IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No.11277 of 2026
(@ Special Leave Petition (C) No.33594 of 2025)

M/s G.R. Infra Projects Limited Ratlam

…. Appellant

Versus

The State of Madhya Pradesh & Ors.

…. Respondents

O R D E R

Leave granted.

2. We are, in this appeal, concerned with the Show Cause Notice (SCN) issued by the respondent-department for the assessment year 2018-19 dated 13.06.2025. The question arising is as to whether the notice can be one deemed to have been issued under Section 74 of the Central Goods and Services Tax Act, 2017 (CGST Act) read with Madhya Pradesh Goods and Services Tax Act, 2017 (MPGST Act).

3. The assessee, who is the appellant herein, would submit that a notice issued under Section 74 can only be issued when there is a fraud/ willful misstatement/ suppression of facts alleged; which allegation has to come out from the notice itself.

4. Learned Counsel appearing for the appellant submits that the SCN is beyond the time of three years provided under Section 73 for determination of tax *inter alia* short paid, for any reason other than fraud, willful misstatement or suppression of facts. The learned Government Advocate, however, attempts to take us through the counter affidavit in which according to him the allegations of fraud and suppression of facts have been elaborated, justifying the proceedings under Section 74 and not under Section 73.

5. We refused to look at the counter affidavit on the trite principle that when an authority has issued a notice or an order, the requirements to make the notice or order valid should be contained in such notice or order and cannot be supplanted by a counter affidavit in Court, where the notice or order is alleged to be invalid for reason to non-application of mind, the requirements having not met and so on and so forth.

6. As far as the CGST Act is concerned, sub-section (2) of Section 73 mandates that the proper officer shall issue notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10). Sub-section (10) provides that the proper officer shall issue the order under Section 9 within three days from the due date for furnishing of annual return for the financial year relevant to such proceedings. Sub-section (1) of Section 44 provides for furnishing an annual return within such time and in such form and in such manner as is prescribed. Rule 80 of the CGST Rules prescribes the furnishing of an annual return for every financial year as specified under Section 44 electronically on or before the 31st day of December following the end of such financial year. Hence, for the relevant assessment year 2018-2019, the annual returns were to be filed on or before 31.12.2019.

7. The CGST Act came into force on 01.07.2017 and initially for reason of fresh introduction of the electronic systems, the last date for filing annual returns was extended for the years commencing from 2017-2018 onwards by notifications issued under Section 44(1). Insofar as the assessment year 2018-2019 is concerned, successive notifications, extended the time to furnish annual return and eventually it stood at 31.12.2020. Hence, the limitation for issuing a notice under Section 73 expires on 31.12.2023.

8. In the meanwhile, COVID struck and this Court in ***Writ Petition (C) No.3/2020*** registered as ***Re: Cognizance for Extension of Limitation*** extended the limitation as provided in the various statutes, in the wake of the pandemic and eventually by order dated 01.01.2022, the *Suo Motu* Writ Petition was disposed of with directions, inter alia providing for exclusion of limitation for the period between 15.03.2020 to 28.02.2022. While computing limitation, the period excluded by this Court coming within the three-year period for 2018-2019 is 1 year and 2 months, which has to be excluded and further time provided from 31.12.2023 in lieu of the excluded period. Hence, the extended period of limitation falls on 28.02.2025. The SCN issued in this case on 13.06.2025 for the assessment year 2018-2019 definitely hit by limitation under Section 73. Now the question is as to whether Section 74 can be invoked.

9. The present proceedings were initiated by summons issued dated 03.03.202 relating to the business for the years 2017-2018 to 2020-2021. From the counter affidavit filed by the State, it is seen that the petitioner sought time initially, but did not produce the required documents before the assessing officer. An inspection was conducted in the premises of the assessee and statements were recorded from the Accountant, Authorized Signatory and the Director of the assessee on various dates. It is alleged that in the very many hearings scheduled between 01.09.2022 and 07.02.2025; on 20 occasions, the assessee did not appear. A draft notice-cum-investigation report dated 03.03.2025 was prepared and an intimation under Section 142 (1A) dated 29.04.2025 was issued to the petitioner. The petitioner raised preliminary objections by response dated 14.05.2025 specifically pointing out that the draft notice has not been served on them. The draft notice was served on 27.05.2025 based on which additional response was submitted by the petitioner. It was later that SCN dated 13.06.2025 was issued under Section 74.

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

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

12. The Civil Appeal stands allowed.

13. Pending application(s), if any, shall stand disposed of.

.... J.
(J. B. PARDIWALA)

.... J.
(K. VINOD CHANDRAN)

NEW DELHI;
AUGUST 19, 2026.

ITEM NO.29 COURT NO.6 SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No.33594/2025

[Arising out of impugned final judgment and order dated 29-10-2025 in WP No. 40749/2025 passed by the High Court of Madhya Pradesh at Indore]

GR INFRA PROJECTS LIMITED RATLAM Petitioner(s)

VERSUS

STATE OF MADHYA PRADESH & ORS. Respondent(s)

WITH
SLP(C) No. 16859/2026 (XVII-B)
(FOR EXEMPTION FROM FILING O.T. ON IA 144245/2026)

Date : 19-08-2026 These petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) :
Mr. Jatin Harjai, Adv.
Mr. Rohan Aggarwal, Adv.
Ms. Nikshubha Sharma, Adv.
Mr. Vatsalya Vigya, AOR

Mr. Kavin Gulati, Sr. Adv.
Ms. Mallika Joshi, Adv.
Mr. Amit Bhandari, Adv.
Ms. Nishtha Mittal, Adv.
Mr. Abhishek Swami, Adv.
Mr. Avishkar Singhvi, Adv.

Mr. Suhaas Ratna Joshi, AOR

For Respondent(s) :
Mr. Rudraditya Khare, D.A.G.
Ms. Mrinal Gopal Elker, AOR
Mr. Sai Shashank, Adv.

Mr. S. Dwarakanath, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. Kartikeya Asthana, Adv.
Mr. Karan Lahiri, Adv.
Mr. Seema Bengani, Adv.
Mr. S. Vijay Adithya, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Petition for Special Leave to Appeal (C) No.33594/2025:-

1. Leave granted.

2. The Civil Appeal stands allowed, in terms of the signed Order.

3. Pending application(s), if any, shall stand disposed of.

SLP(C) No. 16859/2026:-

1. Arguments concluded.

2. Judgment reserved.

(VISHAL ANAND)
DEPUTY REGISTRAR

(POOJA SHARMA)
COURT MASTER (NSH)

(Signed Order is placed on the file)