

**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.

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VISHAL ANAND
Date: 2025.08.22
18:41:16 IST
Reason: []

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 03.03.2022 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.**

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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)



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WP-40749-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 29th OF OCTOBER, 2025WRIT PETITION No. 40749 of 2025

*GR INFRA PROJECTS LIMITED RATLAM THROUGH ITS
AUTHORIZED SIGNATORY MR. BHOORI SINGH*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

*Shri Jatin Harjai along with Ms. Priyal Jain - Advocate for the
petitioner.*

*Shri Bhuwan Gautam - Government Advocate for the
respondent/State.*

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ORDER

Per. Justice Vivek Rusia

1. Petitioner has filed this present petition under Article 226 of the
Constitution of India seeking the following reliefs:-

"(i) Issue a Writ of Certiorari and quash and set aside the
impugned Show Cause Notice dated 13.06.2025 (Annexure P/7).

(ii) Alternatively, issue a Writ of Mandamus to Respondent No.
3 directing it to adjudicate upon the Preliminary Objections filed
by the Petitioner and consequently pass a reasoned, speaking
order.

(iii) Pass any other further orders that this Hon'ble High Court
deem fit in the interest of justice."

2. Petitioner is a Company incorporated under the provisions of the
Companies Act, 1956. The petitioner-company is engaged in the design and



construction of various roads and highway projects. The petitioner is also registered under the Central Goods and Services Tax Act, 2017 and M.P. Goods and Services Tax Act, 2017. Assistant Commissioner, State Tax, Anti-Evasion Bureau, Indore-B, Madhya Pradesh issued a summon under Section 70 to Mr. Kuldeep Jain, who is the authorised signatory of the petitioner, calling upon him to appear along with certain documents. He appeared along with the documents. In the month of August, 2022 the premises of the petitioner was searched by the GST officials. According to the petitioner, the full cooperation was extended by producing all the documents as demanded time to time.

3. On 29.4.2025 an intimation under Rule 142(1A) in the Form DRC-01A along with annexure was issued to the petitioner by the respondent No.3. The petitioner submitted detailed response on 14.5.2025 along with the preliminary objections to the validity of the proceedings. The petitioner was not supplied the draft notice dated 3.3.2025, on which this DRC-01A was based. In response to the objection, respondent No.3 provided the said draft notice dated 3.3.2025 on 27.5.2025. After going through the said draft notice, the petitioner again submitted a detailed objection. Now the respondent No.3 has issued a show-cause notice dated 13.6.2025 under Section 74 of the CGST Act read with MPGST Act in respect of demand of tax of Rs.1,52,56,431/-. The details are as under:-

Allegation	Amount (in INR)
Inter-state Outward supply in GSTR-3B Vs. E-way Bill	1,06,954/-
Inter-state Inward supply in GSTR-3B Vs. E-way Bill	42,19,025/-
Ineligible ITC (in respect of site office)	2,69,014/-
Post Supply Cancellation of Vendors	1,06,61,438/-



Total	1,52,56,431/-
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4. The petitioner filed a preliminary objection to question the validity of the impugned SCN and now filed the present petition before this Court seeking quashment of SCN.

5. Learned counsel appearing for the petitioner submits that the tax period pertaining to which this notice under Rule 142(1A) and the present SCN have been issued, is 2018-19. Both the notices are based on the allegation of evasion of tax by way of fraud or willful misstatement. The allegations of fraud and willful evasion as they are very vague and no such details have been given in it. Therefore, such notice is unsustainable in law. The authorities could have issued the notice under Section 73 in absence of any material of fraud and willful evasion, for which the limitation is only 3 years. Therefore, instead of participating in the show-cause notice, the petitioner has approached this Court by way of writ petition. In support of his contention, learned counsel has placed reliance on the judgment passed by the Apex Court in the case of *Uniworth Textiles Ltd. Vs. Commissioner of Central Excise, Raipur reported in 2013(9) SCC 753*, in which the Apex Court has held that the burden of proof of proving mala fide conduct under proviso to Section 28 of the Customs Act, 1962 lies with the Revenue; that in furtherance of same, no specific averments find a mention in show cause notice which is a mandatory requirement for commencement of action under said proviso. Unless the assessee is put to notice, the assessee would have no opportunity to meet the case of the Department on the issue of fraud,



collusion or willful misstatement or suppression of fact. Learned counsel has also placed reliance on a recent Division Bench decision of High Court of Allahabad in the case of *Hcl Infotech Ltd. Vs. Commissioner, Commercial Tax and others vide order dated 27.9.2024 passed in Writ Tax No.1396 of 2024*, in which the similar show cause notice issued to the petitioner (therein) has been quashed inter-alia on the ground that the show cause notice does not make a whisper of the fact that petitioner had wrongly availed or utilized Input Tax Credit due to any fraud, or wilful misstatement or suppression of facts to evade tax. Learned counsel has also placed reliance on a Division Bench judgment of Allahabad High Court in the case of SCN issued to sister concern of the petitioner *M/s Varanasi Sangam Expressway Pvt. Ltd. Vs. Commissioner of State Tax vide order dated 8.10.2025 passed in Writ Tax No.1028 of 2025*.

6. Shri Bhuwan Gautam, learned Government Advocate appearing for the respondents submits that the writ petition is not maintainable. The petitioner has already filed reply to the show cause notice. The petitioner is free to raise all these grounds before the proper officer. After passing the order in original, the petitioner shall have a remedy under Section 107 of the MPGST Act to file an appeal and thereafter further appeal to the GST Appellate Tribunal.

We have heard the learned counsel for the parties and perused the record.

7. So far as the judgments passed by the Allahabad High Court in the matter of Hcl Infotech Ltd. & M/s Varanasi Sangam Expressway Pvt. Ltd.



(supra) is concerned, there is a specific observation by the Court that in the SCN there is no whisper about the allegations of fraud, or wilful misstatement or suppression of facts. The copy of show cause notice issued and the relied on cases has not been filed by the petitioner in this petition to compare with the show cause notice issued to the petitioner. In the show cause notice issued in the present case, there are specific allegations of fraud and willful suppression of facts against the petitioner.

8. It is clear from the contents of draft notice dated 3.3.2025 prepared by the Office of Dy. Commissioner, Commercial Tax, Audit Wing-2, Indore that the commercial place of the petitioner was searched under Section 67 of the GST Act. This report runs into 191 pages containing material of wilful evasion of GST of Rs.1,52,56,431/- in the year 2018-19. As per the language of Section 67 of the GST Act, where the proper officer, not below the rank of Joint Commissioner, has a reasons to believe that a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand and indulged in contravention of any of the provisions of this Act to evade tax under this Act may, in writing, inspect any place of business of the taxable person or the person engaged in the business. Where the proper officer has reasons to believe that any person said to have evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person. The power of arrest has been given under Section 69. After completing such inspection, search and seizure, the proper officer either may issue notice under Section 73 or under Section 74 to the assessee. The



difference between both the sections is regarding period of limitation, which is 3 years and 5 years respectively. Therefore, at this stage, once the show cause notice has been issued under Section 74, it cannot be examined by the writ court that the proper officer has erroneously issued the notice under Section 74 without there being any reason of fraud or willful misstatement of fact to evade the tax. Even after conducting an enquiry under Section 74, if the proper officer is failed to establish the allegations of fraud, willful misstatement or suppression of fact, the order-in-original may be passed under Section 73. Sub-section (3) of Section 74 says that "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." Sub-section (4) says that "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."

9. Therefore, at present no prejudice is being caused to the petitioner to participate in the show cause notice proceedings. Learned counsel for the petitioner submits that even if the petitioner participates and proper officer may pass order under Section 73, but the period of limitation under Section 73 is 3 years, whereas the limitation under Section 74 is 5 years, therefore, this SCN proceeding would be time barred. This issue will also be decided by the authority after considering the material against the petitioner.



10. The Apex Court in the case of *State of Maharashtra & Others v/s Greatship (India) Limited* reported in (2022) 17 SCC 332 has held that the High Court has seriously erred in entertaining the writ petition under Article 226 of the Constitution of India against the assessment order and ought to have relegated the writ petitioner to avail the statutory remedy of appeal. Paragraphs 14 to 17 of the aforesaid judgment are reproduced below:

"14. Applying the law laid down by this Court in the aforesaid decision, the High Court has seriously erred in entertaining the writ petition under Article 226 of the Constitution of India against the assessment order, by-passing the statutory remedies.

15. Now so far as the reliance placed upon the decisions of this Court by the learned Senior Advocate appearing on behalf of the respondent, referred to herein above, are concerned, the question is not about the maintainability of the writ petition under Article 226 of the Constitution, but the question is about the entertainability of the writ petition against the order of assessment by-passing the statutory remedy of appeal. There are serious disputes on facts as to whether the assessment order was passed on 20.03.2020 or 14.07.2020 (as alleged by the assessee). No valid reasons have been shown by the assessee to by-pass the statutory remedy of appeal. This Court has consistently taken the view that when there is an alternate remedy available, judicial prudence demands that the court refrains from exercising its jurisdiction under constitutional provisions.

16. In view of the above and in the facts and circumstances of the case, the High Court has seriously erred in entertaining the writ petition against the assessment order. The High Court ought to have relegated the writ petitioner – assessee to avail the statutory remedy of appeal and thereafter to avail other remedies provided under the statute.

17. Under the circumstances, the impugned judgment and order passed by the High Court is hereby quashed and set aside. The writ petition filed before the High Court challenging the assessment order and consequential notice of demand of tax is hereby dismissed. The respondent – assessee is relegated to avail the statutory remedy of appeal and other remedies available under the MVAT Act and CST Act. It is directed that if such a remedy is availed within a period of four weeks from today, the appellate



authority shall decide and dispose of the same on its own merits in accordance with law without raising any question of limitation, however, subject to fulfilling the other conditions, if any, under the statute. It is made clear that we have not expressed any opinion on the merits of the case in favour of either of the parties and it is for the appellate authority and/or appropriate authority to consider the appeal/proceedings on its/their own merits and without being influenced in any way by any of the observations made by the High Court which otherwise have been set aside by the present order. The present appeal is allowed in the aforesaid terms. However, in the facts and circumstances of the case, there shall be no order as to costs."

11. In view of the above, the petition is **dismissed**. The proper officer shall not be influenced by any observations made hereinabove.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

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