



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO.1935/2026

Kohli Road Lines, thr. its Partner .Vs. Joint Commissioner, CGST & C.Ex. Audit,
Commissionarate, Nagpur.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Abhishek Naik with Ms Kaumudi Deshpande, Advocates for petitioner.
Mrs. Ketki Jaltare, Advocate for respondents.

CORAM : **ANIL L. PANSARE AND NIVEDITA P. MEHTA, JJ.**

DATE : **MARCH 13, 2026.**

Heard.

2] Challenge is to the show cause notice dated 06/08/2025 issued under Section 74 of The Central Goods and Services Tax Act, 2017 (for short "CGST Act") by respondent no.1- Joint Commissioner, CGST & C. EX. Audit. The notice issued pertains for Financial years 2019-20 to 2022-23. The impugned proceedings, during this period, proceeded on the erroneous premise that, (i) petitioner has not paid GST on reverse charge basis on transportation services and, (ii) non-reversal of ITC awaited on services attributable to exempt services.

3] The argument is that clubbing of period, while issuing notice under Section 74 of the CGST Act, is not permissible. The Counsel for the petitioner submits that the issue involved is covered by a judgment passed by the 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 relevant provisions of the CGST Act, 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 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 except 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."

4] 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.

5] The aforesaid judgment was then considered by the Division Bench of this Court in *Rite Water Solutions (India) Ltd. Vs. Joint Commissioner, CGST & Central Excise, Nagpur and Ors. [Writ Petition No. 466/2025 decided on 28/11/2025]*, wherein, the Court reiterated that there is no scope for consolidating various financial years/tax period while issuing show cause notice under Section 74 of the CGST Act.

6] The Counsel for respondent nos. 1 and 2 opposed the contentions by saying that clubbing of notice is permissible. She referred to the judgment of the Division Bench of the High Court of Delhi in *M/s Mathur Polymers Vs. Union of India & Ors.* [WP(C) 2394/2025 decided on 26/8/2025], wherein, the Court referred to its earlier judgment, and held as under:

"22. Thus, this Court is of the opinion that in cases involving allegations of fraudulent avilment of ITC, where the transactions are spread across several years, a consolidated notice may in fact be required in such cases in order to establish the illegal modality adopted by such businesses and entities. The language of the legislation, itself, does not prevent issuance of SCN or order for multiple years in a consolidated manner."

7] The Counsel for respondent nos. 1 and 2 submits that the judgment of the Delhi High Court was tested before the Hon'ble Supreme Court in Special Leave Petition (Civil Diary No. 50279/2025, wherein, the Supreme Court declined to interfere with the impugned judgment. Accordingly, the Counsel argued that the law laid down by the Delhi High Court has attained finality.

8] True it is that the judgment of the Delhi High Court has attained finality, however, concept of merger of judgment will not apply here because the Hon'ble Supreme Court has dismissed the petition in limine and not on merit.

9] There is another reason why we find that the judgments of the High Court of Bombay will prevail. In the case of *M/s. Milroc Good Earth Developers Vs. Union of India & Ors.* (*supra*) and *Rite Water Solutions (India) Ltd.* (*supra*), following amongst others were the reasons why the Court held that show cause notice consolidating various financial years/tax periods is not permissible.

I] The GST Scheme is based on annual returns for each financial year (even if returns are filed monthly in practice, the liability is tied to a specific financial year.

II] The statute fixes a five year time limit for demanding and recovering tax from due date for furnishing annual return for that year or from the date of erroneous return (Sections 73(10)

and 74(10) of the CGST Act as applicable). This limit runs separately for each year.

III] If issued a single SC covering multiple years, you would be aggregating different tax period with different due dates and different limitations, which the statute does not permit.

IV] Tax period is defined (Section 2(106) of the CGST Act) as the period, for which the return is required to be furnished. Return can be monthly or yearly, but the statute treats each financial year as a separate tax period for the purpose of assessment and recovery (Sections 39, 44, 37, 50, etc.).

V] Time limit operate year by year. Section 73(10) and 74(10) of the CGST Act fix the time limit to issue an assessment order within three years (Section 73) or five years (Section 74) from the last date for filing annual return for the year to which the tax dues relate.

VI] Consolidation would collapse these years, specific steps and grounds, harming the tax payers' ability to respond year by year and violating the explicit year wise structure of the statute. These niceties, in our view, were not considered by the Delhi High Court.

10] The Division Bench of this Court in *Commissioner of Income-tax, Vidarbha and Marathwada, Nagpur Vs. Smt. Godavaridevi Saraf Tumsar [1978 (2) ELLJ 624 Bombay]* held that until a contrary decision is given by any other competent High Court, which is binding on Tribunal in the State of Bombay, it has to proceed on the footing that the law declared by the High Court, though of another State, is the final law of land.

11] In the present case, since this Court has, subsequent to decision of the Delhi High Court, taken a different view, the authorities below will be bound by the subsequent judgments. The Hon'ble Supreme Court has neither stayed nor overruled the view taken in above two cases. The argument of Counsel for respondent nos. 1 and 2, therefore, cannot be accepted.

12] The Counsel for respondent nos. 1 and 2 submits that to the best of her knowledge, a proposal to challenge the judgments in *Milroc Good Earth Developers (supra) and Rite Water Solutions (India) Ltd. (supra)*, is under consideration. Thus, it is suggested that judgments in both cases are likely to be challenged before the Hon'ble Supreme Court.

13] If that be so, the purpose will be served if the respondents are given opportunity to revive the petition, if the judgments passed by the High Court of Bombay in aforesaid two cases, are set aside.

14] With the above liberty, and for the reasons set out in *Milroc Good Earth Developers (supra) and Rite Water Solutions (India) Ltd. (supra)*, the petition is partly allowed. The show cause notice dated 06/08/2025 issued by respondent no. 1 is quashed and set aside. The respondents, however, are at liberty to re-issue notice strictly in terms of the provisions of Section 74 of the CGST Act, if there is no other legal impediment.

15] The petition is disposed of in above terms. No order as to costs.

(JUDGE)

(JUDGE)