

GAHC010109182025



2026:GAU-AS:8028

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2922/2025

M/S TATA PROJECTS LIMITED, ASSAM
REPRESENTED BY RAJENDRA KUMAR SHARMA, DEPUTY GENERAL
MANAGER - FINANCE AND ACCOUNTS, HAVING OFFICE AT
JAGABANDHU APARTMENT, FLAT NO. F3 (4TH FLOOR), BHANGAGARH,
OPP. HUB MALL, G.S ROAD, GUWAHATI, ASSAM

VERSUS

UNION OF INDIA AND 4 ORS
THROUGH THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF
FINANCE, NORTH BLOCK, NEW DELHI-110001

2:STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
GROUND FLOOR
F BLOCK
JANATA BHAWAN
DISPUR
GUWAHATI-781006

3:ADDITIONAL COMMISSIONER
OFFICE OF THE COMMISSIONER (AUDIT)
CGST
SHILLONG
PLOT NO. 47
BISHOP COTTON ROAD
4TH FURLONG
SHILLONG-793001

4:JOINT COMMISSIONER

CGST AND CX
GUWAHATI
GST AND CENTRAL EXCISE COMMISSIONERATE
GUWAHATI GST BHAWAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001

5:COMMISSIONER (APPEALS)
CGST
CENTRAL EXCISE AND CUSTOMS
3RD FLOOR
GST BHAVAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-78100

Advocate for the Petitioner : MR G K DEKA, S RABHA,MR. A M BARUAH

Advocate for the Respondent : DY.S.G.I., SC, FINANCE,SC, GST

Linked Case : WP(C)/20/2026

M/S QUANTUM INFRATECH
ASSAM
REP. BY MR. MAYANK BANSAL ADDRESS HAVING OFFICE AT PARNIL
PALACE
2ND FLOOR
R.G.B. ROAD
GUWAHATI
KAMRUP (METROPOLITAN)
ASSAM-781024.

VERSUS

THE UNION OF INDIA AND 5 ORS.
THROUGH THE SECRETARY
DEPARTMENT OF REVENUE
MINISTRY OF FINANCE
NORTH BLOCK
NEW DELHI - 110001

2:STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT
OF ASSAM
FINANCE AND TAXATION DEPARTMENT
GROUND FLOOR
F BLOCK
JANATA BHAWAN
DISPUR
GUWAHATI-781006.

3:DEPUTY DIRECTOR

DGGI GUWAHATI ZONAL UNIT
H.N. 77
RUPKONWAR JYOTI PRASAD AGARWAL ROAD
OPP. SRIMANTA SANKARDEVA KALAKSHETRA
P.O. PANJABARI
GUWAHATI-781037.

4:ASSISTANT COMMISSIONER

CGST AND CENTRAL EXCISE
GUWAHATI DIVISION-II
GST BHAWAN
KEDAR ROAD
FANCY BAZAAR
GUWAHATI-781001.

5:ADDITIONAL COMMISSIONER (APPEALS)

CGST
CENTRAL EXCISE AND CUSTOMS
3RD FLOOR
GST BHAWNA
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001.

6:COMMISSIONER (APPEALS)

CGST
CENTRAL EXCISE AND CUSTOMS
3RD FLOOR
GST BHAVAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001.

Advocate for : MR G K DEKA
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS.

Linked Case : WP(C)/1113/2026

BITCHEM ASPHALT TECHNOLOGIES LIMITED
REPRESENTED BY ITS AUTHORIZED REPRESENTATIVE MR. RASHMI
RANJAN ROUT
HEAD FINANCE AND IT
HAVING ITS REGISTERED OFFICE AT ANIL PLAZA
3RD FLOOR
NEAR IDBI BANK
G.S. ROAD
GUWAHATI
ASSAM781005.

VERSUS

UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
ROOM NO. 76
NEW DELHI -110001.

2:CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
DEPARTMENT OF REVENUE
MINISTRY OF FINANCE
DIRECTORATE OF LEGAL AFFAIRS
4TH FLOOR
RAJENDRA BHAWAN
210 DEEN DAYAL UPADHAYAY MARG
NEW DELHI 110002

3:PRINCIPAL COMMISSIONER

GST AND CENTRAL EXCISE COMMISSIONERATE
GUWAHATI
GST BHAVAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001.

4:JOINT COMMISSIONER
GST AND CENTRAL EXCISE COMMISSIONERATE

GUWAHATI
GST BHAVAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001.

5:OFFICE OF SUPERINTENDENT
CGST RANGE-IC
GUWAHATI
GST BHAVAN
KEDAR ROAD
MACHKHOWA
GUWAHATI781001.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. B. Raichandani, Advocate
: Mr. D. Das, Advocate

For the Respondent(s) : Mr. S. C. Keyal, Senior Advocate, CGST
: Mr. K. Jain, Advocate

- Date on which Judgment was reserved : **12.05.2026**
- Date of Pronouncement of Judgment : **08.06.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : N/A
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (CAV)

Heard Mr. B. Raichandani, the learned counsel appearing on behalf of the Writ Petitioners in WP(C) No.2922/2025 and WP(C) No.20/2026 and Mr. D. Das, the learned counsel appearing on

behalf of the Petitioner in WP(C) No.1113/2026. I have also heard Mr. S. C. Keyal, the learned Senior counsel assisted by Mr. K. Jain, the learned counsel appearing on behalf of the Respondents.

2. The writ petitioners in the three writ petitions have alternative and efficacious remedy under the provisions of the Central goods and Service Tax Act, 2017 (for short 'the Act of 2017'). However, the writ petitioners have approached this Court raising a common jurisdictional issue on the maintainability of the proceedings initiated against them. It is under such circumstances, the three writ petitions are taken up for disposal by this common judgment and order.

3. The jurisdictional issue which has been raised in the batch of writ petitions is as to whether the Proper Officer in exercise of the powers conferred under Section 73 or Section 74 of the Act of 2017 would have the jurisdiction to issue a consolidated show cause notice encompassing different financial years.

4. It is the specific case of the Petitioners in the present batch of writ petitions that if the jurisdictional issue is decided in their favour, the entire proceedings which have been initiated against them would be without jurisdiction and accordingly, the orders

which have been assailed in the present proceedings cannot withstand the scrutiny of law.

5. Per contra, Mr. S. C. Keyal, the learned Senior counsel for the CGST submitted that the jurisdictional question which has been raised is a completely misconceived one taking into account the language employed in Sections 73 and 74 of the Act of 2017. Under such circumstances, it is therefore the submission of the learned Senior counsel for the Respondents that as the Petitioners have alternative and efficacious remedies which are available under the Act of 2017, this Court may not like to entertain the present batch of writ petitions.

6. In the backdrop of the above, it is the opinion of this Court that the settled principles of law advocates the necessity of deciding the jurisdictional issue and depending upon the outcome, this Court may pass appropriate directions.

7. A brief summary of the facts which led to the filing of the writ petitions are required to be examined for deciding the jurisdictional issue which are dealt herein under:

CONSPECTUS OF FACTS IN THE THREE WRIT PETITIONS:

WP(C) No.2922/2025:

8. The Petitioner herein is a public limited company registered under the provisions of the Act of 2017. The Petitioner is engaged in the supply of works contract services. The Respondent Department had conducted an audit of the records of the Petitioner for the Financial Year 2017-18 (from July, 2017 onwards) to 2021-22 (till March, 2022). The Final Audit Report dated 13.12.2023 was issued in FORM GST ADT-02. It is the case of the Petitioner that during the course of the audit as well as subsequent thereto, the Petitioner had paid various amounts.

9. Be that as it may, on 27.12.2023, a Show Cause Notice was issued under Section 74(1) of the Act of 2017 for the periods from 2018-19 to 2021-22. On the next date, i.e. on 28.12.2023, another Show Cause Notice was issued under Section 73(1) of the Act of 2017 for the period from 2018-19. Pursuant thereto, the Petitioner participated in the said proceedings and thereupon, an Order-in-Original dated 30.04.2024 was passed. Being aggrieved, the Petitioner preferred an appeal before the Respondent No.5. On 06.02.2025, the Respondent No.5 confirmed the demand as proposed in the Show Cause Notices dated 27.12.2023 and

28.12.2023. It is under such circumstances, the Petitioner had approached this Court by filing the present writ petition.

10. At this stage, it is pertinent to observe that in terms with Section 112 of the Act of 2017, any person aggrieved by an order passed against him under Section 107 or Section 108 of the Act of 2017 or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within a period of 3 (three) months from the date on which the order sought to be appealed against was communicated to the person preferring the appeal or the date as may be notified by the Government, on the recommendation of the GST Council, for filing the appeal before the Appellate Tribunal under the Act of 2017 whichever is later.

11. The records reveal that this Court vide an order dated 09.06.2025 issued notice and passed an interim order to the effect that no coercive action shall be taken against the Petitioner in terms with the Order-in-Appeal dated 06.02.2025. The interim order thereupon had been extended from time to time.

12. The records reveal that an affidavit-in-opposition had been filed by the Respondents on 04.02.2026 and a reply thereagainst

was filed by the Petitioner on 19.02.2026.

WP(C) No.20/2026:

13. The Petitioner herein is a partnership firm registered under the Act of 2017. The Petitioner is engaged in construction of residential buildings. The materials on record show that the Respondent Department conducted search operations on 29.03.2023 at the principal place of business as well as other business premises of the Petitioner. In addition to that, searches were also carried out at the residences of the partners and accountant of the Petitioner on 29.03.2023 and 03.04.2023.

14. Pursuant thereto, summons were issued on 29.03.2023 and 03.04.2023 to the partners as well as the accountant of the Petitioner for the purpose of recording their statement on the said dates. On the basis of the summons, the statements of the partners as well as the accountant were recorded on 29.03.2023 and 03.04.2023.

15. Subsequent thereto, during investigation, the Department issued further summons dated 30.08.2023 and 01.11.2023 to the Petitioner. The Petitioner neither appeared for recording of the statements nor furnished the records/documents as sought for.

Rather, the Petitioner vide letters dated 11.09.2023 and 09.11.2023 raised objections by referring to Section 67(2) read with Section 160(2) of the Act of 2017. Pursuant thereto, a Show Cause Notice was collectively issued under Section 74(1) read with Section 122(1A) and Section 122(3)(a) of the Act of 2017 on 03.08.2024 against the Petitioner, its partners and Accountant. The said Show Cause Notice pertained to the period from July, 2017 to March, 2023.

16. The Petitioner on receipt of the said Show Cause Notice submitted a letter on 14.08.2024 to the Respondent No.3 requesting issuance of separate Show Cause Notices under Section 74 of the Act of 2017 to the Noticee Nos. 2, 3 and 4 i.e. the partners and the accountant of the Petitioner. However, no reply was filed by the Petitioner or its partners as well as the Accountant.

17. Hearings were conducted on 13.01.2025 and 20.01.2025. The Order-in-Original dated 04.02.2025 was passed by the Respondent No.4. The Petitioner filed six Appeals and its partners filed two separate appeals against the Order-in-Original dated 04.02.2025. The Respondent No.5 passed the Order-in-Appeal dated 26.08.2025 thereby confirming the demand as was passed in the

Order-in-Original dated 04.02.2025. Being aggrieved, the Petitioner had filed the instant writ petition.

18. It may not be out of place to mention that the two partners of the Petitioner who have been imposed penalty under Section 122(1A) of the Act of 2017 have filed separate writ petitions before this Court which are registered and numbered as WP(C) No.24/2026 and WP(C) No.25/2026 wherein separate jurisdictional issues have been raised and as such, the said writ petitions are separately dealt with by a separate judgment and order. It may not be out of place to mention that if the jurisdictional issue raised by the Petitioner herein is adjudicated in favour of the Petitioner, the jurisdictional issues raised in the writ petitions filed by the partners need not be gone into.

19. This Court vide an order dated 07.01.2026 issued notice and directed that no coercive action in pursuance to order passed by the Respondent Authorities be initiated against the writ petitioner. The interim order thereupon had been extended from time to time. The Respondents in the instant proceedings have not filed any affidavit-in-opposition.

WP(C) No.1113/2026:

20. The Petitioner herein is a company incorporated under the provisions of the Companies Act, 1956 and is also registered under the Act of 2017.

21. The Petitioner is engaged in the business of supply of road building materials and operates under its brand name "Bitchem", offering a wide range of products, including Bitumen Emulsion, patented Bitchem Tailor-Made Cold Binder, Bitumen, Modified Bitumen, Ready Mix for Pothole Repair, LDO, Anti-Stripping Agents and Soil Stabilization solutions.

22. The Petitioner was issued a Show Cause Notice under Section 74 of the Act of 2017 on 25.06.2025 along with the summary of the Show Cause Notice under FORM GST DRC-01 clubbing together Financial Years 2018-19 to 2020-2021 alleging inter alia that the Petitioner misstated/ underreported its taxable turnover for the Financial Years 2018-19 to 2020-21 and thereby evaded payment of GST. The Petitioner was called upon to show cause as to why GST amounting to Rs.12,34,73,490/- along with applicable interest under Section 50 and penalty should not be demanded and recovered from the Petitioner.

23. The Petitioner submitted replies on 25.07.2025 separately for the Financial Year 2018-19, 2019-20 and 2020-21. Thereupon, hearings were conducted on 20.08.2025, 18.09.2025, 08.10.2025 and 24.10.2025. Subsequent thereto, the Respondent No.4 passed the Order-in-Original dated 28.11.2025. The Petitioner instead of availing remedies under Section 107 of the Act of 2017, had approached this Court by filing the present writ petition.

24. The records reveals that this Court vide an order dated 27.02.2026 issued notice and further directed that no coercive action be taken against the Petitioner. The interim order thereupon had been extended from time to time.

25. In the backdrop of the aforementioned facts, let this Court consider the respective submissions of the learned counsels for the parties in respect to the jurisdictional issue raised on the competence of the Proper Officer to issue a consolidated Show Cause Notice encompassing various financial years.

SUBMISSIONS MADE ON BEHALF OF THE LEARNED COUNSELS FOR THE PARTIES:

26. Mr. B. Raichandani, the learned counsel appearing on behalf of the Petitioners in WP(C) No.2922/2025 and WP(C) No.20/2026 and

Mr. D. Das, the learned counsel appearing on behalf of the writ petitioner in WP(C) No.1113/2026 submitted as under:

(A) The entire statutory architecture of the Goods and Service Tax regime is built around distinct tax period and independent financial years. Returns are filed tax period wise under Section 39 of the Act of 2017. Annual returns are filed financial year wise under Section 44. Limitation under Sections 73(10) and 74(10) of the Act of 2017 is computed separately for each financial year. Maintenance of books and records is also financial year specific. It is therefore the submission of the learned counsels for the Petitioners that the Act of 2017 itself recognizes every financial year as an independent unit for determination of tax liability. The learned counsels further submitted that Section 2(11) of the Act of 2017 defines "assessment" to mean determination of tax liability under the Act of 2017 and specifically include self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment. A proceeding under Section 73 and 74 of the Act of 2017 is nothing but determination of tax liability and therefore squarely fall within the definition of assessment. It was further submitted that Section 73 or Section 74 of the Act of 2017 are only substantive provisions through which a self-assess return filed under Section 39 of the Act of 2017 can be reopened and

reassessed by the Department. Therefore, a proceedings under Section 73 or 74 of the Act of 2017 are not separate from assessment but a part of the overall statutory assessment mechanism.

(B) The learned counsels appearing on behalf of the Petitioners further submitted that the statutory framework as envisaged in the Act of 2017 stipulates as to how the various forms of assessment are to be carried out. Referring to Section 59 of the Act of 2017, the learned counsels submitted that the said Section deals with "self-assessment". Likewise, Section 61 of the Act of 2017 stipulates about "scrutiny of returns". Section 62 of the Act of 2017 is in respect to "best judgment assessment". Section 63 mentions about assessment of unregistered persons. Section 64 of the Act of 2017 mentions about "summary assessment" and Sections 73 and 74 of the Act of 2017 determines tax liabilities arising from alleged short payment or wrongful availment. It is therefore the submission of the learned counsels for the Petitioners that the proceedings under Section 73 or 74 of the Act of 2017 is a part of determination of the tax liability and as such, has to be construed as falling within the ambit of Section 2(11) of the Act of 2017.

(C) The learned counsels for the Petitioners further submitted

that there is no scope for consolidating multiple financial years/tax periods while issuing of notice under Section 74 of the Act of 2017, as it goes against the very statutory scheme under the Act of 2017. The learned counsels further submitted that inserting Section 73(10) and Section 74(10) of the Act of 2017 by the Legislature, the legislative intent is very clear that proceedings under Sections 73 and 74 of the Act of 2017 had to be initiated financial years wise and not consolidated financial years wise. The legislative intent is based upon the prejudice which would be caused upon the assessee inasmuch as, distinct years may have distinct defences, distinct limitation periods and even different statutory provisions. In this regard, the learned counsels appearing on behalf of the Petitioners submitted that there are various judgments of the High Courts supporting the point in issue in favour of the Petitioners that there cannot be initiation of consolidated Show Cause proceedings under Section 73 or 74 of the Act of 2017 for multiple financial years. In that regard, the learned counsels referred to the following judgments:

- (i) ***M/S Tharayil Medicals Vs. The Deputy Commissioner [2025-TIOL-828-HC-KERALA-GST];***
- (ii) ***Dhanlaxmi Bank Limited & Another Vs. Union of India &***

Others [2026-TIOL-353-HC-KERALA-GST];

- (iii) M/S Oriental Lotus Hotel Supplies Private Limited Vs. The Joint Commissioner, Chennai GST Audit II, Commissionerate [2025-TIOL-1869-HC-MAD-GST];***
- (iv) Titan Company Ltd. Vs. Joint Commissioner of GST & C. Ex. & Another [2024 (1) TMI 619];***
- (v) Milroc Good Earth Developers Vs. Union of India [WP 2203/2025];***
- (vi) Marfani Steel Impex Vs. Principal Commissioner, CGST & Central Excise, Nagpur, [(2026) 39 Centax 300 (Bom.);***
- (vii) Aasawa Brother Corporate Avenue Vs. Union of India & Others., [WP No.11644 of 2025]; and***
- (viii) Uber India Systems Private Limited Vs. Deputy Commissioner of Central Tax Superintendent [WP No.19740/2024].***

(D) In addition to that, the learned counsels for the Petitioners also submitted that a perusal of Section 73(10) and Section 74(10)

of the Act of 2017 would show that the Proper Officer shall issue the order under Section 73(9) or Section 74(9) of the Act of 2017 within 3 years or 5 years respectively 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 3 years or 5 years from the date of erroneous refund. The learned counsels submitted that the phrase “the financial year to which relates” as appearing in Section 73(10) and Section 74(10) of the Act of 2017 is a term of jurisdictional significance inasmuch as limitation runs independently for each financial year calculated from the financial year due date for annual return. It was submitted that 3 (three) or 5 (five) financial years means 3 (three) or 5 (five) independent windows of limitation which would be 3 (three) or 5 (five) separate causes of action and 3 (three) or 5 (five) separate basis of jurisdiction respectively. This limitation periods so mentioned in Section 73(10) and 74(10) of the Act of 2017 cannot be carried over cumulatively as they are structurally isolated. In that regard, Paragraph Nos. 8.4 – 8.6 of the judgment in the case of ***Pramur Homes and Shelters Vs. Union of India and Others*** reported in ***MANU/KA/4378/2025*** have been relied upon.

(E) The learned counsels further submitted that the insertion of

Section 74A by the Finance Act, 2024 w.e.f. 01.11.2024 and applying the same to financial year 2024-25 onwards as well as the insertion of Section 73(12) and Section 74(12) by the Finance Act, 2024 w.e.f. 01.11.2024 clearly signifies the legislative scheme and intent that the proceedings which are to be initiated under Section 73 as well as Section 74 of the Act of 2017 have to be financial year specific.

27. Per contra, Mr. S. C. Keyal, the learned Senior counsel for the Respondents submitted that a combined reading of Sections 73(1), 73(3), 74(1) and 74(3) of the Act of 2017 clearly demonstrates that the statute permits issuance of notice and statements for any period and such period without restricting the same to a single financial year. Referring to Sub-Sections (3) and (4) of Sections 73 and 74 of the Act of 2017 respectively, the learned Senior counsel submitted that these Sub-Sections contemplate issuance of statement for period other than those covered under Sub-Section (1) of Sections 73 and 74 of the Act of 2017 which are deemed to be notices for the purpose of adjudication. The use of the expression "for any period" and "for such periods" unmistakably indicates that the legislature consciously permitted consolidated proceedings in respect of multiple years. The said aspect is in clear contrast with Section 73(10) and 74(10) of the Act of 2017 where

the expression “financial year” has been specifically employed only for the purpose of computation of limitation for passing adjudication orders. Consequently, while limitation is to be reckoned independently for each financial year, there exists no statutory embargo against issuance of consolidated Show Cause Notice for multiple years.

28. The learned Senior counsel therefore submitted that clubbing of multiple financial years in one Show Cause Notice is merely procedural in nature and does not extend, override or dilute the statutory timelines prescribed under the Act of 2017. It was further submitted that the issuance of the consolidated Show Cause Notices also served upon object of administrative efficiency by avoiding multiplicity of proceedings, repeated adjudication and conflicting findings. Such consolidation is equally beneficial to the tax payer as it reduces repetitive litigations and permit holistic adjudication of transactions spread across several years particularly in cases involving fraudulent availment or utilization of input tax credit. The learned Senior counsel further submitted that the issue as to whether it is permissible to issue a consolidated Show Cause Notice thereby encompassing various financial years is no longer res-integra in view of the authoritative pronouncement of various Courts. In that regard, the learned Senior counsel referred to the

judgment of the Delhi High Court in the case of ***Ambika Traders through Proprietor Vs. Additional Commissioner, Adjudication, DGGSTI, CGST, Delhi North*** reported in ***2025 SCC OnLine Del 6913***.

29. The learned Senior counsel appearing on behalf of the Respondents further submitted that a Special Leave Petition was filed against the judgment of the Delhi High Court in the case of ***Ambika Traders (supra)*** before the Supreme Court. However, the said Special Leave Petition was withdrawn on 01.09.2025.

30. The learned Senior counsel further referred to the judgment of the Delhi High Court in the case of ***M/S Mathur Polymers Vs. Union of India and Others*** reported in ***2025 SCC OnLine Del 6892*** wherein the judgment in the case of ***Ambika Traders (supra)*** was followed. The learned Senior counsel for the Respondents further submitted that a Special Leave Petition was filed against the judgment in the case of ***M/S Mathur Polymers (supra)***. However, the Special Leave Petition was also dismissed but with a categorical observation by the Supreme Court in its order dated 07.11.2025 that the Supreme Court did not find any good ground and reason to interfere with the judgment passed by the Delhi High Court in the case of ***M/S Mathur Polymers (supra)***.

31. The learned Senior counsel further referred to the judgment of

the Supreme Court in the case of ***Kunhayammed Vs. State of Kerala*** reported in **(2000) 6 SCC 359** and submitted that as the Supreme Court had made an observation in the order dated 07.11.2025 that there was no good ground and reason to interfere with the impugned order passed by the Delhi High Court in the case of ***M/S Mathur Polymers (supra)***, the principles of law as laid down in ***M/S Mathur Polymers (supra)*** were upheld. The learned Senior counsel further submitted referring to Paragraph No.44(v) of the judgment of the Supreme Court in the case of ***Kunhayammed (supra)*** that the statement of law contained in ***M/S Mathur Polymers (supra)*** therefore had attained the status of declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution and hence binding.

32. The learned Senior counsel further submitted that the learned Division Bench of the Allahabad High Court in the case of ***S.A. Aromatics Private Limited and Another Vs. Union of India and Others*** reported in **2026 SCC OnLine All 191** was of the clear view that it was permissible for the Proper Officer to issue a consolidated Show Cause Notice for different years. In that regard, he referred to paragraph Nos. 65 to 82 of the said judgment. The learned Senior counsel for the Respondents further referred to a recent judgment of the learned Division Bench of the Karnataka

High Court in the case of ***Commissioner of Central Tax, Bengaluru and Another Vs. Chimney Hills Education Society*** reported in **2026 SCC OnLine Kar 3836** and submitted that the judgment passed by the learned Single Judge in the case of ***Pramur Homes and Shelters (supra)*** was interfered with. The learned Senior counsel submitted that the learned Division Bench of the Karnataka High Court had held that there was no statutory bar for issuance of a common Show Cause Notice covering multiple tax periods or financial years. In that regard, reference was made to Paragraph No.57 of the said judgment.

33. The learned Senior counsel appearing on behalf of the Respondents also submitted that the statement of law laid down by the Bombay High Court in the case of ***Milroc Good Earth Developers (supra), Marfani Steel Impex (supra), Aasawa Brother Corporate Avenue (supra)*** have been referred by another learned Division Bench of the Bombay High Court in the case of ***Rollmet LLP Vs. Union of India*** reported in **2026 SCC OnLine Bom 2613** to a larger Bench by formulating 5 (five) questions.

34. The learned Senior counsel for the Respondents therefore submitted that the jurisdictional issue which have been raised in the instant proceedings is no longer res-integra in view of the

various judgments passed by the various High Courts as well as the statement of law in the case of *M/S Mathur Polymers (supra)* having been accepted by the Supreme Court in the order dated 07.11.2025 which would be a declaration of law in terms with Article 141 of the Constitution. The learned Senior counsel for the Respondents therefore submitted that the instant batch of writ petitions therefore ought not to be entertained as the Petitioners have alternative and efficacious remedy.

ANALYSIS AND DETERMINATION:

35. The Act of 2017 is an enactment to make provisions for levy and collection of tax on intra-state supply of goods or services or both by the Central Government and the matters connected therewith or incidental thereto. Section 2 of the Act of 2017 contains the various definitions.

Section 2(4) of the Act of 2017 defines the term "Adjudicating Authority" to mean any authority, appointed or authorized to pass any order or decision under the Act of 2017 but does not include the Central Board of Indirect Taxes and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the National Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal as well as

the Authority referred to in Sub-Section (2) of Section 171 of the Act of 2017. In other words, the Proper Officer who would be required to pass an order under Sections 73(9) or Section 74(9) of the Act of 2017 has to be construed as the Adjudicating Authority.

Section 2(8) of the Act of 2017 specifically defines the term "Appellate Authority" to mean the authority appointed or authorized to hear appeals as referred to in Section 107 of the Act of 2017.

Section 2(9) defines the term "Appellate Tribunal" to mean the Goods and Service Tax Appellate Tribunal constituted under Section 109 of the Act of 2017.

Section 2(11) of the Act of 2017 defines the term "Assessment" to mean determination of the tax liability under the Act of 2017 and includes self-assessment, reassessment, provisional assessment, summary assessment and best judgment assessment.

Section 2(91) of the Act of 2017 defines the term "Proper Officer" to mean an Officer in relation to any function to be performed under the Act of 2017 and means the Commissioner or the Officer of the Central Tax who is assigned that function by the Commissioner in the Board.

Section 2(106) of the Act of 2017 defines the term "Tax Period" to mean period for which the return is required to be furnished.

Section 2(117) of the Act of 2017 defines the term "Valid Return" to mean a return furnished under Sub-Section (1) of Section 39 of the Act of 2017 on which self-assessed tax have been paid in full.

It is also apposite herein to observe that Section 2(97) of the Act of 2017 defines the term "Return" to mean any return prescribed or otherwise required to be furnished by or under the Act of 2017 or the Rules made therein under.

From the definitions so provided in Section 2 of the Act of 2017, there is no definition for the term "financial year" or the phrase "for any period" or "for such periods".

36. Chapter IX of the Act of 2017 is with the heading "Returns". Section 39 of the Act of 2017 which is included in Chapter IX stipulates the requirement of furnishing returns electronically. Section 39(2) of the Act of 2017 is of relevance inasmuch as it stipulates that the registered person paying tax under the provisions of Section 10 of the Act of 2017 shall for each financial year or part thereof furnish a return electronically of the 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. The corresponding Rule in respect to Section 39(2) is Rule 62 of the Central Goods and Service Tax Rules, 2017 (for short 'the Rules of 2017').

Section 44 of the Act of 2017 deals with "Annual Return". The said annual return is to be filed for every financial year electronically within such time and in such form and in such manner as prescribed under the Rules of 2017. Rule 80 of the Rules of 2017 stipulates as to within what time, the annual return is to be submitted. The said annual return is to be submitted electronically in FORM GSTR-9 on or before 31st day of December following the end of such financial year through the common portal either directly or through a Facilitation Centre notified by the Commissioner. At this stage, it is relevant to observe that vide various notifications, amendments were carried out to Rule 80 of the Rules of 2017 by insertion of Sub-Rules (1A), (1B), (3A) and (3B) whereby the period for filing annual returns were extended for the financial year 2020-21 for all registered persons mentioned in Sub-Rule (1) and (3) of Rule 80 of the Rules of 2017 and for the financial year 2022-23, for those registered persons who has their

principal place of business at certain locations.

37. Chapter XII of the Act of 2017 is with the heading "Assessment". The said chapter contains Sections 59 to 64 of the Act of 2017.

38. Section 59 of the Act of 2017 relates to "self-assessment" whereby a registered person self-assess the taxes payable under the Act of 2017 and furnishes a return for each tax period as specified under Section 39 of the Act of 2017.

39. Section 60 of the Act of 2017 is in relation to "provisional assessment". Provisional assessment is made where the taxable person is unable to determine the value of the goods or services or both or determine the rate of tax applicable and in such circumstances, the taxable person request the Proper Officer in writing giving reasons for the payment of tax on provisional basis and the Proper Officer shall pass an order within a period not later than 90 days from the date of receipt of such request allowing the payment of tax on provisional basis at such rate or on such value as may be specified by him.

40. Section 61 of the Act of 2017 deals with "scrutiny of returns" whereby the Proper Officer scrutinizes the return and the related

particulars furnished by the registered person to verify the correctness of the return and inform the registered person of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation. If the explanation is not satisfactory, within 30 days of being informed by the Proper Officer or such period as may be permitted by the Proper Officer, or where the registered person after accepting the discrepancies fails to take corrective measures on his return for the month in which the discrepancies are accepted, the Proper Officer may initiate appropriate action including those under Section 65 or 66 or 67 of the Act of 2017 or proceed to determine the tax and other dues under Section 73 or Section 74 or Section 74A as the case may be.

41. Section 62 of the Act of 2017 is in respect to "assessment of non-filers of returns". This type of assessment is being carried out where a registered person fails to furnish the return under Section 39 or Section 45 of the Act of 2017 even after service of notice under Section 46 and in that circumstances, the Proper Officer may proceed to assess the tax liability of the said person to the best of his judgment taking into account that all the relevant materials which are available or which the Proper Officer had gathered and issue an assessment order within a period of 5 (five) years from the date specified under Section 44 of the Act of 2017 for

furnishing of the annual return for the financial year to which the tax not paid relate. However, if the registered person furnishes a valid return within 60 (sixty) days of the service of the assessment order, the said order shall be deemed to be withdrawn but the liability for payment of interest under Sub-Section (1) of Section 50 of the Act of 2017 or for payment of late fee under Section 47 shall continue. The period of 60 days which have been mandated in Section 62(2) of the Act of 2017 can be enlarged on payment of further late fee.

42. Section 63 of the Act of 2017 pertains to "assessment of unregistered persons" meaning thereby, where a taxable person fails to obtain registration even though liable to do so, or whose registration has been cancelled under Sub-Section (2) of Section 29 but who is liable to pay tax, the Proper Officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax period and issue an assessment order within a period of 5 (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.

43. Section 64 of the Act of 2017 relates to "Summary assessment in certain special cases". In the circumstance, the Proper Officer

may on any evidence showing a tax liability of a person coming to his notice, with the previous permission of the Additional Commissioner or the Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue. It is however relevant to mention that in such circumstances, the taxable person may file an application within 30 (thirty) days from the date of receipt of the order passed under Sub-Section (1) of Section 64 of the Act of 2017 before the Additional Commissioner or the Joint Commissioner or the said Authorities suo moto may withdraw the order passed under Section 64(1) of the Act of 2017 if the said Authorities consider such order to be erroneous and follow the proceedings laid down under Section 73 or Section 74 or Section 74A.

44. Chapter XV of the Act of 2017 which is the pivotal Chapter for the purpose of the present discussion is with the heading "Demand and Recovery". The said Chapter contains various Sections from Section 73 to Section 84. Sections 73 and 74 of the Act of 2017 being relevant for the purpose of the present analysis are reproduced herein under:

“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 sub-section (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.]*

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 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 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 [sections 122 and 125] are deemed to be concluded."*

45. It is relevant to take note of the fact that Sub-Section (12) of Section 73 and Sub-Section (12) of Section 74 of the Act of 2017 were inserted vide the Finance Act, 2024 w.e.f. 01.11.2024 and the reason being the insertion of Section 74A vide the Finance Act,

2024 w.e.f. 01.11.2024.

46. A perusal of the above two quoted provisions stipulates the procedure to be followed for the purpose of determination of tax. The procedure stipulated in both the provisions appears to be similar except the cause of action for initiation of proceedings under Section 73 of the Act of 2017 is different from the cause of action for initiation of proceedings under Section 74 of the Act of 2017.

47. A reading of Section 73(1) of the Act of 2017 would show the cause of action for the purpose of issuance of a notice upon the person chargeable with tax. The cause of action is when it appears to the Proper Officer-

- (a) Any tax has not been paid; or
- (b) Short paid; or
- (c) Erroneously refunded; or
- (d) Where input tax credit have 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,

A notice would be issued requiring the person chargeable with tax to show cause as to why the person chargeable with tax should not pay the amount specified in the notice along with interest payable thereon under Section 50 of the Act of 2017 and **a penalty leviable under the provisions of the Act of 2017 or the Rules of 2017.**

The difference between Section 73(1) and 74(1) is that in the case of Section 74(1), when it appears to the Proper Officer that -

- (a) Any tax have not been paid; or
- (b) Short paid; or
- (c) Erroneously refunded; or
- (d) Where input tax credit have been wrongly availed or utilized.

By reason of fraud or any willful misstatement or suppression of fact to evade tax,

A notice would be issued to the person chargeable requiring him to show cause as to why the person chargeable with tax should not pay the amounts specified in the notice along with interest payable thereon under Section 50 of the Act of 2017 and **a penalty equivalent to the tax specified in the notice.**

The distinguishing phrases in both the Sections have been highlighted hereinabove in bold letters.

48. The difference between Section 73(1) and Section 74(1) of the Act of 2017, is therefore clear that when it is a case of fraud or any willful misstatement or suppression of fact to evade tax, Section 74 of the Act of 2017 would be attracted otherwise, Section 73 of the Act of 2017 would be applicable. However, a perusal of both Section 73(1) and Section 74(1) of the Act of 2017 do not specify that the said notice should be against a single financial year or for that matter, for each financial year, there has to be a separate notice. The reason in the opinion of this Court is that the cause of action for initiation of the notice under Section 73(1) or Section 74(1) of the Act of 2017 by virtue of the said Sub-Sections confers a jurisdiction upon the Proper Officer to issue the notice on the existence of the material facts satisfying the Proper Officer to issue the notice under Section 73(1) or 74(1) of the Act of 2017 as the

case may be. In other words, the said Sub-Section (1) of Section 73 and Section 74 of the Act of 2017 do not impose any restrictions when the conditions stipulated in Sub-Section (1) satisfies the Proper Officer.

49. The curbs to the exercise of power to issue Notice under Sub-Section (1) of Section 73 or Section 74 of the Act of 2017 are seen at Section 73(2) and Section 74(2) of the Act of 2017 whereby the Proper Officer for the purpose of determination of tax can issue notice under Sub-Section (1) of Section 73 of the Act of 2017 at least 3 (three) months prior to the time limit specified in Sub-Section (10) of Section 73 of the Act of 2017 for issuance of the order. Similarly, in terms with Section 74(2) of the Act of 2017, the notice under Sub-Section (1) of Section 74(1) of the Act of 2017 has to be issued at least 6 (six) months prior to the time limit specified in Section 74(10) of the Act of 2017 for issuance of the order. It is however relevant to observe that Sub-Section (2) of Section 73 and Section 74 of the Act of 2017 only imposes restrictions on the time limit for issuance of notice and nothing else.

50. Before further proceeding in seriatum with the other Sub-Sections of Section 73 and Section 74 of the Act of 2017, this Court

finds it relevant to take note of Section 73(10) and Section 74(10) of the Act of 2017 as there is a correlation between Section 73(10) and Section 74(10) with Section 73(2) and Section 74(2) of the Act of 2017.

51. Section 73(10) of the Act of 2017 confers the power upon the Proper Officer to pass the order under Section 73(9) of the Act of 2017 within 3 years from the due date for furnishing of the 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 3 years from the date of erroneous refund. This Sub-Section therefore provides two points for limitation for passing the order under Section 73(9) of the Act of 2017.

Insofar as tax not paid or short paid or input tax credit wrongly availed or utilized, the date within which the order under Section 73(9) can be passed for determining the tax, interest and penalty is 3 (three) years from the due date for furnishing of the annual return.

However, in respect to passing an order insofar as it relates to erroneous refund, the order under Section 73(9) is required to be passed within 3 (three) years from the date of erroneous refund.

52. Insofar as Section 74(10) of the Act of 2017 is concerned, it is pari materia to Section 73(10) except the period of limitation for passing of the order under Section 74(9) of the Act of 2017 is five (5) years which is otherwise three (3) years in the case of Section 73(10) of the Act of 2017.

53. For the purpose of understanding the aforementioned aspect, the following illustrations appear to be relevant:-

(A) For the Financial Year 2017-18, the due date for filing the annual return would be 31st of December 2018. In terms with Sub-Sections (1), (2), (10) of Section 73 of the Act of 2017, when it appears to the Proper Officer that any tax has not been paid, or short paid, or where input tax credit has been wrongly evaded or utilized for any reason, the notice has to be issued on or before 30.09.2021 and the order has to be passed in terms of Section 73(9) on or before 31.12.2021. However, insofar as refund made erroneously, it would depend on the date of the refund. Similarly, a case falling within the ambit of Section 74 in respect to the financial year 2017-18, the notice has to be issued on or before 30.06.2023 and the order has to be passed on or before 31.12.2023.

Applying the said analogy, if a notice under Section 73(1) is issued after 30.09.2021 for the financial year 2017-18, the notice would be barred under Section 73(2). Similarly, for the same financial year 2017-18, if the notice under Section 74(1) is issued after 30.06.2023, the notice would be barred under Section 74(2) of the Act of 2017. It is also relevant to observe herein what is barred if the notice is issued beyond the period stipulated in Section 73(2) and Section 74(2) of the Act of 2017. It would bar determination of tax liability for that financial year in terms with Section 73 or Section 74 as the case may be.

(B) Let this Court take the example of three financial years i.e. 2017-18, 2018-19, 2019-20 in respect to a proceeding under Section 73 of the Act of 2017. The due date for filing of the annual returns for the financial years 2017-18, 2018-19 and 2019-20 would be 31.12.2018, 31.12.2019 and 31.12.2020 except in the case of erroneous refund. The notice under Section 73(1) of the Act of 2017 in terms with Section 73(2), for the Financial year 2017-18, 2018-19, 2019-20, has to be issued on or before 30.09.2021, 30.09.2022 and 30.09.2023 respectively. The orders under Section 73(9) in respect to the financial years 2017-18, 2018-19, and 2019-20 are to be passed on or before 31.12.2021, 31.12.2022 and 31.12.2023. For the purpose of convenience, the

following table would be helpful:

Period	Due date for filing of annual return	Period within which notice under Section 73(1) is to be issued	Period within which order is to be passed under Section 73(9)
2017-2018	31.12.2018	30.09.2021	31.12.2021
2018-2019	31.12.2019	30.09.2022	31.12.2022
2019-2020	31.12.2020	30.09.2023	31.12.2023

From the above, it would be seen that for the financial years 2017-18, 2018-19 and 2019-20, separate notices under Section 73(1) can be issued on or before 30.09.2021 and separate orders can be passed in respect to the 3 financial years i.e. 2017-18, 2018-19, 2019-20 on or before 31.12.2021.

The pivotal question which arises in the instant proceedings is as to whether there is a bar in terms with the provisions of the Act of 2017 for issuance of a consolidated notice for the financial years 2017-18, 2018-19 and 2019-20, on or before 30.09.2021 and a consolidated order can be passed for the financial years 2017-18, 2018-19 and 2019-20 on or before 31.12.2021. The said aspect would be dealt with in the later segment of the present judgment after taking into consideration the illustration relating to Section 74 of the Act of 2017 herein under.

(C) Sub-Sections (1), (2) and (10) of Section 74 of the Act of 2017 stipulates the period is 5 (five) years from the due date of filing of the annual return except in the case of erroneous refund when the starting period of limitation would be for the date of erroneous refund. This Court would be taking up for illustrative purpose 5 (five) financial years that would be the financial years 2017-18, 2018-19, 2019-20, 2020-21, and 2021-22. For the purpose of convenience, this Court inserts the following table.

Period	Due date for filing of annual return	Period within which issuance of notice under Section 74(1)	Period within which order is to be passed under Section 74(9)
2017-2018	31.12.2018	30.06.2023	31.12.2023
2018-2019	31.12.2019	30.06.2024	31.12.2024
2019-2020	31.12.2020	30.06.2025	31.12.2025
2020-2021	28.02.2022	28.09.2026	28.02.2027
2021-2022	31.12.2022	30.06.2027	31.12.2027

The above chart would therefore show that for the period 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22, the notice under Section 74(2) is required to be issued on or before 30.06.2023, 30.06.2024, 30.06.2025, 28.09.2026 and 30.06.2027 respectively. Similarly, the order under Section 74(9) in respect to these 5 financial years are to be on or before 31.12.2023, 31.12.2024,

31.12.2025, 28.02.2027 and 31.12.2027 respectively. Therefore, it would be seen that for the financial years 2017-18, 2018-19, 2019-20, 2020-21, and 2021-22, even separate notices can be issued under Section 74(1) for all these 5 periods on or before 30.06.2023 and separate orders can also be passed in respect to these 5 financial years on or before 31.12.2023.

54. The question therefore is that, is there any explicit bar upon a reading of Sub-Section (1), Sub-Section (2), Sub-Section (9) and Sub-Section (10) of Section 74 or for that matter, any provision of the Act of 2017 to issue a consolidated notice for 5 financial years i.e. 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22 on or before 30.06.2023 and pass a common order on or before 31.12.2023.

55. The above illustrations and a reading of Sub-Section (1), Sub-Section (2), Sub-Section (9) and Sub-Section (10) of both Section 73 as well as Section 74 of the Act of 2017 do not bar issuance of a consolidated notice if for the periods for which the notice have been issued is within the period permissible under Section 73(2) as well as Section 74(2) of the Act of 2017. Likewise, if a consolidated notice is issued in terms with Section 73(1) or Section 74(1) of the Act of 2017 in consonance with Section 73(2) or 74(2) of the Act of 2017 as the case may be, in respect to the various periods, there is

no bar in Section 73(9) or Section 74(9) of the Act of 2017 to pass a consolidated order if done so within the period stipulated under Section 73(10) or 74(10) of the Act of 2017 respectively. This Court also finds it relevant to observe that neither the learned counsels for the Petitioners nor a perusal of the provisions of the Act of 2017, any explicit bar could be shown or noticed for issuance of a consolidated notice in terms with Section 73(1) or Section 74(1) of the Act of 2017, if such notice was issued within the period stipulated in terms with Section 73(2) or Section 74(2) of the Act of 2017. Similarly, there appears to be no bar in passing a consolidated order for various financial years, if the consolidated order is permissible within the period mentioned in Section 73(9) or Section 74(9) of the Act of 2017.

56. For the sake of clarity, this Court finds it relevant to mention that the illustrations at Clauses (A), (B) and (C) of Paragraph No.53 hereinabove are only for illustrative purposes and the same have not been made by taking into consideration the various notifications issued by the Central Government under Section 168A of the Act of 2017 whereby periods have been extended for passing orders under Section 73(9) and Section 74(9) of the Act of 2017.

57. At this stage, it is relevant to take note of the submissions made by the learned counsels for the Petitioners that a consolidated notice causes prejudice to the Petitioners insofar as taking up their defences inasmuch as for each financial year, they may have a different defence. It is the opinion of this Court that a prejudice caused if it comes within the mischief of Article 14 of the Constitution would result in nullifying the provision but till the provision remains, it would not divest the Proper Officer to issue the consolidated notice or pass the consolidated order, if done so within the limitation provided under Section 73 and Section 74 of the Act of 2017, as the case may be.

58. This Court while analyzing the interplay between Sections 73(1), 73(2), 73(9) and Section 73(10) as well as Sections 74(1), 74(2), 74(9) and 74(10) of the Act of 2017, finds it relevant to deal with an important aspect and more particularly in view of the observations made hereinabove. The aspect pertains to the consequence when a consolidated notice has been issued under Section 73(1) or Section 74(1) of the Act of 2017 as the case may be, in respect to a period which is barred by limitation. This aspect is important inasmuch as, the power to issue notice within a specific period of time is stipulated in Section 73(2) or Section 74(2) of the Act of 2017. Therefore, the jurisdiction to issue notice

is restricted to the period mentioned therein. Now what is this jurisdiction conferred upon the Proper Officer under Section 73 and Section 74 of the Act of 2017?

The jurisdiction so conferred is the jurisdiction to determine the tax. Therefore what would be the effect of a consolidated notice which pertains to various financial years of which in respect to one or more financial years, no notice could be issued on account of the bar contained in Section 73(2) or Section 74(2) of the Act of 2017. The answer to the said question is available in Section 73 as well as Section 74 of the Act of 2017 itself.

59. There is no quarrel with the proposition that for each financial year, a notice can be issued under Section 73(1) or Section 74(1) of the Act of 2017 within the period stipulated in Section 73(2) or and Section 74(2) of the Act of 2017. Likewise, an order for each financial year can be passed under Section 73(9) or Section 74(9) of the Act of 2017 on the basis of a valid notice within the time stipulated in Section 73(10) or Section 74(10) of the Act of 2017 as the case may be. It is the opinion of this Court that if separate notices for separate financial years and separate orders for separate financial years can be passed, the consolidated Notice for various financial years as well as the consolidated order for various

financial years together can also be passed by segregating the financial years which are barred by limitation by applying the doctrine of severability inasmuch as, each financial year constitutes a separate cause of action. In this regard, it is relevant to observe that Section 73 and Section 74 of the Act of 2017 are provisions for determination of tax liability within the parameters stipulated in the said Sections read with the Section 75 of the Act of 2017.

For the purpose of understanding the aforesaid principle, the example of a suit for distinct/recurring causes of action seems to be apt. Suits espousing distinct/recurring causes of action are suits for Arrears of Rent /Installment Payment; suits on Running Accounts; Suits for Accounts in Partnership/Agency etc. In suits for Arrears of Rent, each rental period gives rise to an independent cause of action. A suit may well be within time for later rents while earlier rental periods are time barred. The entire suit does not become time barred and the Court would grant the decree insofar as the rental periods which are within time and deny the decree insofar as those rental period which are barred by limitation.

60. At this stage, this Court also finds it relevant to take note of the submission made by the learned counsels for the Petitioners to the effect that Section 73 and Section 74 of the Act of 2017 is a

part of the assessment proceedings. This submission was made with an intention to show before this Court that the Scheme of the Goods and Service Tax Act is financial year specific and therefore proceedings initiated in terms with Section 73 and Section 74 of the Act of 2017 should also be financial year wise and not two or more different financial years combined together.

61. The said submission though appears to be plausible at the first blush but in the opinion of this Court, the said submission is misconceived. The reasons for opining so are:

- (A) The Legislature had kept "Assessment" proceedings separately with that of "Demand and Recovery" inasmuch as, Assessment is at Chapter XII of the Act of 2017 whereas "Demand and Recovery" is at Chapter XV of the Act of 2017.
- (B) The definition of Assessment at Section 2(11) of the Act of 2017 means determination of tax liability under the Act and includes Self-Assessment, Reassessment, Provisional Assessment, Summary Assessment and Best Judgment Assessment. Section 59 of the Act of 2017 stipulates Self Assessment; Section 60 of the Act of

2017 stipulates Provisional Assessment; Section 61 of the Act of 2017 stipulates Scrutiny Assessment; Section 62 and Section 63 of the Act of 2017 stipulates Best Judgment Assessment and Section 64 of the Act of 2017 stipulates Summary Assessment. In the previous segments of the present judgment, this Court had explained when the above forms of assessments are carried out. It is of relevance to note that self assessment is made by the registered person without the involvement of the Taxing Authorities.

Scrutiny Assessment are inquisitorial in nature where the Proper Officer scrutinizes the return to verify the correctness and informs the registered person to resolve the discrepancies or explain the discrepancies. If the explanation is found satisfactory or the discrepancies are resolved by the registered person, the assessment is carried out.

Provisional Assessment is at the request of the Registered person.

Summary Assessment and Best Judgment

Assessment are unilateral in nature whereby the Proper Officer initiates steps for carrying out the assessment on account of existence of grounds to carry out such assessment.

It is to be noted herein that all these forms of assessment are not adversarial in nature. However proceedings under Section 73 and Section 74 of the Act of 2017 are adversarial and adjudicatory in nature inasmuch as, when the Proper Officer is satisfied that any tax had not been paid or short paid or erroneously refunded or where input tax credit had been wrongly availed or utilized, the cause of action accrues upon the Proper Officer to issue notice granting an opportunity to the person chargeable with tax to reply, carry out a hearing as envisaged in Section 75 of the Act of 2017 and thereupon pass an order of adjudication. The scheme of the Act of 2017 therefore clearly distinguishes between assessment and an adjudication carried out in terms with Section 73 or Section 74 of the Act of 2017.

(C) Another pertinent aspect which distinguishes assessment

from adjudication made under Section 73 or Section 74 of the Act of 2017 is that a perusal of Chapter XII of the Act of 2017 would clearly show that proceedings under Section 73 or Section 74 of the Act of 2017 are an aftermath proceedings post the assessment carried out in terms with Sections 59, 61 and 64 of the Act of 2017. Similarly, assessment carried out under Section 62 and 63 of the Act of 2017 are proceedings without prejudice to the provisions of Section 73 or Section 74 of the Act of 2017.

- (D) The most pertinent distinguishing factor between assessment carried out in terms with Chapter XII of the Act of 2017 with the adjudication carried out in terms with Section 73 and Section 74 of the Act of 2017 is that assessments referred to in Chapter XII of the Act of 2017 do not conceptualize penalty whereas adjudication carried out under Section 73 and Section 74 of the Act of 2017 empowers the Proper Officer not only to determine the tax liability on account of the tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized but also impose interest and penalty.

(E) Another distinguishing feature between assessment made under Chapter XII of the Act of 2017 and Section 74 of the Act of 2017 is that while carrying out assessment the element of fraud or willful misstatement or suppression of facts to evade tax cannot be ascertained or decided whereas it is only in a proceedings under Section 74 of the Act of 2017 such aspect can be decided.

62. This Court now finds it relevant to take note of Sub-Section (3) and Sub-Section (4) of Section 73 and Section 74 of the Act of 2017 which appears to be the basis of the judgments of the Delhi High Court in the case *of Ambika Traders (supra)* as well as *M/S Mathur Polymers (supra)*. A perusal of Sub-Section (3) of Section 73 of the Act of 2017 shows that if a notice is issued under Sub-Section (1) of Section 73 of the Act of 2017 **for any period**, a discretion is also conferred upon the Proper Officer to 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. This statement is issued in terms of Rule 142(1)(b) of the Rules of 2017. It is apposite herein to mention that the notice in terms with Section 73(1) of the Act of 2017 is issued under Rule 142(1)(a) of the Rules of 2017 and the

summary of the said notice is issued in FORM GST DRC-01. The statement which is served by the Proper Officer in terms with Section 73(3) of the Act of 2017 is in FORM GST DRC-02.

63. It is also very apposite herein to observe that Sub-Section (4) of Section 73 stipulates that if the Proper Officer in his discretion serves a statement in terms with Rule 142(1)(b) of the Rules of 2017 and in FORM GST DRC-02, the said statement shall be construed to be a service of notice on such person under Sub-Section (1) however, subject to that the grounds relied upon for the tax periods are the same as mentioned in the notice issued under Section 73(1). The said two sub-sections i.e. Sub-Section (3) and (4) of Section 73 of the Act of 2017 therefore envisages that there is no necessity for issuance of a separate Show Cause Notice under Section 73(1) of the Act of 2017 for other periods. A mere statement in terms of Rule 142(1)(b) in the FORM GST DRC-02 is sufficient for initiation of a proceedings under Section 73(1) of the Act of 2017 for such other periods. The expression "for such periods other than those covered under Sub-Section (1)" as appearing in Sub-Section (3) and Sub-Section (4) of Section 73 of the Act of 2017 and more particularly, the expression "those covered under Sub-Section (1)" gives a pluralistic reference to the period(s) covered in the notice under Section 73(1) of the Act of

2017.

64. Sub-Section (3) of Section 74 of the Act of 2017 is verbatim similar to Section 73(3) of the Act of 2017. However, insofar as Sub-Section (4) of Section 74 of the Act of 2017 is concerned, it stipulates that if there is a service of statement in terms with Sub-Section (3) of Section 74 of the Act of 2017, this statement which is given in terms with Section 142(1)(b) of the Rules of 2017 read in the FORM GST DRC-02 shall be deemed to be a notice in terms of Section 73(1) of the Act of 2017 provided the grounds relied upon in the said statement do not constitute the ground of fraud or any willful misstatement or suppression of fact to evade tax. In other words, the service of a statement under Section 74(3) of the Act of 2017 would be deemed to be a notice under Section 73(1) of the Act of 2017 provided the grounds relied upon do not come within the ambit of fraud or any willful misstatement or suppression of fact to evade tax. The expression "for such periods other than those covered under Sub-Section (1)" as appearing in Sub-Section (3) and Sub-Section (4) of Section 74 of the Act of 2017 and more particularly, the expression "those covered under Sub-Section (1)" gives a pluralistic reference to the period(s) covered in the notice under Section 74(1) of the Act of 2017.

65. The other Sub-Sections i.e. Sub-Section (5), (6), (7), (8), (11) and 12 are not necessary for the present discussion.

66. In the backdrop of the above, this Court now finds it relevant to take note of the various judgments relied upon by the learned counsels for the parties.

67. Upon perusal of the various judgments, this Court for the analysis and finding arrived at hereinabove with great respect disagrees with the judgment of the learned Division Bench of the Kerala High Court in ***M/S Tharayil Medicals (Supra)*** and ***Dhanlaxmi Bank Limited (supra)***. This Court also disagrees with the views of the Madras High Court in ***M/S Oriental Lotus Hotel Supplies Private Limited (supra)*** as well as ***Titan Company Limited (supra)***.

68. The proposition of law laid down by the Bombay High Court in ***Milroc Good Earth Developers (supra)***, ***Marfani Steel Impex (supra)*** and ***Aasawa Brother Corporate Avenue (supra)*** have been doubted by the learned Division Bench of the Bombay High Court in the case of ***Rollmet LLP Vs. Union of India and Others reported in 2026 SCC Online Bom 2613***. This Court had perused the reasons so assigned by the learned Division Bench of the Bombay High Court in the case of ***Rollmet LLP (supra)***. This Court agrees with the

reasons assigned in ***Rollmet LLP (supra)*** for doubting the earlier decisions of the Bombay High Court.

69. This Court has also perused the judgments of the Delhi High Court in ***Ambika Traders (supra)*** and ***M/S Mathur Polymers (supra)*** and duly agrees to the proposition of law that there is no bar in issuance of a consolidated Show Cause Notice in terms with Section 73 or Section 74 of the Act of 2017. This Court further agrees with the observations of the learned Division Bench of the Karnataka High Court in the case of ***M/S Pramur Homes and Shelters (supra)*** more particularly to the observations made at Paragraph No.57. This Court also agrees with the conclusions arrived at by the learned Division Bench of the Allahabad High Court in the case of ***S.A. Aromatics Private Limited (supra)*** to the effect that it is permissible to have a consolidated Show Cause Notice.

DECISION ON THE JURISDICTIONAL ISSUES RAISED IN THE PRESENT PROCEEDINGS:

70. Accordingly, this Court opines as under:

- (a) There is no bar in issuance of a consolidated Show Cause Notice for different financial years together under

Section 73(1) or under Section 74(1) of the Act of 2017.

- (b) There is no bar in passing of a consolidated order for different financial years together under Section 73(9) or Section 74(9) of the Act of 2017.
- (c) The Proper Officer in the respective cases of the three writ petitioners was within his jurisdiction conferred upon in law to issue the consolidated Show Cause Notices as well as pass the consolidated orders against each of the petitioners in the three writ petitions.

71. This Court observes as well as clarifies that this Court had only decided the jurisdictional issues raised in the present proceedings and the merits in respect to the Orders-in-Original and Orders-in-Appeal insofar as the Petitioners in WP(C) No.2922/2025 and WP(C) No.20/2026 are concerned and the Order-in-Original passed against the Petitioner in WP(C) No.1113/2026 have not been adjudicated by this Court.

72. The jurisdictional issue raised in the present proceedings having been answered against the Petitioners and taking into account that the Petitioners in WP(C) No.2922/2025 and WP(C) No.20/2026 have alternative and efficacious remedies available

under Section 112 of the Act of 2017 and the Petitioner in WP(C) No.1113/2026 has alternative and efficacious remedies available under Section 107 of the Act of 2017, this Court relegates the Petitioners to avail the statutory remedies stated hereinabove.

73. This Court having perused the materials on record in the three writ petitions is also of the view that the Statutory Authorities would be in a better position to adjudicate the factual issues. The question of fraud or any willful misstatement or suppression of facts to evade tax are essentially factual adjudication and as stated above, the Statutory Appellate Authorities would be in a better position to adjudicate.

CONCLUSIONS:

74. Accordingly, all the three writ petitions stands disposed of with the following observations and directions:

- (i) This Court grants liberty to the Petitioners in the three writ petition to avail remedies before the appropriate forum under the Act of 2017.
- (ii) This Court further observes that in the circumstance, the Petitioners in WP(C) No.2922/2025 and WP(C) No.20/2026

approach the Appellate Tribunal within 30 (thirty) days from the date of the present judgment, the Appellate Tribunal shall decide the respective appeals so filed by the writ petitioners in WP(C) No.2922/2025 and WP(C) No.20/2026 on merits without insisting on the question of limitation in filing the appeals.

- (iii) This Court further grants liberty to the Petitioner in WP(C) No.1113/2026 to approach the Appellate Authority in terms with Section 107 of the Act of 2017 and it is observed that if the Petitioner in WP(C) No.1113/2026 approaches within a period of 30 (thirty) days from the date of the present judgment, the Appellate Authority shall decide the appeal on merits, without insisting on the question of limitation.
- (iv) This Court further observes that the interim orders passed in the three writ petitions shall continue till the consideration of the stay application by the Appellate Tribunal/Appellate Authority as the case may be subject to the Appeals being filed by the Petitioners herein as per the liberty granted herein above within the period of 30 (thirty) days from the date of the present judgment.

(v) There shall be no orders as to cost.

JUDGE

Comparing Assistant

