limitation). If certain years fall under Section 73, but the entire block is treated under Section 74, the authority artificially extends limitation and bypasses mandatory statutory constraints and if such a course is permitted it

clearly tantamounts to a colorable exercise of power which is impermissible in law.

8.9 Further, ITC entitlement under Section 16(4) is itself year-bound; each invoice pertains to a particular financial year, and credit can be availed only up to the statutory cut-off date for that year; ITC for FY 2019-20 cannot be mixed with ITC for Financial Year 2020-21 or any later year.

8.10 For the sake of convenience and easy reference, Section 16(4) of the CGST Act is reproduced hereunder:

> ***Section 16 - Eligibility and conditions for taking input tax credit:***
>
> *"….(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier:*
>
> *Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such*

debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019……"

8.11 Therefore, a consolidated allegation of "wrong ITC for five years" is conceptually flawed because ITC entitlement is statutorily frozen one financial year at a time; in fact, a consolidated notice also creates substantive prejudice; each year involves different turnover, ITC positions, contracts, amendments in law, accounting treatments, and reconciliations under Sections 37, 38, 39 and 44. The assessee is entitled to give year-wise explanations, year-wise reconciliations, and year-wise legal defences. A single notice covering five years deprives the assessee of this opportunity and violates natural justice.

8.12 When the entire statutory scheme i.e., from registration to accounts, from returns to annual reconciliation, from assessment to limitation, all operates on a financial-year basis, there is no scope for issuing a consolidated show cause notice covering multiple unrelated financial years. The CGST/KGST Act

simply does not recognize such a mechanism; each year constitutes a separate assessment universe; each year's transactions and ITC must be judged independently; each year has its own limitation; and each year must be subject to its own show-cause notice. Accordingly, I am of the considered opinion that on a holistic reading of the CGST/KGST Act, a composite/consolidated show cause notice would be patently without jurisdiction apart from being contrary to the statutory architecture/framework and unsustainable in law.

8.13 In the case of ***Veremax Technoligies Services Ltd*** (*supra*), this Court held as under:

> *"2. The petitioner's primary argument is that the respondent cannot issue a common show cause notice by grouping the tax periods from 2017-18 to 2020-21. The petitioner asserts that under Section 73 of the CGST Act, a specific action must be completed within the relevant year, and the limitation period of three years applies separately to each assessment year. Consequently, the petitioner contends that clubbing multiple tax periods in a single notice is impermissible, and separate notices should have been issued for each assessment year under sub-Section (1) of Section 73.*
>
> *3. The petitioner relies on the judgment of the Hon'ble Madras High Court in the case of* ***M/s. Titan***

Company Ltd. vs. Joint Commissioner of GST[1]*. The Madras High Court, while addressing a similar issue, relied on the Hon'ble Supreme Court's decision in* ***State of Jammu and Kashmir and Others vs. Caltex (India) Ltd.,***[2]***.*** *The Hon'ble Apex Court held that where an assessment encompasses different assessment years, each assessment order can be distinctly separated and must be treated independently.*

4. This Court has reviewed the judgment of the Madras High Court and the scope of inquiry under Section 73 of the CGST Act. Based on the established legal principles and the precedent set by the Hon'ble Apex Court, this Court finds that the respondent erred in issuing a consolidated show cause notice for multiple assessment years, spanning from 2017-18 to 2020-21.

5. Section 73(10) of the CGST Act mandates a specific time limit from the due date for furnishing the annual return for the financial year to which the tax due relates. The law stipulates that particular actions must be completed within a designated year, and such actions should be executed in accordance with the law's provisions. The principles enunciated in the judgment cited by the Hon'ble Supreme Court are directly applicable to the present case.

6. For the reasons aforementioned, this Court concludes that the show cause notices issued by the

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[1] W.P.No.33164 of 2023
[2] AIR 1966 SC 1350

respondent are fundamentally flawed. The practice of issuing a single, consolidated show cause notice for multiple assessment years contravenes the provisions of the CGST Act and established legal precedents."

8.14 In the case of ***Bangalore Golf Club (supra),*** this Court held as under:

"2. The petitioner's primary argument is that the respondent cannot issue a common show cause notice by grouping the tax periods from 2019 to 2023-24. The petitioner asserts that under Section 73 of the CGST Act, a specific action must be completed within the relevant year, and the limitation period of three years applies separately to each assessment year. Consequently, the petitioner contends that clubbing multiple tax periods in a single notice is impermissible, and separate notices should have been issued for each assessment year under sub-Section (1) of Section 73.

3. The petitioner relies on the judgment of the Hon'ble Madras High Court in the case of M/s. Titan Company Ltd. vs. Joint Commissioner of GST[3]. The Madras High Court, while addressing a similar issue, relied on the Hon'ble Supreme Court's decision in State of Jammu and Kashmir and Others vs. Caltex (India) Ltd.,[4]. The Hon'ble Apex Court held that where an assessment encompasses

[3] W.P.No.33164 of 2023
[4] AIR 1966 SC 1350

different assessment years, each assessment order can be distinctly separated and must be treated independently.

4. This Court has reviewed the judgment of the Madras High Court and the scope of inquiry under Section 73 of the CGST Act. Based on the established legal principles and the precedent set by the Hon'ble Apex Court, this Court finds that the respondent erred in issuing a consolidated show cause notice for multiple assessment years, spanning from 2019 to 2023-24.

5. Section 73(10) of the CGST Act mandates a specific time limit from the due date for furnishing the annual return for the financial year to which the tax due relates. The law stipulates that particular actions must be completed within a designated year, and such actions should be executed in accordance with the law's provisions. The principles enunciated in the judgment cited by the Hon'ble Supreme Court are directly applicable to the present case.

6. For the reasons aforementioned, this Court concludes that the show cause notices issued by the respondent are fundamentally flawed. The practice of issuing a single, consolidated show cause notice for multiple assessment years contravenes the provisions of the CGST Act and established legal precedents."

8.15 In the case of ***Chimney Hills Education Society (supra),*** this Court held as under:

"3. *A perusal of the material on record will indicate that though several contentions are urged by both sides in support of their respective claims, the main / primary issue that arises for consideration is, whether the impugned Notices at Annexures-A and B both dated 05.08.2024 are vitiated on account of the fact that the same purport to club / consolidate / group the demand for more than one financial year i.e., for the tax period from 2017 to 2023 and as to whether the impugned Notices deserve to be quashed on this ground. The said issue came up for consideration in the case of M/s. Bangalore Golf Club vs. Assistant Commissioner of Commercial Taxes – W.P.No.16500/2024 dated 07.08.2024, in which, the co-ordinate Bench of this Court held as under:-*

> *" In this writ petition, the petitioner, a Club, challenges the impugned show cause notice dated 07.05.2024, as detailed in Annexure-F, and the summary of the show cause notice dated 08.05.2024, as outlined in Annexure-G, issued by the respondent for the tax periods 2019-20, 2020-21, 2021-22, 2022-23, and 2023-24. The petitioner contends that these notices, issued under Section 73 of the Central Goods and Services Tax (CGST) Act, 2017, are flawed due to the improper consolidation of multiple tax periods into a single show cause notice.*
>
> *2. The petitioner's primary argument is that the respondent cannot issue a common show cause notice by grouping the tax periods from 2019 to 2023-24. The petitioner asserts that under Section 73 of the CGST Act, a specific action must be completed within the relevant year, and the limitation period of three years applies separately to each assessment year. Consequently, the petitioner contends that*

clubbing multiple tax periods in a single notice is impermissible, and separate notices should have been issued for each assessment year under sub-Section (1) of Section 73.

3. The petitioner relies on the judgment of the Hon'ble Madras High Court in the case of M/s. Titan Company Ltd. vs. Joint Commissioner of GST[5]. The Madras High Court, while addressing a similar issue, relied on the Hon'ble Supreme Court's decision in State of Jammu and Kashmir and Others vs. Caltex (India) Ltd.,[6]. The Hon'ble Apex Court held that where an assessment encompasses different assessment years, each assessment order can be distinctly separated and must be treated independently.

4. This Court has reviewed the judgment of the Madras High Court and the scope of inquiry under Section 73 of the CGST Act. Based on the established legal principles and the precedent set by the Hon'ble Apex Court, this Court finds that the respondent erred in issuing a consolidated show cause notice for multiple assessment years, spanning from 2019 to 2023-24.

5. Section 73(10) of the CGST Act mandates a specific time limit from the due date for furnishing the annual return for the financial year to which the tax due relates. The law stipulates that particular actions must be completed within a designated year, and such actions should be executed in accordance with the law's provisions. The principles enunciated in the judgment cited by the Hon'ble Supreme Court are directly applicable to the present case.

6. For the reasons aforementioned, this Court concludes that the show cause notices issued by the respondent are fundamentally

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[5] W.P.No.33164 of 2023
[6] AIR 1966 SC 1350

flawed. The practice of issuing a single, consolidated show cause notice for multiple assessment years contravenes the provisions of the CGST Act and established legal precedents."

7. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The writ petition is allowed;

(ii) The impugned show cause notice dated 07.05.2024 (Annexure-F) and the summary of the show cause notice dated 08.05.2024 (Annexure-G) issued by the respondent for the tax periods 2019-20, 2020-21, 2021-22, 2022-23, and 2023-24 are hereby quashed;

(iii) This order, however, does not preclude the respondent from issuing separate show cause notices for each assessment year in compliance with Section 73 of the CGST Act, 2017."

*4. As is clear from the aforesaid judgment of this Court, the issue in controversy involved in the present petition is directly and squarely covered by the aforesaid judgment and consequently, the impugned Notices deserve to be quashed by reserving liberty in favour of the respondents to issue separate / independent Notices for each assessment year in terms of *Section 74 of the CGST Act, 2017."*

8.16 In the case of ***Albatross Builders and Developers LLP (supra),*** this Court held as under:

"6. The Co-ordinate Bench of this Court, while examining the similar situation in W.P.No.15810/2024 (T-RES) in Paragraph No.4 has held as under:

> *"4. This Court has reviewed the judgment of the Madras High Court and the scope of inquiry under Section 73 of the CGST Act. Based on the established legal principles and the precedent set by the Hon'ble Apex Court, this Court finds that the respondent erred in issuing a consolidated show cause notice for multiple assessment years, spanning from 2017-18 to 2020-21."*

7. Such a decision is arrived at because the liability of the assessee for each financial year constitutes a different cause of action. The rate of tax, interest and the penalty may vary from one year to another year. Further, the notices issued for a particular financial year may be time-barred, while in respect of the others it may not.

8. Under the given facts and circumstances of the case, the impugned show cause notice (vide Annexure-A to the writ petition) has to be considered as one show cause notice for the entire period between January-2018 and August-2022. Perusal of Paragraph No.9 of the said show cause notice clarifies the same. It reads as under:

> *"9. Now, therefore, M/s Albatross Builders and Developers LLP (GSTIN: 29ABJFA4828J1Z2) at #45, 100 ft road, 15th Cross, JP Nagar 4th Phase, Bangalore, 560078 are hereby required to show cause to the Deputy/Assistant Commissioner of Central Tax, South Division 6, BMTC Bus Stand, TTMC, Banashankari Stage II, Bengaluru-560070, the Adjudicating Authority, as to why:*
>
> *(a) Input Tax Credit (ITC) amounting to Rs.23,85,772/- [IGST 66615+ CGST 11,47,722 + SGST 11,47,722+ Cess 23,713] (twenty-three lakh eighty five thousand*

seven hundred seventy two only), availed in GSTR-3B Returns during the period Jan-18 to Aug-22 by them, should not be treated as ineligible ITC, as discussed supra; and demanded from them under Section 74(1) of the CGST Act, 2017 and relevant provisions under Karnataka GST Act, 2017;

(b) Interest, as applicable, on the Input Tax Credit demanded as mentioned at (a), should not be demanded from them under the provisions of Section 50 of the CGST/Karnataka GST Act, 2017 read with Section 74(1) of the CGST Act, 2017;

(c) Penalty as prescribed under Section 74(1) of the CGST/Karnataka GST Act, 2017 should not be imposed on them towards the demand proposed at (a) above;""

8.17 In the case of ***Milroc Good Earth Developers (supra),*** the Bombay High Court held as under:

"1. The two Writ Petitions are heard collectively since there is a common question of seminal importance being, whether it is permissible to initiate proceedings under the Central Goods and Service Tax Act, 2017 (CGST Act, 2017) against the Assessee by clubbing or bunching of different financial years, as it is urged that under the Scheme of the CGST Act, 2017 which provides for levy and collection of tax on intra State supply of Goods and Services by the Central Government, the Tax period commensurate the period of Return, which necessarily is dependent on the financial year.

2. Upon the pleadings being completed, we have heard the learned Counsel, Mr Bharat Raichandani for the Petitioner, Ms Asha Desai, learned Standing Counsel representing Respondents No.1 and 2 and the learned

Additional Government Advocate, Mr Shubham Priolkar, representing the State of Goa.

3. By consent of parties, we deem it appropriate to issue Rule which is made returnable forthwith.

For the sake of convenience, we refer to the pleadings in M/s Milroc Good Earth Developers in Writ Petition No.2203 of 2025(Filing).

The Petitioner, a Partnership Firm, involved in supply of taxable goods is aggrieved by issuance of the impugned Show cause notice dated 28.03.2025, received on 11.04.2025 which inter alia, set out the following demands:

> *(i) demand of GST amounting to ₹ 2,16,31,813/- on construction services provided to the landowner of the Colina Project;*
>
> *(ii) reversal of alleged ineligible ITC under Section 17 of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017 amounting to □2,30,24,751/- on account of transfer of certain flats after receipt of the completion certificate;*
>
> *(iii) demand of GST amounting to □9,32,63,552/- on construction services provided to the landowner of the Adarsh Project; and*
>
> *(iv) demand of GST amounting to □2,39,95,000/- under the Reverse Charge Mechanism (RCM) on TDR services allegedly received from the landowner/society of both projects in respect of un-booked/unsold inventory at the time of receipt of the completion certificate, purportedly in terms of Para IA of Notification No. 4/2019-CTR dated 29.03.2019, Notification No. 5/2019-CTR dated 29.03.2019, and FAQ (Part-III) on real estate issued under F. No.354/32/2019-TRU dated 14.05.2019.*

The impugned Show cause notice seeks to invoke Sections 74(1) and 74A of the CGST Act, 2017, along with

interest under Section 50 and penalties under Sections 74(1) and 122(1)(xvi) & (xvii) of the CGST Act, 2017, for the period FY 2017-18 to FY 2023-24.

4. It is the case of the Petitioner that being engaged in the construction of residential and commercial complexes, it is registered with the GST Department and has undertaken development of two projects, namely, Colina and Adarsh and in the former, the landowners intended to construct new structures by utilizing Floor Space Index (FSI) and the TDR FSI relating to and arising out of the said plot whereas in case of Adarsh Project, the Society desired to redevelop the dilapidated buildings, as it was incurring huge costs for repairs and maintenance and it was resolved to demolish the old structure and construct a new one by utilising the plot FSI and the TDR FSI relating to and arising out of the plot.

The Petitioner being appointed as a 'Developer" to carry out the re-development, entered into appropriate agreement for giving effect to the Project and as per the Agreement, the landowner of the Society agreed to hand over the existing land to it as Developer and the Developer undertook to construct new buildings and hand over the same to the members of the Society and the Petitioner was permitted to use the FSI for the construction of the sale component.

5. Based on the intelligence collected by the Department that the Petitioner is engaged in supply of construction service but has failed to pay GST on the

construction services, certain data/documents were collected and summons were issued to the Petitioner under Section 17 of the CGST Act.

The case of the Petitioner is that it cooperated in the proceedings by attending the summons from time to time but being not satisfied with the stand adopted, impugned Show cause notices were issued fastening a liability amount on the Petitioner, on the construction services provided to the landowner. It was also alleged that the Petitioner availed ineligible Input Tax Credit (ITC) and he is not entitled to reverse the ITC.

6. It is in this background, the Show cause notices were issued but instead of getting into the merits of the matter, Mr Raichandani, has pressed into service, one proposition of law which, according to him, has been well settled by various decisions of the distinct High Courts that there cannot be clubbing of the assessment for different years and on this ground, he claim that the notices are bad in law and though the Petition has raised several grounds about the Show cause notices being unsustainable in the wake of the nature and the activity being carried out by the Petitioners, we are called upon to consider the aspect of consolidated Show cause notices being issued for multiple years by relying upon Section 74.

In the second Petition, filed by Mariposa Beach Grove, the Petitioners are aggrieved by the order dated 14.01.2025 passed by the Assistant Commissioner of CGST thereby confirming the demand of GST of

₹99,44,778/- under Section 74(1) under CGST/Goa GST Act, along with interest and penalty for the period of F.Y. 2017-2018 to F.Y. 2022-2023 and apart from the merits of the matter, this Petition also raises the issue about the action based on consolidated Show cause notices involving multiple assessment years.

7. Mr. Raichandani, the learned Counsel representing the Petitioners in both the Petitions, by inviting our attention to the scheme of the GST law and in specific the Central Goods and Services Tax, 2017, would urge that the concept of 'assessment" under Section 2(11) of the Act means determination of tax liability and include self assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment. Further, the term, "Return" under Section 2(97) is assigned a definite connotation as Return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder and according to him, this definition has to be read with the definition of the term 'Tax period', to mean the period for which the Return is to be furnished.

Pointing out to us that the procedure for assessment as contemplated in Chapter XII require every registered person to self- assess the tax payable for each 'Tax period' as specified under Section 39, he would submit that there is provision for provisional assessment and also an assessment of non-filers of Returns and a provision is also made when there is a failure to furnish the Return, it is competent for the proper officer to assess the tax liability of

the said person to the best of his judgment 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. It is, therefore, his submission that the notice shall be issued for any Tax period based on filing of Return, namely, monthly or annual Return and if it is based on annual Returns, it can be only for the Tax period within the relevant financial year but the Act do not contemplate assessment beyond the relevant financial year. According to Mr Raichandani, once the Act mandates for issuance of notice in a particular manner, it has to be done in that same manner and in no other way.

It is the contention of Mr Raichandani that the Scheme involved never contemplated consolidated assessment. Apart from this, it is also the submission of Mr Raichandani that when there is limitation prescribed in the Scheme, by issuing consolidated notices, the time limit for subsequent financial year get curtailed and this would cause serious prejudice to the Petitioner and this could never have been the intention of legislature, when it introduced Sections 73/3, 74/3 in the statute, which refers to the issuance of statements for respective tax periods and he would submit that a notice under Section 73/1, 74/1 is issued for a particular tax period, the statement shall be issued for subsequent months.

8. In support of his submission, he would invoke the principle of law laid down in various authoritative

pronouncements and this include the latest decision of the Madras High Court in case in the case of Ms R A And Co vs. The Additional Commissioner of Central Taxes passed in W.P.No.17239 of 2025 & W.M.P.Nos.19530 of 2025 (Order date 21.07.2025), when the High Court had an opportunity to pronounce upon the effect of meaning of 'Tax period' in the statute visa-vis, the Scheme of the CGST and the Tamil Nadu SGST Act and a conclusion is drawn, that issuance of composite show cause notices 9th covering multiple financial years, making a composite demand for multiple years without separate adjudication per year will frustrate the limitation scheme and also prevent the assessee from giving year specific rebuttals, which result in jurisdictional overreach.

In addition, he would also place reliance in another decision of Madras High Court in the case of case of Titan Company Ltd., v/s. The Joint Commissioner of GST & Central Excise, Salem Commissionerate & Ors. passed in Writ Petition No.33164 of 2023 on 18.12.2023. He has also placed reliance upon the decisions of the Karnataka High Court in the case of M/s Veremax Technologie Services Limited v/s. The Assistant Commissioner of Central Tax in Writ Petition No.15810 of 2024 as also in the case M/s. Bangalore Golf Club v/s. Assistant Commissioner of Commercial Taxes (Enforcement)-22 passed in Writ Petition No.16500 of 2024.

9. Ms Asha Desai, the learned Standing Counsel, representing the Revenue, has raised a preliminary

objection about maintainability of the Petition as she would submit that the Petitions are filed being aggrieved by the Show cause notices and it is open for the Petitioners to show cause and contest the claim, before the Competent Authority. She would place reliance upon the decision of the Bombay High Court in case of RioCare India Pvt. Ltd v/s. Assistant Commissioner, CGST and C.Ex.[7] *and also the decision of the Delhi High Court in the case of Ambika Traders Through Proprietor v/s. Gaurav Gupta v/s. Additional Commissioner, Adjudication DGGSTI, CST Delhi North dated 29.07.2025 in Writ Petition (C) No.4783 which, according to us has been confirmed by the Apex Court.*

10. In light of the above counter arguments, we deem it appropriate to issue Rule, and by making the Rule returnable forthwith, we have taken up the Petition for final hearing.

As far as the preliminary objection raised by Ms Asha Desai about the Petition being premature, we find substance in the submission of Mr Raichandani who would submit that since the issue raised before this Court is a jurisdictional issue and if the Authority lack jurisdiction to have a composite assessment for different tax periods/assessment years, then the formality of responding to the Show cause notice shall not be encouraged and we agree with him, as we are pronouncing upon the issue as to whether it is permissible to issue Show cause notice covering different tax periods, we do not find it appropriate

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[7] 2025) 26 Centax 339 (Bom.)

to relegate the Petitioners to file their response and let the issue be decided by the Authority as, in any case, we find that the jurisdiction in the Authority will be dependent upon the Scheme of the Statute and we have heard respective Counsel on the merits of the matter.

11. The Central Goods and Services Tax Act, 2017, an Act which makes provision for levy and collection of tax, on intra-State supply of goods and services or both by the Central Government, is a statute which was enacted to broaden the tax base and confer the power on the Central Government to levy goods and service tax on supply of goods and services which takes place within the State. The avowed purpose of the legislation being simplifying and harmonising the indirect tax regime in the country, resulting into the reducing cost of production and inflation in the economy and thus making intra trade and industry more profitable, domestically as well as international. Permitting seamless transfer of input tax credit from one stage to another in the chain of value addition, by prescribing an inbuilt mechanism in the design of Goods and Services Tax would incentivise tax compliance by tax payers and the Parliament has defined certain terms for its effective understanding.

> *The term, 'Central Tax' is defined under Section 2(21) to mean the Central Services and Goods and Services Tax levied under Section 9;*
>
> *Section 2(11) define the term, 'Assessment' to mean determination of tax liability under this Act and*

includes self assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

Section 2(97)-'Return' means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;

Section 2(106)-'Tax period' means the period for which the return is required to be furnished;

Section 2(107)- 'Taxable person' means a person who is registered or liable to be registered under Section 22 or Section 24; and

Section 2(108)- 'Taxable supply' means a supply of goods or services or both which is leviable to tax under this Act.

12. In the statutory Scheme, Chapter VI is the provision for registration and Section 22(1) prescribe that every supplier shall be liable to be registered under the Act in the State or Union Territory, from where he makes supply of goods or service or both if his aggregate turnover in a financial year exceeds the limit prescribed.

Apart from this, the provision contemplated that every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall also be liable to be registered under this Act with effect from the appointed day. The Act also specify the persons not liable for registration and also

compulsory registration in prescribed cases, apart from setting out the procedure for registration.

Section 35(1), included in Chapter VIII under the head of 'Accounts and Records', make it mandatory for every registered person, at his principal place of business, a true and correct account of --

production or manufacture of goods;
inward and outward supply of goods or services or both;
stock of goods;
input tax credit availed;
output tax payable and paid; and
such other particulars as may be prescribed

Section 36 prescribe the period for retention of accounts and by virtue of this provision, it is imperative for every registered person to maintain books of accounts and or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of seventy-two months from the due date of furnishing of annual Return for the year pertaining to such accounts and records.

13. Chapter IX contain provision pertaining to Returns and as per Section 37, every registered person, shall furnish electronically, 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 provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as

may be specified therein. Section 39 is another relevant provision for furnishing of Return and sub-Sections (1), (2) and (8) read thus:

> *[(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 shall, 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, and within such time, 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 therein.*
>
> *(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.] .. ..*
>
> *(8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.*

14. Section 44 in the said Chapter is a provision for annual Return which contemplate that every registered person, shall furnish an annual report 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.

Thus, we find a provision of annual Return to be furnished.

15. Next to the aforesaid, comes the provision of payment of taxes included in Chapter X and the most crucial provision under Section 49, which pertain to payment of tax which shall be credited to the electronic cash ledger to be maintained in such manner as may be prescribed and it also prescribe the manner in which the amount of input tax credit available in the electronic cash ledger of the registered person shall be utilised. The explanation appended to the said Section has defined the expression 'tax dues' to mean the tax payable under the Act and 'other dues' to mean the interest, penalty, fee or other amounts payable under the Act.

16. In the Scheme of CGST, our attention is drawn to Chapter XII, a provision for assessment and we find Section 59 is a provision for self assessment and furnish a Return for 'each Tax period' as specified in Section 39. Therefore, there is a provisional assessment 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 a provisional basis, pursuant to which the proper officer shall pass an order within 90

days allowing the payment of tax on provisional basis at such rate or on such value as may be specified.

The Chapter further prescribe the procedure for scrutiny of Returns, assessment of non-filers of Returns so as to assess the tax liability and also a provision for assessment of unregistered persons.

By way of explanation, there exist a provision for audit by tax authorities under Section 65 where 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, but we are mindful that this is an exceptional provision and this is to be covered by Rule 101 of the CGST Rules, 2017, which permit an audit to be conducted for a financial year or part thereof or multiples thereof.

17. The crux of Mr Raichandani's arguments and the point for determination is based upon the provision of determination of tax in Chapter XV and as Section 73 is a provision for 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 wilful-misstatement or suppression of facts.

In the said provision, by Act 15 of 2024, the wording "pertaining to the period upto to Financial Year 2023-24" is added and with this insertion, we find that subsequent to

the financial year 2023-24, the effect of Section 73 and 74 is rendered nugatory and for financial year 2024-25, what is introduced in Section 74A which provides for "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."

It is in light of the aforesaid scheme, it is urged before us that 'tax not paid/short paid/erroneously refunded shall be for the tax period for which the Return is filed and from perusal of the Scheme of the Act of 2017 under which every supplier must obtain the registration in the State/Union Territory, where he makes taxable goods if he crosses the turnover limit and it is imperative for him to provide for Returns furnishing the details of outward supply of goods and services for the Tax period. The term 'Tax period' is defined as the period for which the Return is required to be furnished which contemplate a provision for annual Return under Section 44, 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.

The Act thus contemplate for furnishing of annual Returns for every financial year along with the audited final statement.

18. When we have perused the scheme of assessment and payment of tax, we find that the taxes payable under the Act commensurate with Return filed for 'each tax

period' and this is may be in the form of self- assessment or provisional assessment as provided in the Act. However, what is important to note is that there is a prescription of period of five years of due date on which 'annual Return' is filed for the relevant financial year and provision of payment and recovery is also included in the statutory scheme in form of Section 73 and 74, which underwent significant amendment by the Act 15 of 2024 and the provision as per sub-section (12) shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24 and for financial year 2024-25 and onwards, the provision under Section 74A will be relevant.

19. From the perusal of the entire Scheme, it is evidently clear to us that the statutory provision for assessment of tax for each financial year expect the Show cause notice to be issued at least 3 months prior to the time limit specified in Section 73(10) and 74(10) of the Act, for issuance of assessment order as sub-section (10) provide that the proper officer shall issue the order 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/short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous Return. Thus, there is limitation prescribed for demand of tax and its recovery.

The Act of 2017, therefore involve a definite tax period, based on the filing of the Return, which can be

either monthly or annual Return and if the assessment is based on annual Return, the tax period shall be the relevant financial year.

In the light of the statutory scheme, we find that there is no scope for consolidating various financial years/tax period which is attempted by the impugned Show cause notices assailed in the Petition.

20. In arriving at the aforesaid conclusion, we are guided by the observations of the Madras High Court in the case of Ms R A And Co (supra), where this very issue with regards to 'bunching of show cause notices', i.e. issuance of single show cause notice by the respondent Revenue for more than one financial year was raised and on detailed scrutiny of the provision under the statute and by placing reliance upon the earlier authoritative pronouncement, the High Court recorded thus:

> *"10. Section 73(10)/74(10) of the GST Act specifically provides the time limit of 3 years/5 years from the last date for filing the annual returns for the financial year to which the tax dues relates to. Thus, the GST Act considered each and every financial year as separate unit, due to which, the limitation has been fixed for each and every financial year separately. When such being the case, clubbing more than one financial year, for the purpose of issuance of show cause notice, would not be considered as in accordance with the provisions of Section 73/74 of the GST Act. Therefore, the limitation period of 3 years/5 years would be separately applicable for every financial year, thus, the limitation period would vary from one financial year to other. It is not that the limitation would be carried over or continuing in nature, so as to, club the financial years together. For these reasons also, the bunching of show cause notice is impermissible. In this regard, the Constitution Bench of the Hon'ble Apex Court in the decision rendered, which*

was reported in AIR 1966 SC 1350 (State of Jammu and Kashmir and Others v. Caltex (India) Ltd) has held as follows:

> *"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."*

11. Section 73(3)/74(3) of the GST Act refers to issuance of "statement", for subsequent "tax periods", containing the details of tax liabilities pertaining to the respective tax periods. If a notice, under Section 73(1)/74(1) of the GST Act, is issued for any particular tax period, a statement shall be issued, in terms of Section 73(3)/74(3) of GST Act, for the subsequent months and the said statements shall deemed to be a notice issued under Section 73(1)/74(1) of the GST Act.

12. In Section 73(3)/74(3) of the GST Act, it has been stated that

"Where a notice has been issued for any period under sub-section (1)….. "Therefore, an argument was made by the learned Additional Solicitor General that "any period" means, the period, which may be more than one financial year and hence, he raised a contention that the notice under Section 73(1)/74(1) of the GST Act can be issued for more than one financial year.

13. In Section 73(4)/74(4) of the GST Act, it has been stated as follows:

"(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."

In making the aforesaid observations, the High Court was guided by the definition of term 'Tax period' and the term 'Return' as defined under Section 2 of the Act.

The observations of the Co-ordinate Bench in Titan Company Limited (supra) were gainfully reproduced where

the bunching of the show cause notices was held to be against the spirit of the provision of Section 73 of the Act.

21. The relevant observation in the judgment rendered in M/s. Tharayil Medicals v/s. The Deputy Commissioner[8]*, by the Division Bench of Kerala High Court was also re-produced which read to the following effect:*

> *"26..*
>
> *When we read sub-sections (9) and (10) of Section 74, which specifically refer to " financial year to which the tax not paid or short paid or input tax wrongly availed or utilised relates" while passing the final order of adjudication, it presupposes that independent show cause notice be issued to the assessee for each different years of assessment while proceeding under Section 74. We are constrained to hold so because, as we noted earlier, the assessee can raise a distinct and independent defence to the show cause notice issued in respect of different assessment years. In other words, the entitlement to proceed and assess each year being separate and distinct, and further the time limit being prescribed under the Statute for each assessment year being distinct, we see no reason as to why we should not hold that separate show cause notices are required before proceeding to assess the assessee for different years of assessment under Section 74.*
>
> *There is yet another reason why we should hold that separate show-cause notices are issued for different assessment years. There may be cases where proceedings are initiated in the guise of a show cause notice under Section 74 wherein, on facts, the case of the assessee will fall under Section 73 of the CGST/SGST Act. We find that insofar as the time limit prescribed under Section 73(10) of the CGST/SGST Act is concerned, it is three years instead of five years and further, the aspect of fraud, wilful misstatement and suppression do not arise for*

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consideration in proceedings under Section 73. Thus, by issuing a composite notice, the assessing authority, cannot bypass the mandatory requirement of Section 73 to complete the assessment by falling back on a larger period of limitation under sub-section (10) of Section 74. If such a recourse is permitted, then certainly the said action would be a colourable exercise of the power conferred by the statute and will offend express provisions of the CGST/SGST Act qua limitation. This reason would also prompt us to hold that in cases where the assessing officer finds that an assessee is liable to be proceeded either under Section 73 or under Section 74 for different assessment years, a separate show cause notice has to be issued. Still further, since proper officer need to issue a show cause notice prior to 6 months to the time limit prescribed under sub-section (10) of Section 74, if a composite notice is issued, the assessee will be prejudiced inasmuch as the availability of a lesser period to submit a proper and meaningful explanation. This also is a strong indicative factor which would prompt us to hold in favour of the assessee.

In the wake of the aforesaid, the following conclusion is derived by the Madras High Court:

"27. In view of the above discussion, it is clear that issuance of composite show cause notice covering multiple financial years making composite demand for multiple years without separate adjudication per year frustrate the limitation scheme and prevents the petitioner from giving year-specific rebuttals, which results in jurisdictional overreach, i.e., the proper officer acts without authority of law, rendering the order void ab initio. Further, the impugned order is passed in contravention of clear statutory safeguards under Section 74(10) and Section 136 of GST Act."

22. The Division Bench followed its earlier view taken in Titan Company Ltd (supra) which relied upon the decision of the Apex Court in the case of State of Jammu and Kashmir and Others v/s. Caltex (India) Ltd [9]. which held thus:

> *"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."*

We do not intend to multiply the authorities the fact since we find that even the Karnataka High Court as well as the Andhra Pradesh High Court has adopted a similar view.

23. Ms Asha Desai has relied upon the decision of the Delhi High Court in case the of Ambika Traders (supra), where the issue that fell for consideration was whether the Order-in Original dated 23.01.2025 passed by the Additional Commissioner, Adjudication (DGGSTI), North Delhi and the facts reveal, that the entity, a sole proprietorship of Mr Gaurav Gupta registered under the VAT regime migrated to the GST regime and a search

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[9] AIR 1966 SC 1350

operation was carried out at the residential premises of the Petitioner and various files/records were resumed by the GST Department and the proprietor was arrested by the Directorate of GST Intelligence. A Show cause notice came to be issued along with form DRC-01 by the DGGI, for five financial years from 2017-2018 to 2021-2022 demanding a sum of Rs.83,76,32,528/- on the ground of alleged fraudulent availment and wrongful passing of Input Tax Credit.

It is in this background, the Delhi High Court appreciated the submission advanced in light of the specific provision of Section 74(9) of the CGST 2017 in the backdrop of Section 75. It is in the wake of whole sole fraud which attracted the attention and was the focus point of the decision, the Bench took into consideration the definition of the term 'tax period' as defined in Section 106 and when it interpreted the terms "for any period and "for such periods" under Section 74(3), 74(4), 73(3) and 73(4), it reproduced the Section, with its impact upon availing of ITC and that is why, it observed thus:

> *"46. The nature of ITC is such that fraudulent utilization and availment of the same cannot be established on most occasions without connecting transactions over different financial years. The purchase could be shown in one financial year and the supply may be shown in the next financial year. It is only when either are found to be fabricated or the firms are found to be fake that the maze of transactions can be analysed and established as being fraudulent or bogus."*

The fact involved before the Delhi High Court being distinct and revolving around the wrongfully claimed ITC, which was prescribed for the subsequent years, is quite distinct from the facts which are before us.

In any case the SLP was withdrawn by Ambika Traders before the Apex Court and the said decision will not apply to facts in the present case.

24. Another case which Ms Asha Desai has placed reliance is the decision of the Bombay High Court in case of RioCare India Pvt. Ltd v/s. Assistant Commissioner, CGST and C.Ex (supra), where we find a prima facie observation made in paragraphs 3 and 4 to the following effect:

> *3. At least prima facie we are not impressed with this argument. There is nothing in Section 74 and more particularly 74(1) which would prohibit the Authority from issuing a notice calling upon the assessee to pay tax that 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. At least prima facie, a notice under Section 74(1) can be issued for any period provided said notice is given at least 6 months prior to the time limit specified in sub-section (10) of Section 74 for issuance of the order.*
>
> *4. In the present case, admittedly there is no issue of limitation as contemplated under Section 74(10). In these circumstances, at least prima facie we are not satisfied that this Writ Petition ought to be entertained and which is challenging the show cause notice. The Petitioner will have to face the show cause*

notice and can canvass all arguments before the authority concerned, including the issues raised in the present Writ Petition."

25. In our view, the aforesaid observations merely being of primary nature without appreciating the provisions in the Act of 2017 and Rules made therein, and recording a finding that there is no prohibition in issuance of notice calling upon payment of tax for different financial years, in our considered opinion, since the Petition before the Division Bench called for quashing of the demand notice referring to different financial years, but in any case the Court expressed the prima facie opinion and recorded that there is no issue of limitation as contemplated under Section 74(10).

In any case the Court refused to show indulgence and directed the Petitioner to face the show cause notice and therefore the Division Bench did not express it final opinion.

26. For the reasons recorded above, by overruling the objections raised by Ms Desai for entertaining the Petition is merely based on the show cause notice as we find that there is no provision to club various tax periods and apart from the fact that it is also beyond the period of limitation, we find that the action of Respondent No.2 in issuing consolidated show cause notices for multiple assessment years is without jurisdiction and since it is a judicial overreach, we quash and set aside the same.

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

8.18 In the case of ***Rite Water Solutions (India) Ltd. (supra),*** the Division Bench of Bombay High Court considered the Communication dated 16.09.2025 relied upon by the respondents and held as under:

"Challenge is to clubbing notices issued under Section 74 of The Central Goods and Services Tax Act, 2017 (for short "CGST Act, 2017"). The Counsel for the petitioner submits that respondent no.1 has issued notice dated 4/8/2024 calling upon the petitioner to show cause as to why tax amount of Rs.2,12,16,300/should not be demanded and recovered from them under Section 74 read with Section 9 of CGST Act, 2017, and Section 20 of The Integrated Goods and Services Tax Act, 2017. The notice issued covers tax period from July – 2017 to March – 2022.

2] The argument is that such clubbing of notices is not permissible. In support, the Counsel has relied upon the judgment of a Division Bench of this Court at Goa in M/s. Milroc Good Earth Developers Vs. Union of India & Ors. [Writ Petition No. 2203/2025 decided on 9/10/2025], wherein, the Court held that if an authority lacks jurisdiction to have composite assessment for different tax periods/assessment years, then the formality of responding to show cause notice shall not be encouraged. While doing

so, the Court considered various provisions of the CGST Act, 2017, and held as under :

> *"18. When we have perused the scheme of assessment and payment of tax, we find that the taxes payable under the Act commensurate with Return filed for 'each tax period' and this is may be in the form of self assessment or provisional assessment as provided in the Act. However, what is important to note is that there is a prescription of period of five years of due date on which 'annual Return' is filed for the relevant financial year and provision of payment and recovery is also included in the statutory scheme in form of Section 73 and 74, which underwent significant amendment by the Act 15 of 2024 and the provision as per subsection (12) shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24 and for financial year 2024-25 and onwards, the provision under Section 74A will be relevant.*
>
> *19. From the perusal of the entire Scheme, it is evidently clear to us that the statutory provision for assessment of tax for each financial year expect the Show cause notice to be issued at least 3 months prior to the time limit specified in Section 73(10) and 74(10) of the Act, for issuance of assessment order as sub-section (10) provide that the proper officer shall issue the order 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/short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous Return. Thus, there is limitation prescribed for demand of tax and its recovery.*
>
> *The Act of 2017, therefore involve a definite tax period, based on the filing of the Return, which can be either monthly or annual Return and if the assessment is based on annual Return, the tax period shall be the relevant financial year.*
>
> *In the light of the statutory scheme, we find that there is no scope for consolidating various financial years/tax period which is attempted by the impugned Show Cause*

Notices assailed in the Petition."

3] As could be seen, the Division Bench has in categorical terms held that there is no scope for consolidating various financial years/tax period while issuing show cause notice under Section 74 of the CGST Act, 2017.

4] The Counsel for respondent nos. 1 and 2 has invited our attention to a communication dated 15/9/2025 issued by the Under Secretary to the Government of India in favour of Principal Chief Commissioners/Commissioners of CGST Zones indicating that composite show cause notice for multiple financial years are legally permissible.

5] This communication apparently runs contrary to the provisions of the CGST Act, 2017, as discussed by the Division Bench in the aforesaid judgment and, therefore, will be of no help to the respondents.

6] Accordingly, and since notice hereunder is admittedly issued consolidating five years, the same will have to be set aside. Hence, following order is passed :

ORDER

I] The petition is allowed in terms of prayer Clause (a), which reads as under :

> *"a. Quash and Set Aside impugned show cause notice dated 4/8/2024 having DIN – 20240866vk000061826d & SHOW CAUSE NOTICE No. 181/GRP06/JC/2024-25 issued by Respondent No.1 i.e. Joint Commissioner, CGST & Central Excise, Audit Division, Civil Lines, Nagpur under*

section 74 of the Central Goods and Service Act, 2017"

II] The respondents, however, are at liberty to re-issue notice strictly in terms of Section 74 of the CGST Act, 2017, if there is no other legal impediment.

III] The petition is disposed of in above terms."

8.19 In the case of ***Titan Company Ltd (supra),*** the Madras High court held as under:

"12. The prayer in this Writ Petition is for issuance of Writ of Mandamus directing the first respondent to consider and pass orders on the representation dated 25-10-2023 submitted by the petitioner before proceeding with the adjudication of show cause notice dated 28-9-2023. It is the case of the petitioner that the respondent had issued bunching of show cause notices dated 28-9-2023 for five Assessment Years starting from 2017-18 to 2021-22.

13. The main contention of the petitioner was that bunching of show cause notices was not allowed in law and it is against the provisions of Section 73 of the Act. Section 73(10) of the Act specifically provides a time limit of three years from the due date for furnishing of annual return for the financial year to which the tax due relates to. In the present case, notice was issued under section 73 of the Act for determination of the tax and therefore, the limitation period of three years as prescribed under section 73(10) would be applicable. Therefore, the contention of the

respondent that there is no time limit contemplated under section 73 of the Act is not correct.

14. Further, by issuing bunching of show cause notices for five Assessment Years starting from 2017-18 to2021-22, the respondents are trying to do certain things indirectly which they are not permitted to do directly and the same is not permissible in law. If the law states that a particular action has to be completed within a particular year, the same has to be carried out accordingly. The limitation period of three years would be separately applicable for every assessment year and it would vary from one assessment year to another. It is not that it would be carried over or that the limitation would be continuing in nature and the same can be clubbed. The limitation period of three years ends from the date of furnishing of the annual return for the particular financial year.

15. Therefore, issuing bunching of show cause notices is against the spirit of provisions of Section 73 of the Act and the Constitution Bench of the Hon'ble Apex Court in the decision reported in Caltex (India) Ltd.'s case (supra) has held that 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 periods. The said principle would apply to the present case as well."

8.20 In the case of ***Joint Commissioner (Intelligence & Enforcement) (supra)***, the Kerala High Court held as under:

"6. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, we find ourselves in agreement with the view taken by the learned Single Judge more so in the backdrop of the Scheme that informs proceedings under Section 74 of the CGST Act. The provisions of Section 74(1), (2),(9) and (10) of the CGST Act that are relevant in the instant case read as follows:

> *"74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful 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-mis-statement 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 50and 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.

xxxxxxxxxxxxx xxxxxxxxxxxxxxx
xxxxxxxxxxxxxxx

(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."

It will be seen from the above extracted statutory provisions that quite contrary to what has been urged on behalf of the appellants, there is no mandate under Section 74 for the issuance of a consolidated show cause notice covering various assessment years. The provisions of Section 74(1) only require the proper officer to arrive at a subjective satisfaction regarding any of the specified factors which have led to an evasion of tax and on arriving at the said satisfaction, the proper officer is required to issue a show cause notice to the assessee concerned specifying the amount of tax/interest/penalty that is due from the assessee. Sub-section (2)of Section 74 imposes a limit on the power of the proper officer with regard to the time within which he should issue the show cause notice under sub-section (1) of Section 74. That time limit is at least six

months prior to the time specified in sub-section (10) for the issuance of an order of adjudication. Sub-section (9) of Section 74 speaks about the determination of the amount of tax, interest and penalty by the proper officer and the issuance of an order quantifying such amounts. Sub-section (10) specifies the period within which the order under sub-section (9) should be passed as 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.

7. It is clear from the said statutory provisions that the power of the proper officer under Section 74(1) is to determine whether any of the factors leading to tax evasion exist in relation to an assessee during any financial/assessment year and initiate proceedings under the said Section within the time frame contemplated under Section 74(1) of the CGST Act. The said exercise is to be conducted in relation to each of the years in which such pre-conditions exist for the invocation of the power under Section 74(1). While there may be cases where the data available with the proper officer is such that it suggests the existence of pre-conditions for more than one financial/assessment years, the proper officer should ideally issue separate show cause notices to cover the different financial/assessment years since the period available to the Department for adjudication of the show cause notices varies depending upon the due date for furnishing of annual return for that year. In our view,

consolidated show cause notices covering multiple financial/assessment years can be issued only in circumstances where the statutory provision provides for a common period for initiation and completion of the adjudication. For instance, under Section 28 of the Customs Act, a show cause notice invoking the extended period of limitation of five years has to cover a prior period of five years ending with the date of issuance of the show cause notice. Similar was the provision under Section 11A of the erstwhile Central Excise Act. Under both of the above provisions, the show cause notices issued, irrespective of whether it covered a single financial/assessment year or multiple years, had to be adjudicated within a fixed period of one year from the date of the show cause notice. The scheme of adjudication is different under the CGST Act. Under Section 74 of the CGST Act, the end termini for adjudication varies for each financial/assessment year, since it is not pegged to the date of the show cause notice but to 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. Issuing a consolidated show cause notice covering various financial/assessment years would cause prejudice to an assessee who would not get the full period envisaged for adjudication under the Statute, if that period is circumscribed by the limitation period prescribed in relation to an earlier financial/assessment year. In other words, where, in a situation such as the present, the proximate

expiry of the limitation period under Section 74(10) is only in relation to one of the six financial/assessment years, the contentions of the assessee and the opportunity available to an assessee for adducing evidence in relation to the other years cannot be rendered illusory by forcing upon the assessee the period of limitation prescribed under Section 74(1) for passing the final order in relation to the earliest financial/assessment year [2017-18]. The statutory period available for an assessee to put forth its contentions against the show cause notice in an effective manner cannot be curtailed by an unnecessary act on the part of the Department in issuing a consolidated show cause notice that includes therein a financial/assessment year in relation to which the period for passing a final order expires earlier.

8. There is yet another aspect of the matter. If a consolidated notice for various financial/assessment years is issued, the total amount of tax, penalty etc. determined as payable by the assessee may increase exponentially depending upon the number of financial/assessment years included in the consolidated notice. The determination of tax, penalty etc. would be in respect of all the financial/assessment years put together. That would go against the provisions of sub-sections (9) and (10) of Section 74 which specifically refer to the "financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates "while stipulating the last date for passing the adjudication order. A consolidated notice would also result in a consolidated adjudication

order covering several financial/assessment years and in the event of it being adverse to the assessee, the fee/pre-deposit required to be paid by an assessee for preferring a statutory appeal would also be higher. This could not have been the Scheme of the statutory provisions which are expected to adhere to principles of fairness in taxation. In this context, it is useful to remind ourselves of the following observations of Justice H.R. Khanna in CIT v. Simon Carves Ltd. [1976] 105 ITR 212 (SC) [(1976) 4 SCC435] as regards the nature of the quasi-judicial function exercised by assessing officers:

> *"10. [...] The taxing authorities exercise quasi judicial powers and in doing so they must act in a fair and not a partisan manner. Although it is part of their duty to ensure that no tax which is legitimately due from an assessee should remain un recovered they must also at the same time not act in a manner as might indicate that scales are weighted against the assessee. We are wholly unable to subscribe to the law that unless those authorities exercise the power in a manner most beneficial to the revenue and consequently most adverse to the assessee, they should be deemed not to have exercised it in a proper and judicious manner."*

8.21 In the case of ***Tharayil Medicals (supra)***, the Division Bench of Kerala High Court held as under:

> *"7. Section 74(1) and (2) of the CSGT Act reads as follows:*
>
> > *Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful- 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.*

8. Sub-section (2) of Section 74 mandates that the notice under sub-section (1) of Section 74 be issued at least six months prior to the time limit prescribed under sub-section (10) for issuance of the order. Turning to subsection (10) of Section 74, the proper officer is required to issue notice under sub-section (9) within a period of five years from the due date of furnishing the annual return.

9. A cumulative reading of Section 74(1), (2) and (10) leaves no room for any doubt that each assessment year can be proceeded separately by the assessing officer or the proper officer as the case may be for the purpose of determining whether there is any wilful misstatement or suppression of facts. The time limit prescribed under sub-section (10) of Section 74 of the Act shows that the order under sub-section (9) has to be issued within a period of five years from the due date of furnishing of the annual return for the financial year to which the tax is paid or short paid or input tax credit wrongly availed or utilised. This means that for each assessment year, the

time limit prescribed for the completion of the proceedings is distinct and different. It is in this context that we have to consider the argument of Smt. Krishna, the learned counsel appearing for the appellant that a separate show cause notice is required for the purpose of each assessment year.

10. When we consider the aforesaid arguments in the light of the principles laid down by us in Lakshmi Mobile Accessories (supra), we find that sub-section (1) of Section 74 requires the proper officer to arrive at a subjective satisfaction regarding any specified factors which lead to evasion of tax. Thus the assessee will be entitled to raise separate defence for each assessment year. We have already deprecated the practice of the assessing officer from proceeding to complete the assessment under Section 74 by issuing composite orders. Having held so, the pertinent question before us would be, can the proper officer issue a composite show cause notice and then proceed to pass separate orders for each assessment year. We find that while deciding the case Lakshmi Mobiles Accessories (supra) this issue did not fall for our consideration.

11. When we read sub-sections (9) and (10) of Section 74, which specifically refer to " financial year to which the tax not paid or short paid or input tax wrongly availed or utilised relates" while passing the final order of adjudication, it presupposes that independent show cause notice be issued to the assessee for each different years of assessment while proceeding under Section 74. We are

constrained to hold so because, as we noted earlier, the assessee can raise a distinct and independent defence to the show cause notice issued in respect of different assessment years. In other words, the entitlement to proceed and assess each year being separate and distinct, and further the time limit being prescribed under the Statute for each assessment year being distinct, we see no reason as to why we should not hold that separate show cause notices are required before proceeding to assess the assessee for different years of assessment under Section 74.

12. There is yet another reason why we should hold that separate show-cause notices are issued for different assessment years. There may be cases where proceedings are initiated in the guise of a show cause notice under Section 74 wherein, on facts, the case of the assessee will fall under Section 73 of the CGST/SGST Act. We find that insofar as the time limit prescribed under Section 73(10) of the CGST/SGST Act is concerned, it is three years instead of five years and further, the aspect of fraud, willful misstatement and suppression do not arise for consideration in proceedings under Section 73. Thus, by issuing a composite notice, the assessing authority, cannot bypass the mandatory requirement of Section 73 to complete the assessment by falling back on a larger period of limitation under sub-section (10) of Section 74. If such a recourse is permitted, then certainly the said action would be a colourable exercise of the power conferred by the statute and will offend express provisions of the

CGST/SGST Act qua limitation. This reason would also prompt us to hold that in cases where the assessing officer finds that an assessee is liable to be proceeded either under Section 73 or under Section 74 for different assessment years, a separate show cause notice has to be issued. Still further, since proper officer need to issue a show cause notice prior to 6 months to the time limit prescribed under subsection (10) of Section 74, if a composite notice is issued, the assessee will be prejudiced inasmuch as the availability of a lesser period to submit a proper and meaningful explanation. This also is a strong indicative factor which would prompt us to hold in favour of the assessee.

13. We find normally a writ petition against the show cause notice is not to be entertained by the writ court as held by us in Dy. Commissioner of (Intelligence) v. Minimol Sabu [2025] 171 taxmann.com 216/109 GST 18 (Ker.) (W.A. No.238 of 2025), we have carved out the exceptions like in a case where a total lack of inherent jurisdiction being in issuance of show cause notice under Section 74 of the CGST/SGST Act. In such circumstances, the writ petitioner need not be relegated to the alternative remedy by way of appeal.

14. In the present case, we find that since the challenge to the show cause notice goes to the root of the jurisdiction of the proper officer in issuing the same and we hold that the writ petition is perfectly maintainable.

15. Having concluded as above, we find that the learned Single Judge failed to take note of these intricate questions of law involved while interpreting the provisions of Section 73 read with Section 74 of the CGST/SGST Act and thus failed to appreciate the contentions of the appellants in its true perspective and therefore erred egregiously in dismissing the writ petition relegating the petitioner to prefer reply to the notice before the adjudicating authority. Thus, we are of the considered view that the appellant has made out a case for interference and hence entitled to succeed."

8.22 In the case of ***Tharayil Medicals (supra),*** the Single Bench of Kerala High Court held as under:

"The issue raised in this Writ petition (Civil) is covered against the petitioner by the judgment of this Court ***in M/s. X.L. Interiiors Vs. Deputy Commissioner (Intelligence) and Ors; 2024 KER 76194 in W.P.(C).No.35156/2024****. For the same reasons set out in the said judgment, this writ petition will also stand dismissed.*

2. However, it is directed that it is open to the petitioner to take up any issues specific to any year in the reply/replies to the show cause notice, and if such contention is taken specifically in relation to any particular year, such contention shall be independently considered by the Adjudicating Authority while passing final orders. The petitioner is also granted two weeks time from today to file a reply to the show cause notice.

This writ petition is disposed of accordingly."

8.23 In the case of ***Biju Kollamparambil Abraham (supra),*** the Kerala High Court held as under:

> *"7. Apart from the above, as rightly pointed out by the learned counsel for the petitioner, Ext. P2 and P3 pertain to discrepancies in respect to four assessment years. The composite notice and composite assessment order for more than one assessment year, in such a manner was found to be not proper by a Division Bench of this Court in Lakshmi Mobile Accessories's case (supra). Therefore, in light of the observations made by this Court in the aforesaid decision also, interference is necessary.*
>
> *Accordingly, this writ petition is disposed of, quashing Ext.P2, with a direction to the assessing officer to issue fresh notices to the petitioner separately in respect of each assessment years and to complete the proceedings after giving the petitioner a reasonable opportunity for hearing."*

8.24 In the case of ***R.A. and Co. (supra),*** the Madras High Court held as under:

> *"5. In the case on hand, the only issue that has to be decided is as to whether the respondents can pass single assessment order for more than one financial year?*
>
> *6. Now, let me examine the provisions of Sections 73 & 74 of the GST Act, which deals with regard to the issuance of show cause notice. Hence, it would be apposite to extract the relevant portions of Sections 73 & 74 of the GST Act, which read as follows:*

"73. Determination of tax 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 subsection (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.*

(5) *to (8).....*

(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.

74. Determination of tax 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 subsection (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) to (8).....

(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.*

7. A reading of above provisions shows that the respondents shall serve notice, in terms of sub-section (1) of Section 73/74 of the GST Act, on the person chargeable with tax, which has not been paid, etc., requiring him to show cause as to why he should not pay the amount specified in the notice, along with the interest and penalty, for various situations mentioned therein.

8. The provisions of Sections 73(1)/74(1) of GST Act deals with the aspect of issuance of show cause notice in any particular situation, whereas, in Section 73(2)/74(2) of GST Act, it has been stated that the proper officer shall issue notice under Sub-Section (1) at least three/six months prior to the time limit fixed under Sections 73(10)/74(10) of the GST Act for issuance of order. While reading the provisions of Sections 73(10)/74(10) of GST Act, it reveals that the time limit for passing assessment order is up to three/five years from the last date for filing the annual return of the relevant financial year.

9. Further, Section 73(3)/74(3) of GST Act would state that "if 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, 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", which means a statement is required to be served to the subsequent tax periods and the issuance of such statement shall deemed to be a notice under Section 73(1)/74(1) of the GST Act. Thus, it is clear that at first instance, the notice shall be issued, under Section 73(1)/74(1), for a tax period, based on filing of either monthly return or annual return. If the notice was issued based on annual return, it could be for any tax period within the relevant financial year but at any cost, it should not be beyond the said relevant financial year. Thus, when the Act mandates for issuance of notice in a particular manner, the notice has to be issued accordingly. Therefore, there is a clear bar for "bunching of show cause notice", i.e., issuance of single show cause notice for more than one financial year.

10. Section 73(10)/74(10) of the GST Act specifically provides the time limit of 3 years/5 years from the last date for filing the annual returns for the financial year to which the tax dues relates to. Thus, the GST Act considered each and every financial year as separate unit, due to which, the limitation has been fixed for each and every financial year separately. When such being the case, clubbing more than one financial year, for the purpose of issuance of show cause notice, would not be considered as in accordance with the provisions of Section 73/74 of the GST Act. Therefore, the limitation period of 3 years/5 years would be separately applicable for every financial year, thus, the limitation period would vary from one financial year to other. It is not that the limitation would be carried over or

continuing in nature, so as to, club the financial years together. For these reasons also, the bunching of show cause notice is impermissible. In this regard, the Constitution Bench of the Hon'ble Apex Court in the decision rendered, which was reported in State of Jammu and Kashmir v. Caltex (India) Ltd. AIR 1966 SC 1350 has held as follows:

> *"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."*

11. Section 73(3)/74(3) of the GST Act refers to issuance of "statement", for subsequent "tax periods", containing the details of tax liabilities pertaining to the respective tax periods. If a notice, under Section 73(1)/74(1) of the GST Act, is issued for any particular tax period, a statement shall be issued, in terms of Section 73(3)/74(3) of GST Act, for the subsequent months and the said statements shall deemed to be a notice issued under Section 73(1)/74(1) of the GST Act.

12. In Section 73(3)/74(3) of the GST Act, it has been stated that "Where a notice has been issued for any period under sub-section (1)....." Therefore, an argument was made by the learned Additional Solicitor General that "any period" means, the period, which may be more than one financial year and hence, he raised a contention that the notice under Section 73(1)/74(1) of the GST Act can be issued for more than one financial year.

13. In Section 73(4)/74(4) of the GST Act, it has been stated as follows:

> *"(4) The service of such statement shall be deemed to be service of notice on such person under subsection (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice."*

14. In the above provision, the word "tax period" has been mentioned. In Section 73(1)(3)/74(1)(3) of GST Act, it has been mentioned that notice can be issued for "any period". Therefore, a conjoint reading of Section 73(1)(3)&(4)/74(1)(3)&(4) makes it clear that "any period" is nothing but the "tax period". Thus, based on the "tax period", the show cause notice, under Section 73/74 of GST Act, can be issued by the Department.

15. At this juncture, it would be apposite to extract the meaning of the word "tax period" in terms of Section 2(106) of the GST Act, which reads as follows:

> *"2(106) "tax period" means the period for which the return is required to be furnished"*

16. A reading of the above Section would show that "tax period" means the period, for which, the return is required to be furnished. Therefore, based on the filing of returns, the tax period will be determined. In GST Law, an Assessee is required to file monthly return as well as annual return. Therefore, based on the monthly return, notice, under Section 73/74, can be issued, for any particular month. Likewise, based on the annual returns,

notice, under Section 73/74, can be issued for the entire financial year or otherwise, as decided by the department, but not more than the relevant financial year.

17. Now, it would be apposite to extract the definition of the word "return" in terms of Section 2(97) of the GST Act, which reads as follows:

> *2(97) "return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;*

18. A reading of the above would show that the "return" is prescribed by the Act or the Rules made thereunder. As stated above, an Assessee is required to file monthly return as well as annual return and issuance of show cause notice should be strictly based on the tax periods, which is determined based on filing of returns. Therefore, it is clear that the show cause notice can be issued either based on the monthly return or based on the annual return for the entire financial year or part thereof as decided by the Department. If any return is filed for more than one financial year, then, based on the said returns, single show cause notice can be issued. However, under the GST Law, there is no requirement for filing any returns other than monthly and yearly returns. Hence, no show cause notice could be issued for more than one financial year.

19. In view of the above, there is no doubt that in terms of GST Law, "any period", for the purpose of issuance of show cause notice, includes, "monthly tax period" or "yearly tax period" and the GST Act will not permit for issuance of

show cause notice beyond such period, i.e., no show cause notice can be issued for the period of more than one financial year.

20. Therefore, as discussed above, a conjoint reading of the word "tax period", as defined in Section 2(106) of GST Act, along with the provisions of Section 73(1),(2),(3),(4),(10)/74(1),(2),(3),(4),(10) of GST Act, makes it very clear that there is a specific bar in terms of the Section 73/74 for "bunching of show cause notice", i.e., no show cause notice can be issued for more than one financial year.

21. While examining Section 128 of GST Act, which deals with "the power to waive penalty or fee or both", it is clear that the Government may introduce any Scheme, by way of notification, to waive, in part or full, any penalty. In such case, if a show cause notice was issued, prior to the date of such notification, by clubbing more than one financial year, the petitioners will be forced to pay the tax amount for all the financial years included in the said notice for availing the aforesaid Scheme introduced by the Central Government. Hence, it will create a great hardships to the petitioners.

22. A similar hardship will be faced by the petitioners, when they intend to file an application for compounding the offences under Section 138 of the GST Act for any particular or couple of years.

23. Further, though the petitioners have very good case to contest for any particular tax period, they will not be able to do so since the notice was issued and accordingly, orders were passed by the respondent by clubbing more than one financial year. Hence, the rights of the petitioners, to file an appeal against the assessment order, will get prejudicially affected.

24. That apart, when a notice was issued and order was passed under Section 74 of the GST Act by clubbing more than one financial year, where the case was made out for any particular tax period and there is a scope to set aside the said order for remaining tax period, the petitioners' right to contest the matter pertaining to any particular tax period under Section 73 of the GST Act will get affected since the Department will look into the said matter from the perspective of commission of offence under Section 74 of the GST Act for all the years mentioned in the notice when it was intact committed only particular financial year.

25. In a similar situation, this Court has already held that the bunching of show cause notice is impermissible vide order passed in Titan case, wherein, it has been stated as follows:

> *"13.The main contention of the petitioner was that bunching of show cause notices was not allowed in law and it is against the provisions of Section 73 of the Act. Section 73(10) of the Act specifically provides a time limit of three years from the due date for furnishing of annual return for the financial year to which the tax due relates to. In the present case, notice was issued under Section 73 of the Act for determination of the tax and therefore, the limitation period of three years as prescribed under Section 73(10)*

would be applicable. Therefore, the contention of the respondent that there is no time limit contemplated under Section 73 of the Act is not correct.

14.Further, by issuing bunching of show cause notices for five Assessment Years starting from 2017-18 to 2021-22, the respondents are trying to do certain things indirectly which they are not permitted to do directly and the same is not permissible in law. If the law states that a particular action has to be completed within a particular year, the same has to be carried out accordingly. The limitation period of three years would be separately applicable for every assessment year and it would vary from one assessment year to another. It is not that it would be carried over or that the limitation would be continuing in nature and the same can be clubbed. The limitation period of three years starts from the date of furnishing of the annual return for the particular financial year.

15.Therefore, issuing bunching of show cause notices is against the spirit of provisions of Section 73 of the Act and the Constitution Bench of the Hon'ble Apex Court in the decision reported in State of Jammu and Kashmir v. Caltex (India) Ltd. AIR 1966 SC 1350, has held that 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 periods. The said principle would apply to the present case as well.

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."

26. Further, in the judgment rendered in Tharayil Medicals v. Deputy Commissioner, SGST Department, Thrissur [2025] 173 taxmann.com 867 (Kerala) case by the

Hon'ble Division Bench of Kerala High Court, it has been stated as follows:

> *"11. When we read sub-sections (9) and (10) of Section 74, which specifically refer to " financial year to which the tax not paid or short paid or input tax wrongly availed or utilised relates" while passing the final order of adjudication, it presupposes that independent show cause notice be issued to the assessee for each different years of assessment while proceeding under Section 74. We are constrained to hold so because, as we noted earlier, the assessee can raise a distinct and independent defence to the show cause notice issued in respect of different assessment years. In other words, the entitlement to proceed and assess each year being separate and distinct, and further the time limit being prescribed under the Statute for each assessment year being distinct, we see no reason as to why we should not hold that separate show cause notices are required before proceeding to assess the assessee for different years of assessment under Section 74.*
>
> *There is yet another reason why we should hold that separate show-cause notices are issued for different assessment years. There may be cases where proceedings are initiated in the guise of a show cause notice under Section 74 wherein, on facts, the case of the assessee will fall under Section 73 of the CGST/SGST Act. We find that insofar as the time limit prescribed under Section 73(10) of the CGST/SGST Act is concerned, it is three years instead of five years and further, the aspect of fraud, willful misstatement and suppression do not arise for consideration in proceedings under Section 73. Thus, by issuing a composite notice, the assessing authority, cannot bypass the mandatory requirement of*
>
> *Section 73 to complete the assessment by falling back on a larger period of limitation under sub-section (10) of Section 74. If such a recourse is permitted, then certainly the said action would be a colourable exercise of the power conferred by the statute and will offend express provisions of the CGST/SGST Act qua limitation. This reason would also prompt us to hold that in cases where the assessing officer finds that an assessee is liable to be proceeded either under Section 73 or under Section 74 for different assessment years, a separate show cause notice has to be issued. Still*

further, since proper officer need to issue a show cause notice prior to 6 months to the time limit prescribed under sub-section (10) of Section 74, if a composite notice is issued, the assessee will be prejudiced inasmuch as the availability of a lesser period to submit a proper and meaningful explanation. This also is a strong indicative factor which would prompt us to hold in favour of the assessee.

We find normally a writ petition against the show cause notice is not to be entertained by the writ court as held by us in Deputy Commissioner of Intelligence v. Minimol Sabu (W.A. No.238 of 2025), we have carved out the exceptions like in a case where a total lack of inherent jurisdiction being in issuance of show cause notice under Section 74 of the CGST/SGST Act. In such circumstances, the writ petitioner need not be relegated to the alternative remedy by way of appeal.

In the present case, we find that since the challenge to the show cause notice goes to the root of the jurisdiction of the proper officer in issuing the same and we hold that the writ petition is perfectly maintainable"

27. In view of the above discussion, it is clear that issuance of composite show cause notice covering multiple financial years making composite demand for multiple years without separate adjudication per year frustrate the limitation scheme and prevents the petitioner from giving year-specific rebuttals, which results in jurisdictional overreach, i.e., the proper officer acts without authority of law, rendering the order void ab initio. Further, the impugned order is passed in contravention of clear statutory safeguards under Section 74(10) and Section 136 of GST Act."

8.25 In the case of ***Instakart Services Private Limited (supra)***, the Madras High Court held as under:

"4. Further, they would submit that the aforesaid issue has already been decided by this Court vide common order dated 21.07.2025 passed in W.P.Nos.29716 of 2024, etc., batch, wherein it has been held as follows:

> *"28. (i) The GST Act permits only for issuance of show cause notice based on the tax period. Therefore, if the annual return is filed, the entire year would be considered as a tax period and accordingly, the show cause notice shall be issued based on the said annual returns.*
>
> *If show cause notice is issued before the filing of annual returns, the same can be issued based on the filing of monthly returns;*
>
> *If show cause notice is issued after the filing of annual returns or after the commencement of limitation, the said notice shall be issued based on the annual returns with regard to the relevant financial year.*
>
> *No show cause notice can be clubbed and issued for more than one financial year since the same is impermissible in law.*
>
> *In these cases, without any jurisdiction, the impugned show cause notices/orders came to be issued/passed for more than one financial year, which is impermissible in law and hence, the same is liable to be quashed. Accordingly, the impugned show cause notices/orders stand quashed based on the aspect of clubbing of show cause notices for more than one financial year."*

5. Therefore, considering the submissions made by the learned counsel for the petitioner and by following the aforesaid order dated 21.07.2025 passed in W.P.Nos.29716 of 2024, etc., batch, this Court holds that in this case, without any jurisdiction, the impugned order came to be passed for more than one financial year, i.e., for

the period from July 2017 to March 2023, which is impermissible in law and hence, the same is liable to be quashed."

8.26 In the case of ***S.J. Constructions (supra),*** the Andhra Pradesh High Court held as under:

"6. The question of whether one assessment order can be passed in relation to more than one financial year had come up before various High Courts. The Hon'ble High Court of Karnataka, the Hon'ble High Court of Madras and the Hon'ble High Court of Kerala have held that a single, composite assessment order, cannot be passed for more than one financial year. On the other hand the Hon'ble High Court of Delhi as well as the Hon'ble High Court of Bombay had held that there can be one composite assessment order for more than one financial year. The details of the judgments passed by the respective High Courts are as follows:

Sl. No	*Citation*	*Description of the Document*
1.	*AIR (1966) SC 1350*	*State of Jammu & Kashmir v. Caltex India Ltd. dated 17.12.1965*
2.	*W.A.No.627/2025*	*Tharayil Medicals v. Deputy Commissioner, SGST Department, Thrissur [2025] 173 taxmann.com 867 (Kerala), dated 08.04.2025*
3.	*W.A.No.258/2025*	*Joint Commissioner (Intelligence & Enforcement) v. Lakshmi Mobile Accessories [2025] 171 taxmann.com 214/108 GST 750/95 GSTL 356 (Kerala), dated 05.02.2025*
4.	*[2024] 168 taxmann.com 12 (Karnataka)*	*Chimney Hills Education Society v. Additional Commissioner of Central Tax*
5.	*(2024) GSTR 449*	*Titan Company Ltd. v. Joint Commissioner of GST & Central Excise [2024] 159 taxmann.com 162 (Madras).*
6.	*W.P.No.16500/2024*	*Bangalore Golf Club v. Asstt. CCTes (Enforcement), Bengaluru [2024] 166 taxmann.com 642 (Karnataka), dated 07.08.2024*

7.	*W.P.No.17239/2025*	*R A and Co v. Additional Commissioner of Central Taxes [2025] 176 taxmann.com 731/111 GST 104 (Madras), dated 21.07.2025*
8.	*W.A.Nos.2389 & 1397/2024*	*The Joint Commissioner of GST and Central Excise Salem Commissionerate, Salem v. Titan Company Ltd., dated 27.03.2025*
9.	*W.P.(C).4853/2025 CM APPL 22194/2025 CM APPL 22195/2025*	*Ambika Traders v. Additional Commissioner [2025] 177 taxmann.com 134 (Delhi), 29.07.2025*
10.	*W.P.No.19381/2024*	*06.01.2025*

7. The High Court at Madras dealt with this issue in Titan Company Ltd. (supra). In this case, while dealing with the question of bunching of show cause notices for five different assessment years, the Hon'ble High Court at Madras, after referring to the judgment of a Constitution Bench of the Hon'ble Supreme Court in Caltex India Ltd. (supra), had held that a single show cause notice cannot be issued for more than one financial year. However, since the issue was before the Hon'ble High Court of Madras, at the stage of show cause notice, the respondents were directed to consider the application of the petitioner for splitting up the show cause notices. An appeal was filed against the said order and the said decision was not disturbed and directions were issued to essentially comply with the directions given by the learned Single Judge.

8. The aforesaid judgment of the Hon'ble High Court of Madras was followed by the Hon'ble High Court of Karnataka in M/s. Bangalore Golf Club (supra), which quashed the show cause notices issued in relation to five assessment years.

9. Subsequently, the Hon'ble High Court at Madras had an occasion to consider this issue again in Ms. RA and Co (supra). A learned Single Judge, after an elaborate discussion of the provisions of the Act, had held as follows:

28. To put in a nutshell, this Court pass the following orders:

(i) The GST Act permits only for issuance of show cause notice based on the tax period. Therefore, if the annual return is filed, the entire year would be considered as a tax period and accordingly, the show cause notice shall be issued based on the said annual returns.

(ii) If show cause notice is issued before the filing of annual returns, the same can be issued based on the filing of monthly returns;

(iii) If show cause notice is issued after the filing of annual returns or after the commencement of limitation, the said notice shall be issued based on the annual returns with regard to the relevant financial year.

(iv) No show cause notice can be clubbed and issued for more than one financial year since the same is impermissible in law.

(v) In this case, without any jurisdiction, the impugned order came to be passed for more than one financial year, which is impermissible in law and hence, the same is liable to be quashed. Accordingly, the impugned order stands quashed based on the aspect of clubbing of impugned assessment order for more than one financial year.

10. The Hon'ble High Court of Kerala in the case of Joint Commissioner (Intelligence & Enforcement) v. Lakshmi Mobile Accessories [2025] 171 taxmann.com 214/108 GST 750/95 GSTL 356 (Kerala), had independently arrived at the conclusion that a single show cause notice cannot be issued for more than one assessment / financial year. Subsequently a Division Bench of the Hon'ble High Court of Kerala considered the question of whether a composite show cause notice can be issued and separate orders for each assessment year could be passed on the basis of such a composite show cause notice. The Hon'ble High Court of Kerala held that such a course of action is not permissible.

11. On the other hand, the Hon'ble High Court of Delhi in Ambika Traders (supra), had held that a composite show cause notice can be issued in relation to any number of assessment periods / years. The Hon'ble High Court at Bombay had taken the same view on the ground that there was nothing in Section 74, which prohibited an authority from issuing a notice for any period, provided said notice is given at least six months prior to the time limit specified under Section 74 (10). In the light of the conflicting decisions, a review of the relevant provisions would be necessary.

12. The relevant provisions are Sections 2(97), 2(106), 39(1) & (2) Section 44(1) and Sections 73 and 74, which read as follows:

> *2(97) "return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;*
>
> *2(106) "tax period" means the period for which the return is required to be furnished;*
>
> *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 shall, for every calendar month or part thereof, furnish, in such form, manner and within such time as may be prescribed, 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 as may be prescribed.*
>
> ***Provided** that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.*
>
> *Section 39(2) A registered person paying tax under the provisions of section 10shall, for each quarter or part thereof, furnish, in such from and manner as may be prescribed, a*

return, electronically, of turnover in the state inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.

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 for every financial year electronically in such form and manner as maybe prescribed on or before the thirty-first day of December following the end of such financial year.

(2) xxxxxx

Section 73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willful misstatement 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 utilized for any reason, other than the reason of fraud or any willful-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 utilized input tax credit, requiring him to show cause 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 subsection (1) at least three months prior to the timelimit 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 astatement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized 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 subsection (1), subject to the condition that the grounds relied upon for such tax 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) or, as the case maybe, the statement under sub-section (3) pay the amount of tax along with interest payable thereon under section 50on 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 subsection (1) or sub-section (3) pays the said tax along with interest payable under section 50within 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 subsection (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 utilized 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.

Section 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized 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 utilized by reason of fraud, or any wilful misstatement or suppression off acts 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 utilized input tax credit, requiring him to show cause 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 subsection (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 utilized 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 subsection (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any willful-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 subsection (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 subsection (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 utilized 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

Explanation-I:- 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 sections122, 125, 129 and 130 are deemed to be concluded.

Explanation II:- 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.

13. The scheme of the Act, is that GST is payable on supplies of goods and services, at the rates fixed under the schedules and notifications that would be issued by the GST Council. This GST is assessed and calculated as per the provisions set out in the Act. The provisions under Section 62 providing assessment of non-filers of returns and Section 63 providing assessment of unregistered persons etc., can be ignored for the purpose of this case. The primary provisions for determination of tax are Sections 73 and 74.

14. Section 73 is applicable where tax has not been determined and paid properly, for reasons other than fraud or willful-misstatement or suppression of facts. Section 74 applies to determination of tax where such tax has not been properly determined or tax not paid or calculated on account of fraud, willful-misstatement or suppression of facts. Both these provisions envisage issuance of notice to the registered person for bringing to his attention, the view of the competent authority that appropriate tax has not been disclosed and paid.

15. The question that has now arisen is whether such a notice has to be given only in relation to specified period or whether such a notice can be given for any period. The further question would be whether one order of

assessment/penalty has to be passed for each specified period or whether it can be issued, in relation to any period.

16. For this purpose, Section 73(3) and (4) are relevant. Under Section 73(3) the notice that has to be issued can be for "any period". The Hon'ble High Court of Delhi, in the aforesaid judgment, had held that the term "any period" cannot be restricted to a specified period but would mean any length of period. The Hon'ble High Court at Madras had taken the opposite view. The Hon'ble High Court at Madras held that while the term "any period" has been used in Section 73(3), the language in Section 73(4) is "such tax periods". The Hon'ble High court at Madras then went into the definition of tax period as specified in Section 2(106) to mean that a period for which a return is to be filed. Since return, as defined in Section 2(97) is a return for a month or a year, the Hon'ble High Court at Madras had come to the conclusion that the term "any period" would have to be understood, in the light of the use of the term "such tax periods" in Section 73(4) and consequently "any period" would have to be understood to be a tax period. We would respectfully follow the view taken by the Hon'ble High Court at Madras, in as much as, the effect of Section 73(4) and Section 73(3) had not been brought to the notice of the Hon'ble High Court of Delhi. With all due respect, the interpretation, of the interplay between Section 73(3) and Section 73(4), placed by the Hon'ble High Court at Madras appears to be the correct interpretation.

17. Section 74(3) is in parimateria with Section 73(3). However, subsection (4) of Section 74 does not contain the term "such tax period". This non mention would not, in our opinion, make any difference to the aforesaid interpretation. Apart from this, there are certain other provisions, which would also have to be considered. Any interpretation of an Act should not result in some of the other provisions becoming otiose or reduced in scope. As rightly pointed out by the Hon'ble High Court at Madras, the right of a registered person to obtain benefit under Section 128 of APGST Act as well as the right to invoke the remedy of appeal against the orders of assessment either under Section 73 or under Section 74 would get impacted if a common order is permitted to be issued in relation to more than one assessment / financial year.

18. In the circumstances, we are of the opinion that a single show cause notice or a single composite assessment order cannot be passed in relation to more than one tax period of either a month if the assessment is taken up before the due date for filing of the annual return or for more than one year if the due date for filing of annual return has been reached."

8.27 In view of the aforesaid facts and circumstances and the judgments rendered by this Court and other High Courts and the recent judgments of the Division Bench of Bombay High Court in the cases of ***Milroc Good Earth Developer*** and ***Rite Water***

Solutions (India) Ltd. (supra), in which, the judgments of the Delhi High Court in the cases of ***Ambika Traders*** and ***Mathur Polymers (supra)*** have been considered and taken note of by the Bombay High Court which has come to the conclusion that a consolidated show cause notice under Section 73 / 74 of the CGST Act is illegal and impermissible in law in addition to holding that the communication / circular dated 16.09.2025 issued by the respondents is contrary to law and the said statutory provisions, I am of the considered opinion that the no reliance can be placed upon the aforesaid judgments of the Delhi High Court or the aforesaid communication / circular dated 16.09.2025 by the respondents, whose contentions in this regard cannot be accepted. My reasons for this are summarized as under:

(i) The statutory framework and scheme underlying CGST/KGST Act will indicate that the tax payer/assessee is required to file monthly, quarterly, etc. returns as per Section 37 to Section 39 read with the Rules thereunder and that the said returns are to reflect not only the tax payable on the output services but also the input tax credit details.

(ii) The assessee is further obligated to file annual returns in respect of every financial year by the 31st day of December of the following year as per Section 44 read with the relevant rules therein. It is also to be noted that as per Section 16(4), input tax credit for the period can be taken upto 30th November of the following year. Further, as per Section 73 / 74 of the CGST Act, 2017, time limits for issuance of orders are fixed with reference to the period when annual returns are to be filed or when they are actually filed or date of erroneous refund.

(iii) For example, as per Section 73(10), order relating to the financial year 2023-24 where the annual returns should be filed by December 2024, the adjudication should be done within 3 years of this date, that is by 31st December 2027. As per Section 74(10), if the tax is short paid, not paid, etc. or the credit is availed or utilised erroneously by way of fraud, wilful misstatement or suppression facts to evade tax, the period by which orders have to be passed gets stretched to 5 years, that is by 31st December 2029. It follows there from that as per Section 75(10) if the orders are not issued within the aforementioned period, the adjudication proceedings are deemed to be concluded.

(iv) Therefore, whether the matter relates to output tax shortages or input tax credit recoveries, reference is always made to each financial year as a unit relating to which adjudication by way of determination of tax will be done; there is no difference in periods envisaged between shortage of tax on the output side and wrong availment or utilisation on the input side.

(v) It will also be pertinent to note that while investigation can be carried out over a period of time which may stretch across several financial years, when it comes to determination of tax as a result of such investigation, the time limits for issuance of show cause notices as envisaged in Section 73(2) or Section 74(2) or the orders under Section 73(10) or Section 74(10) are fixed in relation to the date of furnishing annual returns or when it should have been furnished or date of erroneous refund. The legislative intent is clear that the result of investigations may stretch across years but would lead to quantification of tax relating to each financial year before issuance of show cause notices.

(vi) It is also relevant to state that when such a show cause notice is issued, amounts are determined as payable in relation to each cause of action in each financial year. For example,

investigation of availment of input tax credit on fake invoices can stretch across several financial years from 2017 to 2025 but when quantification takes place, invoices are segregated date wise and amount wise to identify which invoice is genuine and which is fake and the availment of input tax credit in the electronic ledger is clearly identified invoice wise, year wise and subjected to proposal of disallowance in the show cause notice.

(vii) One should also keep in mind that Section 75(7) mandates that the amount of tax, interest and penalty demanded in the adjudication order issued under Section 73 or Section 74 cannot exceed the amounts proposed in the show cause notice nor can the order be passed on different grounds than that proposed in the show cause notice. Therefore, quantification of tax is definite and precise for each financial year.

(viii) Insofar as the contention of the respondents that the judgments of the Delhi High Court in ***Mathur Polymer's case(supra)*** was confirmed by the Apex Court is concerned, by its Order dated 07.11.2025, the Apex Court summarily dismissed the petition at the threshold without issuing notice to the respondents therein nor giving detailed reasons which would neither constitute

merger nor any declaration of law or a binding precedent and even this contention urged on behalf of the respondents cannot be accepted.

(ix) Insofar as the contention of the respondents that the present petition seeking to assail a mere show cause notice is not maintainable and premature is concerned, there is no gainsaying the fact that it is well settled that a show cause notice issued without proper jurisdiction is legally void/non-est and can be challenged especially if it involves a fundamental flaw of lacking legal basis or if an authority wrongly assumes jurisdiction and Courts can intervene to quash such notices because the issuing authority lacks the inherent power to initiate proceedings preventing the need for a reply or appeal; existence of a jurisdictional fact is essential for the respondents to assume jurisdiction and consequently invoke Section 73/74 of the CGST/KGST Act and in the absence of existence of such jurisdictional fact, the very invocation/assumption of jurisdiction for the purpose of issuing a show cause notice under Section 73/74 would be illegal and arbitrary and as such, the said contention urged by the respondents cannot be accepted in the light of various

judgments of the Apex Court and this Court including the judgment of the Apex Court in the case of ***Radhakrishnan Industries vs. State of Himachal Pradesh- 2021 (4) TMI 837***, wherein it was held as under:

> "*24 The High Court has dealt with the maintainability of the petition under Article 226 of the Constitution. Relying on the decision of this Court in Assistant Commissioner (CT) LTU, Kakinada and others v Glaxo Smith Kline Consumer Health Care Limited* ***AIR 2020 SC 2819****, the High Court noted that although it can entertain a petition under Article 226 of the Constitution, it must not do so when the aggrieved person has an effective alternate remedy available in law.*
>
> *However, certain exceptions to this "rule of alternate remedy" include where, the statutory authority has not acted in accordance with the provisions of the law or acted in defiance of the fundamental principles of judicial procedure; or has resorted to invoke provisions, which are repealed; or where an order has been passed in violation of the principles of natural justice. Applying this formulation, the High Court noted that the appellant has an alternate remedy available under the GST Act and thus, the petition was not maintainable.*
>
> *25 In this background, it becomes necessary for this Court, to dwell on the "rule of alternate remedy" and its judicial exposition. In Whirlpool Corporation v Registrar of Trademarks, Mumbai* ***(1998) 8 SCC 1 ("Whirlpool")****, a two*

judge Bench of this Court after reviewing the case law on this point, noted:

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

26 Following the dictum of this Court in Whirlpool (supra), in Harbanslal Sahnia v Indian Oil Corpn. Ltd. ***(2003) 2 SCC 107****, this court noted that*

*"7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1] .) The present case attracts applicability of the first two contingencies. Moreover, as noted, the appellants' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings." (****emphasis supplied****)*

27 The principles of law which emerge are that :

(i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;

(ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

(iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles

of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;

(iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

(v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

(vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

28 These principles have been consistently upheld by this Court in Seth Chand Ratan v Pandit Durga Prasad ***(2003) 5 SCC 399****, Babubhai Muljibhai Patel v Nandlal Khodidas Barot* ***(1974) 2 SCC 706*** *and Rajasthan SEB v. Union of India,* ***(2008) 5 SCC 632*** *among other decisions."*

Point No.(i) is accordingly answered in favour of the petitioner/tax payer/assessee by holding that clubbing/ consolidation/ bunching/ combining of multiple tax periods/financial years in a Solitary/Single/Composite Show cause notice issued under Section 73/74 of the CGST/KGST Act is illegal, invalid, impermissible and without jurisdiction or authority of law and contrary to the provisions of the CGST/KGST Act.

Re: Point No.(ii);

9. While dealing with **Point No. (i)** supra, I have already come to the conclusion that clubbing / consolidation / bunching/ combining of multiple tax periods/financial years in a Solitary/Single/Composite Show cause notice issued under Section 73 / 74 of the CGST / KGST Act is illegal, invalid, impermissible and without jurisdiction or authority of law and contrary to the provisions of the CGST / KGST Act. In the instant case, a perusal of the impugned Show cause notice dated 30.09.2025 will indicate that the same encompasses and pertains to multiple tax periods/financial years, viz., from 2019-20 to 2023-24, which is impermissible in law and consequently, the impugned Show cause notice and all further proceedings pursuant thereto are also vitiated

and deserve to be quashed reserving liberty to the respondents to initiate any action/proceedings in accordance with law.

Point No.(ii) is also accordingly answered in favour of the petitioner/tax payer/assessee by holding that the impugned Show cause notice dated 30.09.2025 issued by the 4th respondent to the petitioner for the tax periods/financial years from 2019-20 to 2023-24 under Section 74 of the CGST/KGST Act is illegal, invalid, impermissible, arbitrary and without jurisdiction or authority of law and contrary to the provisions of the CGST/KGST Act and the impugned show cause notice and all further proceedings, orders, notices pursuant thereto deserve to be quashed by reserving liberty in favour of the respondents to initiate proceedings in accordance with law.

10. In the result, I pass the following:

ORDER

(i) Petition is hereby allowed.

(ii) The impugned show-cause notice at Annexure-A dated 30.09.2025 issued by respondent No.4 and all further proceedings, orders, notices etc., pursuant thereto initiated/to be initiated by the respondents are hereby quashed.

(iii) The respondents are however reserved liberty to initiate appropriate proceedings in accordance with law and if such proceedings are initiated by the respondents, petitioner would be entitled to contest / defend the same in accordance with law.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

BMC/SRL