WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.17239 of 2025
& W.M.P.Nos.19530 of 2025

Ms R A And Co
Represented By Its Partner Murali Nellaiyah
No.1, S. S. Sahib Street, Aminjikarai,
Chennai-600 029

... Petitioner

Vs.

The Additional Commissioner Of Central Taxes
South Commissionerate, Mhu Complex,
473 Anna Salai, Nandanam, Chennai-600 035

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in passing the impugned Order in Original No. 102/2025 Dt. 04.02.2025 by the respondent and quash the same to the extent of confirmation of tax demand of Rs. 30,13,02,903 along with applicable interest and imposition of penalty as the same is arbitrary, illegal, in violation of Section 136 of the CGST and TN SGST Act and in contravention of articles 14, 19 (1) (g) and 265 of the Constitution

https://www.mhc.tn.gov.in/judis

WEB COPY

For Petitioner : Mr.G.Natarajan

For Respondent : Mr.AR.L.Sundaresan,
Additional Solicitor General,
Assisted by
Mr.A.P.Srinivas, Sr.St.counsel

ORDER

This writ petition has been filed challenging the issue with regard to the "bunching of Show Cause notices", i.e., issuance of a single show cause notice, by the respondents, for more than one financial year.

2. Petitioners' submissions:

2.1 The learned counsel for the petitioner would submit that in this case, the respondent had issued a single show cause notice and thereafter, passed a single assessment order for 6 financial years, viz., 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 & 2022-23.

2.2 Further, he would submit that the Good and Services Tax Act, 2017, (hereinafter called as "GST Act") fixes the limitation for issuance

https://www.mhc.tn.gov.in/judis

WEB COPY

of notices and passing the assessment orders for each and every financial years under section 73 and 74 of the GST Act. When such being the case, the notice under said Sections shall be issued to the Assessee separately for each financial year. Hence, he would contend that the bunching of notice for more than one financial year is against the spirit of section 73 and 74 of GST Act.

2.3 He would also submit that while bunching, the show cause notices were issued at the fag end of the limitation period, due to which, the petitioner may not be able to collect the evidences within time. In this case, the show cause notice, which was issued for more than one financial year, viz, 2017-18 to 2022-23, had been issued 3 moths prior to the end of limitation of the 1st financial year, i.e., 2017-18. In such case, though the limitation is very much available for the subsequent financial years, viz., 2018-19 to 2022-23, the petitioners were forced to file their replies for the said notice at the very fag end of limitation. Under these circumstances, the petitioners were unable to collect all the relevant documents to substantiate their cases, which causes unnecessary

https://www.mhc.tn.gov.in/judis

WEB COPY

hardships to the petitioners.

2.4 When a single assessment order is passed for more than one financial years, the Assessee will also face the following hardships:

i) The petitioners will not be able to file an application for compounding of offences, under Section 138 of GST Act, for any particular financial year.

ii) If the respondent introduced the Amnesty Scheme for any one or two financial years, the petitioner cannot avail the said Scheme without paying the amount demanded by the respondent for all the financial years included in the notice/order.

iii) If the petitioner is intend to contest the issue pertaining to one or two years and is willing to remit the tax amount for remaining years, the bunching of notices/orders will create unnecessary hurdles for the petitioner in both contesting and settling the issues pertaining to any particular financial year.

2.5 Therefore, he would contend that the bunching of notices/orders will only pave way for unnecessary hardships to the assessee. On the other hand, there will be no difficulties for the

https://www.mhc.tn.gov.in/judis

WEB COPY

respondent to issue separate show cause notices for each financial year as prescribed under Sections 73 & 74 of the GST Act.

2.6 By referring Sections 73 & 74 of the GST Act, they would submit that in terms of the provisions of Section 73(1) and 74(1) of GST Act, initially, the respondent shall issue the show cause notice for any one financial year or any one tax period and if there is any similar issue for the subsequent years/tax period, as per Sections 73(3)&(4) & 74(3)&(4) of GST Act, it is mandatory for the respondent to issue independent statements for each and every tax periods. In terms of Section 73(4) & 74(4), the said statement shall deemed to be a notice issued under Section 73(1) & 74(1) of GST Act respectively. Therefore, according to the petitioners, the first notice has to be a single notice and the subsequent notices for similar issue shall be issued by way of independent statements for each and every tax period. Hence, they would submit that there is a clear prohibition for issuance of notice for more than one financial year based on the filing of annual returns.

https://www.mhc.tn.gov.in/judis

WEB COPY

2.7 By referring Section 73(2)(3)&(10)/74(2)(3)&(10) of GST Act, he would submit that the orders shall be passed within a period of 3 years or 5 years respectively from the due date for furnishing annual returns for the financial year, for which tax was not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised. Therefore, he would submit that independent notices have to be issued for each and every financial years, otherwise, the interest of the petitioners would be prejudicially affected. Further, he would contend that the bunching of show cause notices/orders is bad in law. In this regard, he had referred to the judgement of this Court in ***Titan Company Ltd., vs. Joint Commissioner of GST & Central Excise*** reported in ***(2024) 15 Centax 118 (Mad.),*** wherein it has been held that bunching of notices is impermissible.

2.8 Further by referring judgement dated 21.03.2025 rendered in ***W.A.Nos.2389 & 1397 of 2024***, which was filed challenging the aforesaid ***Titan*** judgement, he would submit that based on the agreement of the parties, the said appeal was decided, wherein it was directed that

https://www.mhc.tn.gov.in/judis

WEB COPY

the assessment orders have to be passed by the Department for each assessment years independently with a gap of minimum 4 weeks.

2.9 Therefore, he prayed this Court to quash the impugned order passed by the respondent since the same is unsustainable in law.

3. Respondents' submissions:

3.1 Per Contra, Mr.A.P.Srinivas, learned Senior Standing counsel, appearing for the respondents has strongly opposed the contentions made by the petitioners and would submit that in terms of Sections 73 & 74 of the GST Act, there is no prohibition or specific bar to issue a single show cause notice for more than one financial year. In absence of such prohibition/bar, the respondents can issue a single show cause notice for more than one financial year and hence, there is no merits in the submissions made by the petitioners.

3.2 Further, by referring Sections 73 & 74 of the GST Act, he would submit that in the provisions of the said Sections, it has been stated as “any period”, which means, the issuance of notice shall be for

https://www.mhc.tn.gov.in/judis

WEB COPY

any block of years and the same is not constrained to a single year. Therefore, he would contend that it is not proper for the petitioner to state that the show cause notices have to be issued separately for each financial years.

3.3 He would also contend that the word "tax periods" mentioned in Section 73(4) & 74(4) of GST Act, includes not only the year-wise tax periods but also the month-wise tax periods. Obviously, there will be 12 tax periods in one financial year. Therefore, if the case of the petitioners is accepted by this Court, then the respondents will have to issue 12 notices for each tax period in one financial year and they cannot club the same. On the other hand, he would submit that when the petitioner had accepted the clubbing of show cause notices for the 12 month-wise tax periods, as state above, there will not be any difficulties in accepting the show cause notice, which was clubbed and issued for more than one financial year, within the period of limitation. Therefore, he would contend that there is no substance in the submissions made by the petitioners and hence, he prays for dismissal of this petition.

https://www.mhc.tn.gov.in/judis

WEB COPY

4. I have given due consideration to the submissions made by the learned counsel appearing for the petitioner and the learned Senior Standing counsel appearing for the respondent and also perused the materials available on record.

5. In the case on hand, the only issue that has to be decided is as to whether the respondents can pass single assessment order for more than one financial year ?

6. Now, let me examine the provisions of Sections 73 & 74 of the GST Act, which deals with regard to the issuance of show cause notice. Hence, it would be apposite to extract the relevant portions of Sections 73 & 74 of the GST Act, which read as follows:

> "***73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts.—***
>
> *(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly*

https://www.mhc.tn.gov.in/judis

WEB COPY

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

https://www.mhc.tn.gov.in/judis

WEB COPY

(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) to (8) .....

(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

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

74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful misstatement or suppression of facts.—

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously

https://www.mhc.tn.gov.in/judis

WEB COPY

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

https://www.mhc.tn.gov.in/judis

WEB COPY

grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under subsection (1) are the same as are mentioned in the earlier notice.

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

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

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

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

https://www.mhc.tn.gov.in/judis

WEB COPY

specified in the notice, along with the interest and penalty, for various situations mentioned therein.

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

9. Further, Section 73(3)/74(3) of GST Act would state that “if a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid, short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1)

https://www.mhc.tn.gov.in/judis

WEB COPY

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

10. Section 73(10)/74(10) of the GST Act specifically provides the time limit of 3 years/5 years from the last date for filing the annual returns for the financial year to which the tax dues relates to. Thus, the GST Act considered each and every financial year as separate unit, due to which, the limitation has been fixed for each and every financial year

https://www.mhc.tn.gov.in/judis

WEB COPY

separately. When such being the case, clubbing more than one financial year, for the purpose of issuance of show cause notice, would not be considered as in accordance with the provisions of Section 73/74 of the GST Act. Therefore, the limitation period of 3 years/5 years would be separately applicable for every financial year, thus, the limitation period would vary from one financial year to other. It is not that the limitation would be carried over or continuing in nature, so as to, club the financial years together. For these reasons also, the bunching of show cause notice is impermissible. In this regard, the Constitution Bench of the Hon'ble Apex Court in the decision rendered, which was reported in ***AIR 1966 SC 1350 (State of Jammu and Kashmir and Others v. Caltex (India) Ltd)*** has held as follows:

> *"where an assessment encompasses different assessment years, each assessment year could be easily split up and dissected and the items can be separated and taxed for different periods."*

11. Section 73(3)/74(3) of the GST Act refers to issuance of "statement", for subsequent "tax periods", containing the details of tax

https://www.mhc.tn.gov.in/judis

WEB COPY

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

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

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

> *"(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon **for such tax periods** other than those*

https://www.mhc.tn.gov.in/judis

WEB COPY

covered under sub-section (1) are the same as are mentioned in the earlier notice."

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

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

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

16. A reading of the above Section would show that "tax period" means the period, for which, the return is required to be furnished. Therefore, based on the filing of returns, the tax period will be

https://www.mhc.tn.gov.in/judis

WEB COPY

determined. In GST Law, an Assessee is required to file monthly return as well as annual return. Therefore, based on the monthly return, notice, under Section 73/74, can be issued, for any particular month. Likewise, based on the annual returns, notice, under Section 73/74, can be issued for the entire financial year or otherwise, as decided by the department, but not more than the relevant financial year.

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

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

18. A reading of the above would show that the "return" is prescribed by the Act or the Rules made thereunder. As stated above, an Assessee is required to file monthly return as well as annual return and issuance of show cause notice should be strictly based on the tax periods, which is determined based on filing of returns. Therefore, it is clear that

https://www.mhc.tn.gov.in/judis

WEB COPY

the show cause notice can be issued either based on the monthly return or based on the annual return for the entire financial year or part thereof as decided by the Department. If any return is filed for more than one financial year, then, based on the said returns, single show cause notice can be issued. However, under the GST Law, there is no requirement for filing any returns other than monthly and yearly returns. Hence, no show cause notice could be issued for more than one financial year.

19. In view of the above, there is no doubt that in terms of GST Law, "any period", for the purpose of issuance of show cause notice, includes, "monthly tax period" or "yearly tax period" and the GST Act will not permit for issuance of show cause notice beyond such period, i.e., no show cause notice can be issued for the period of more than one financial year.

20. Therefore, as discussed above, a conjoint reading of the word "tax period", as defined in Section 2(106) of GST Act, along with the provisions of Section 73(1),(2),(3),(4),(10)/74(1),(2),(3),(4),(10) of GST Act, makes it very clear that there is a specific bar in terms of the Section

https://www.mhc.tn.gov.in/judis

WEB COPY

73/74 for "bunching of show cause notice", i.e., no show cause notice can be issued for more than one financial year.

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

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

23. Further, though the petitioners have very good case to contest

https://www.mhc.tn.gov.in/judis

WEB COPY

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

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

25. In a similar situation, this Court has already held that the

https://www.mhc.tn.gov.in/judis

WEB COPY

bunching of show cause notice is impermissible vide order passed in ***Titan*** case, wherein, it has been stated as follows:

> *"13.The main contention of the petitioner was that bunching of show cause notices was not allowed in law and it is against the provisions of Section 73 of the Act. Section 73(10) of the Act specifically provides a time limit of three years from the due date for furnishing of annual return for the financial year to which the tax due relates to. In the present case, notice was issued under Section 73 of the Act for determination of the tax and therefore, the limitation period of three years as prescribed under Section 73(10) would be applicable. Therefore, the contention of the respondent that there is no time limit contemplated under Section 73 of the Act is not correct.*
>
> *14.Further, by issuing bunching of show cause notices for five Assessment Years starting from 2017-18 to 2021-22, the respondents are trying to do certain things indirectly which they are not permitted to do directly and the same is not permissible in law. If the law states that a particular action has to be completed within a particular year, the same has to be carried out*

https://www.mhc.tn.gov.in/judis

WEB COPY

accordingly. The limitation period of three years would be separately applicable for every assessment year and it would vary from one assessment year to another. It is not that it would be carried over or that the limitation would be continuing in nature and the same can be clubbed. The limitation period of three years starts from the date of furnishing of the annual return for the particular financial year.

15.Therefore, issuing bunching of show cause notices is against the spirit of provisions of Section 73 of the Act and the Constitution Bench of the Hon'ble Apex Court in the decision reported in AIR 1966 SC 1350, State of Jammu and Kashmir and Others v. Caltex (India) Ltd has held that where an assessment encompasses different assessment years, each assessment year could be easily split up and dissected and the items can be separated and taxed for different periods. The said law was laid down keeping in mind that each and every Assessment Year will have a separate period of limitation and the limitation will start independently and that is the reason why the Hon'ble Supreme Court has held that each assessment year could be easily split up and dissected and the items can

https://www.mhc.tn.gov.in/judis

WEB COPY

be separated and taxed for different periods. The said principle would apply to the present case as well.

16.For all these reasons, I do not find force in the submission made by the learned Senior Standing Counsel appearing on behalf of the respondents. Therefore, I find fault in the process of issuing of bunching of show cause notices and the same is liable to be quashed."

26. Further, in the judgement rendered in ***M/s.Tharayil Medicals*** case by the Hon'ble Division Bench of Kerala High Court, it has been stated as follows:

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

https://www.mhc.tn.gov.in/judis

WEB COPY

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

12. There is yet another reason why we should hold that separate show-cause notices are issued for different assessment years. There may be cases where proceedings are initiated in the guise of a show cause notice under Section 74 wherein, on facts, the case of the assessee will fall under Section 73 of the CGST/SGST Act. We find that insofar as the time limit prescribed under Section 73(10) of the CGST/SGST Act is concerned, it is three years instead of five years and further, the aspect of fraud, willful misstatement and suppression do not arise for consideration in proceedings under Section 73. Thus, by issuing a composite notice, the assessing authority, cannot bypass the mandatory requirement of Section 73 to complete the

https://www.mhc.tn.gov.in/judis

WEB COPY

assessment by falling back on a larger period of limitation under sub-section (10) of Section 74. If such a recourse is permitted, then certainly the said action would be a colourable exercise of the power conferred by the statute and will offend express provisions of the CGST/SGST Act qua limitation. This reason would also prompt us to hold that in cases where the assessing officer finds that an assessee is liable to be proceeded either under Section 73 or under Section 74 for different assessment years, a separate show cause notice has to be issued. Still further, since proper officer need to issue a show cause notice prior to 6 months to the time limit prescribed under sub-section (10) of Section 74, if a composite notice is issued, the assessee will be prejudiced inasmuch as the availability of a lesser period to submit a proper and meaningful explanation. This also is a strong indicative factor which would prompt us to hold in favour of the assessee.

13. We find normally a writ petition against the show cause notice is not to be entertained by the writ court as held by us in Deputy Commissioner of Intelligence v. Minimol Sabu (W.A. No.238 of 2025), we have carved out the exceptions like in a case where a

https://www.mhc.tn.gov.in/judis

WEB COPY

total lack of inherent jurisdiction being in issuance of show cause notice under Section 74 of the CGST/SGST Act. In such circumstances, the writ petitioner need not be relegated to the alternative remedy by way of appeal.

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

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

https://www.mhc.tn.gov.in/judis

WEB COPY

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

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

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

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

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

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

https://www.mhc.tn.gov.in/judis

WEB COPY

29. In the result, this writ petition is allowed. No cost. Consequently, the connected miscellaneous petitions are also closed.

21.07.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

The Additional Commissioner Of Central Taxes
South Commissionerate, Mhu Complex,
473 Anna Salai, Nandanam, Chennai-600 035

https://www.mhc.tn.gov.in/judis

WEB COPY

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.17239 of 2025
and W.M.P.No.19530 of 2025

21.07.2025

https://www.mhc.tn.gov.in/judis