

JAN 2026 | 1ST & 2ND WEEK

TAXWEEKLY

The Weekly Magazine on recent updates and developments in Tax regime.



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THE TAXWEEKLY MAGAZINE

In this issue:

Statutory Updates

- Online facility to declare hotel premises as “Specified Premises” for applicable taxpayers
- Annual KYC for Company Directors now to be done once every three years
- Gross and Net GST revenue collections for the month of Dec, 2025

Compendium of important GST Case Laws - January 2026

- Three-Month Gap Between Show Cause Notice and Final Order Under Section 73 of CGST Act Is Mandatory - Bombay H.C.
- Consolidated GST SCN for Multiple Years Held Invalid Bombay H.C.
- Mere Absence of toll receipts cannot justify invocation of Section 74 - Allahabad H.C.
- Once GST Appellate Tribunal becomes functional, writ petitions against assessment orders are not maintainable - Orissa HC
- Renting of Residential Property as Hostel Qualifies for GST Exemption - Upholds Residential Use Test- Supreme Court
- GST Demand Set Aside for Travelling Beyond Show Cause Notice – Calcutta High Court Reaffirms Section 75(7)

Online facility to declare hotel premises as “Specified Premises” for applicable taxpayers

GSTN Advisory dated Jan 4th, 2026

GST has started an online facility to declare hotel premises as “Specified Premises” for applicable taxpayers. Existing hotels must file Annexure VII between 1st Jan to 31st Mar 2026, and new applicants must file Annexure VIII within 15 days of GST application. Once opted, the status continues every year unless opt out is filed, and filing is done online on the GST portal only.

The relevant declarations issued vide Notification No. 05/2025 – Central Tax (Rate), dated 16th January 2025, are now made available electronically on the GST Portal. These declarations may be opted for and filed by persons who are applying for registration or are already registered and supplying hotel accommodation services by declaring the premises as “specified premises”.

Who may opt and file the declaration :

- Regular taxpayers (active and suspended) supplying hotel accommodation service
- Applicants for new GST registration

| FILING FORMS & WINDOWS | | |
|------------------------|--------------------|------------------|
| Form Type | Applicability | Filing Window |
| Annexure VII | Existing Taxpayers | Jan 1 – Mar 31 |
| Annexure VIII | New Applicants | 15 days from ARN |
| Annexure IX | Opt-Out | To be notified |

The following declarations are made available on the portal:

1. Annexure VII: Opt-In Declaration for Registered Person – For existing registered taxpayers opting to declare premises as specified premises for a succeeding financial year.
2. Annexure VIII: Opt-In Declaration for Person Applying for Registration – For persons applying for new registration, to declare premises as specified premises from the effective date of registration.
(Annexure IX – Opt-Out Declaration will be made available separately in due course of time.)

Existing Registered Taxpayers – Annx VII

- Can be filed for the subsequent financial year during the specified window: 1st January to 31st March of the preceding financial year.

- For FY 2026-27, Annexure VII can be filed from 01.01.2026 to 31.03.2026.

New Registration Applicants – Annx VIII

- Can be filed within 15 days from the date of generation of ARN of the registration application. • Filing is allowed irrespective of whether GSTIN has been allotted, provided the application is not rejected. • After the lapse of 15 days, the opt-in declaration can be filed only when the window for Annexure VII is available, i.e., 1st January to 31st March.

Important Points to Note :

- A maximum of 10 premises can be selected in one declaration. Additional declarations may be filed for remaining premises, if any. However, separate PDFs with reference numbers will be generated for each premise.
- If any premises are left for opt-in, the taxpayer may again file Annexure VII for that premise for the same financial year during the eligible window period.
- Suspended taxpayers are allowed to file the declaration. However, cancelled taxpayers are barred from filing such declarations.

• The option exercised will continue for subsequent financial years unless an opt-out declaration (Annexure IX) is filed within the prescribed time.

The facility is not applicable to composition taxpayers, TDS/TCS taxpayers, SEZ units/developers, casual taxpayers, or cancelled registrations.

For the first year, i.e., FY 2025–26, these declarations were filed manually with the jurisdictional authority. However, since an online filing facility has now been made available, it is requested that such taxpayers shall file Annexure VII for the specified premises again electronically for FY 2026–27 from 1st January 2026 to 31st March 2026.



10 Premises Limit Per Form

A maximum of 10 properties can be selected per electronic declaration.



Full Transition to Online Filing

For FY 2026–27 onwards, electronic filing is mandatory even if previously filed manually.



Composition



SEZ



TDS/TCS

Eligibility Exclusions

Not available for Composition taxpayers, SEZ units, or TDS/TCS registrants.

Annual KYC for Company Directors now to be done once every three years

Press Release dated 1st Jan 2026

Annual KYC for Company Directors has changed - instead of filing KYC every year, directors now need to file it once every three years.

A simplified KYC form can be used to update mobile number, email, address, and for re-activation of DIN when required. This amendment (effective 31 March 2026) is aimed at reducing compliance burden for directors.

Pursuant to the amendment in the Rules notified on 31st December, 2025 (to be effective from 31st March, 2026), annual

KYC filing requirement has been replaced with a simpler KYC intimation once in every three years.

All directors who have completed their KYC till date are covered under the new provisions and accordingly their next KYC filing would be due by 30th June, 2028. The directors who have not submitted their KYC Form so far may continue to get their DINs re-activated as per existing provisions till 31st March, 2026.

Gross & Net GST revenue collections for the month of Dec, 2025

Press Release dated 1st Jan 2026

- Net GST revenue for December 2025 stood at ₹1.45 lakh crore, reflecting a 2.2% YoY growth.
- Net domestic revenue declined by 5.1%, mainly due to higher refunds.
- Net GST from imports increased sharply by 26.8%, partially offsetting the domestic slowdown.
- Cumulatively, net GST collections for FY 2025-26 (till Dec) reached ₹14.25 lakh crore, registering 6.8% growth.
- Compensation Cess: Net compensation cess collection declined significantly to ₹4,238 crore, reflecting reduced levy and ongoing phase-out of the cess mechanism.

Three-Month Gap Between Show Cause Notice and Final Order Under Section 73 of CGST Act Is Mandatory - Bombay H.C.

A. M. Marketplaces Pvt. Ltd. vs. The Union of India

WRIT PETITION No. 7941 OF 2025 - Order dated : 17 January 2026
Bombay HC (Nagpur Bench)

The Hon'ble Bombay High Court held that under Section 73 of the CGST Act, a mandatory minimum period of three months must be given between issuance of a show cause notice and passing of the final order. This period is essential to ensure compliance with principles of natural justice by allowing the taxpayer sufficient time to reply, seek hearing, and make payment if required. Any order passed without maintaining this mandatory time gap is illegal and liable to be quashed.

Main Issue in the Case

The question before the Court was:

Is the GST Department required to give a minimum gap of 3 months between issuing a Show Cause Notice (SCN) and passing the final order under Section 73 of the CGST Act?

Law involved :

Section 73 of CGST Act

73(2) : Department must issue SCN at least 3 months before the last date for passing order.

73(10) : Final order must be passed within 3 years from the due date of annual return.

Facts of the case :

The GST department issued a Show Cause Notice (SCN) on 15th May 2024 to A.M. Marketplaces Pvt. Ltd. under Section 73 of the CGST Act. The final order was passed on 09th July 2024, i.e., within less than 2 months.

The assessee challenged this action before the Bombay High Court.

The main contention was that Section 73 requires a minimum gap of 3 months between issuing notice and passing the final order.

The department argued that such 3 month gap is not mandatory if the notice is issued within the limitation period.

Observations of Court :

It relied upon judgments of:

- Delhi HC (C.H. Robinson case)
- Andhra Pradesh HC (Cotton Corporation case)

The Court observed that the 3-month period is meant to ensure natural justice. The taxpayer must get sufficient time for Filing reply, Seeking personal hearing, Paying tax voluntarily, Producing documents.

If this time gap is not given, the rights under Sections 73(3), 73(5) and 75 become meaningless.

The Court clearly held that this 3-month gap is mandatory, not optional.

ORDER :

The Court held that issuing a final order within less than 3 months from SCN is not legal in nature.

- Show Cause Notice dated 15-05-2024 was quashed
- Final order dated 09-07-2024 was set aside
- Matter was remanded back to the department for fresh proceedings
- Department was directed to remove lien on bank account (if no other issue)

The petition was partly allowed in favour of the taxpayer.

Consolidated GST SCN for Multiple Years Held Invalid - Bombay H.C.

M/s Paras Stone Industries vs Union of India & Ors.

WRIT PETITION No. 7718 OF 2025 - Order dated : 09 January 2026
Bombay HC (Nagpur Bench)

The Hon'ble Bombay High Court quashed a Show Cause Notice issued under Section 74 that consolidated multiple financial years into a single notice. The court ruled that such clubbing is illegal and without jurisdiction because GST law is period-based, requiring assessment and demand to be conducted for each financial year separately. This judgment establishes a strong precedent that year-wise proceedings are mandatory, and failure to follow this requirement renders the notice invalid.

Facts of the case :

The petitioner was issued a Show Cause Notice (SCN) in September 2023 under Section 74 of the CGST Act.

The notice clubbed multiple financial years (2017–18, 2018–19, 2019–20) into one single SCN.

The allegation was suppression of taxable value and short payment of GST.

The petitioner challenged the SCN on the ground that the Clubbing of multiple tax periods in one SCN is illegal, and The department lacked jurisdiction to issue such a consolidated notice.

Observations of Court :

On Clubbing of Multiple Financial Years
The Court held that the GST law is period-based (monthly / annual returns).

Assessment, demand, and recovery are linked to a specific financial year.

Section 73 and 74 prescribe separate limitation for each year. Therefore, a single show cause notice covering multiple financial years is not permissible.

It relied upon judgments of:

- Milroc Good Earth Developers (Goa HC)
- Rite Water Solutions (Bombay HC)

Both held that: Consolidated SCNs covering several years are illegal; Each financial year must have separate proceedings.

Rejection of Department's Argument

The Department relied on: Delhi High Court judgment (Mathur Polymers case)

However, the Court held:

A jurisdictional High Court judgment is binding - Bombay High Court decisions will prevail over Delhi HC for Maharashtra authorities

Later judgments of Bombay HC override earlier contrary views

On Maintainability of Writ Petition

The Department argued that the Petitioner should file appeal instead of writ.

Court rejected this and held that the Writ is maintainable when - Authority lacks jurisdiction; Principles of natural justice are violated; Proceedings are illegal

Since the SCN itself was illegal, writ petition was maintainable.

Order of the Court:

- Show Cause Notice dated September 2023 is QUASHED
- Clubbing of multiple years under Section 74 is illegal
- Department may issue fresh notice year-wise, if legally permissible
- Court strongly criticized the department's arguments
- Initially imposed ₹50,000 cost, later withdrawn on conditional apology
- Warning issued to department's counsel for wasting court time

The Mandatory 90-Day Cooling-Off Period

Section 73 requires three months between an SCN and the final order.



Premature Orders are Legally Invalid

Passing an order too quickly violates the principles of natural justice.



A.M. Marketplaces Pvt. Ltd. Case

The Court quashed an order passed only two months after the notice.

No Clubbing of Financial Years

Issuing a single SCN for multiple financial years is illegal and jurisdictional.



Assessment Must Be Period-Specific

GST law requires separate proceedings and limitation periods for each financial year.



Paras Stone Industries Case

A consolidated notice for 2017-2020 was quashed for lack of jurisdiction.

Mere Absence of toll receipts cannot justify invocation of Section 74 - Allahabad H.C.

M/s Raghuvansh Agro Farms Ltd. vs State Of U.P.

WRIT PETITION No. 3829 OF 2025 - Order dated : 17 December 2025
Allahabad HC

The Allahabad High Court held that proceedings under Section 74 of the GST Act cannot be initiated unless there is clear evidence of fraud, wilful misstatement, or suppression of facts.

Due to absence of toll receipts the tax authorities invoked section 74. The Court ruled that mere suspicion or procedural irregularities cannot justify invocation of Section 74. It further held that proceedings initiated without jurisdiction and without proper evidence are illegal and liable to be quashed.

Facts the Case

The petitioner, M/s Raghuvansh Agro Farms Ltd., was engaged in trading of agricultural goods.

A survey was conducted in 2019, followed by issuance of Show Cause Notice under Section 74 alleging fake purchases and circular trading.

Orders were passed by State GST authorities alleging:

- Fake ITC
- No movement of goods
- Absence of toll receipts

The petitioner challenged:

- Jurisdiction of State GST authorities
- Invocation of Section 74 without proof of fraud
- Rejection of genuine documents like invoices, e-way bills, GSTR returns, and bank payments

The appeal was dismissed, after which the writ petition was filed before the High Court.

Observations of Court :

Section 74 Can Be Invoked Only in Case of Fraud. The Court held that:

- Section 74 requires clear allegation and proof of fraud, wilful misstatement, or suppression of facts.
- Mere non-payment or suspicion is not enough.
- No such finding was recorded in this case.

Jurisdictional Error

- The petitioner fell under Central GST jurisdiction, not State GST.
- No cross-empowerment notification existed.
- Hence, State GST authorities had no jurisdiction to initiate proceedings.

Evidence Ignored by Department. The Court noted: Valid tax invoices, E-way bills, GSTR-1, GSTR-2A & GSTR-3B, Bank payments, Supplier registration validity.

Toll Plaza Receipt Argument Rejected

- There is no provision in GST law requiring toll receipts as proof of movement.
- E-way bill and invoices are sufficient.
- Adverse inference on this basis was held illegal.

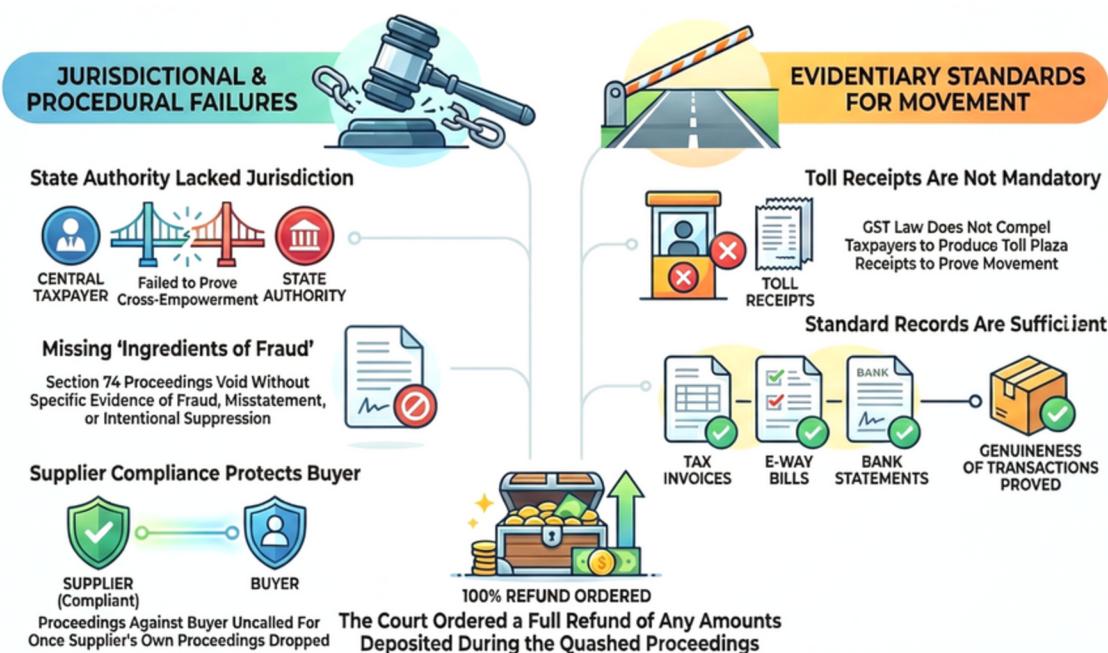
Circular Trading Allegation Rejected

- No material evidence of fake or circular trading was shown.
- Supplier's proceedings were already dropped.
- Hence, allegations were baseless

Order of the Court :

- Show Cause Notice under Section 74 quashed
- Orders passed by GST authorities set aside
- Proceedings held without jurisdiction and illegal
- Refund of amount directed

Court reiterated that: Section 74 cannot be invoked without clear proof of fraud or intent to evade tax



Once GST Appellate Tribunal becomes functional, writ petitions against assessment orders are not maintainable - Orissa HC

M/s. Cordant Engineerings India Private Ltd. vs The State Tax Officer

WRIT PETITION No. 91 OF 2025 - Order dated : 09th Jan 2026

Orissa HC

The Orissa High Court held that once the GST Appellate Tribunal has been notified and made functional, taxpayers must avail the statutory appellate remedy instead of invoking writ jurisdiction. The Court ruled that the petitioner must comply with the mandatory pre-deposit under Section 112 of the GST Act before filing the appeal. Consequently, the writ petition was disposed of with liberty to approach the GST Appellate Tribunal.

Facts the Case

The petitioner challenged:

- Assessment order dated 20.01.2022
- Appellate order dated 05.09.2023

The dispute related to GST demand for FY 2019–20 under Section 73. The petitioner approached the High Court because the GSTAT was not constituted earlier, hence appeal remedy was unavailable.

During hearing, it was informed that the GST Appellate Tribunal had now been notified. Government had extended timelines for filing appeals. The petitioner sought writ relief instead of filing statutory appeal.

Observations of Court :

Availability of Alternate Remedy

- The Court noted that GSTAT is now functional.
- A statutory remedy under Section 112 of CGST Act is now available.
- Therefore, writ jurisdiction should not be exercised.

Mandatory Pre-deposit u/s 112(8): The Court emphasized that:

- Filing appeal requires payment of admitted tax + 10% of disputed tax.
- This condition cannot be bypassed through writ jurisdiction.

The Court reiterated that writ jurisdiction is maintainable only when no remedy exists. Once appellate forum is functional, High Court should not entertain merits.

Court clarified that that it has not examined merits of the assessment. All issues are left open for GST Appellate Tribunal

Order of the court:

Once GST Appellate Tribunal becomes functional, writ petitions against assessment orders are not maintainable, and statutory appeal under Section 112 must be availed with mandatory pre-deposit.

Renting of Residential Property as Hostel Qualifies for GST Exemption - Upholds Residential Use Test- Supreme Court

State of Karnataka vs Taghar Vasudeva Ambrish

CIVIL APPEAL NO. 7846 OF 2023 - Order dated : 04th Dec 2025

Supreme Court

The Supreme Court held that renting of residential premises for use as a hostel by students or working professionals qualifies as “residential dwelling” under GST law. It ruled that exemption under Entry 13 of Notification No. 9/2017 is available even if the property is leased to an intermediary who sub-lets it for residential use. The Court dismissed the Revenue’s appeal and upheld exemption from GST.

Facts the Case :

- The respondent owned a residential building with 42 rooms.
- The property was leased to M/s DTwelve Spaces Pvt. Ltd. which ran it as a hostel for students and working professionals.
- The assessee claimed GST exemption under Entry 13 of Notification 9/2017, which exempts the Renting of residential dwelling for use as residence
- The AAR and AAAR denied exemption, holding that:
 - Hostel is not a residential dwelling
 - Lessee was a company and not using it personally
- The Karnataka High Court allowed the exemption - holding that hostels are residential in nature.
- The State appealed to the Supreme Court.

Observations of Court :

Residential Dwelling is not defined in GST law, hence must be interpreted using Common parlance, Judicial precedents,

Earlier service tax interpretation. A residential dwelling includes places used for living, sleeping, residence and includes hostels used for long-term stay.

Hostel is Residential in Nature. The Court held:

- Hostel is a place of residence
- Long-term stay (3–12 months) qualifies as residence
- Hostel is not a hotel or guest house

GST exemption depends on:

- Use of property (residential)
- NOT on who takes it on rent

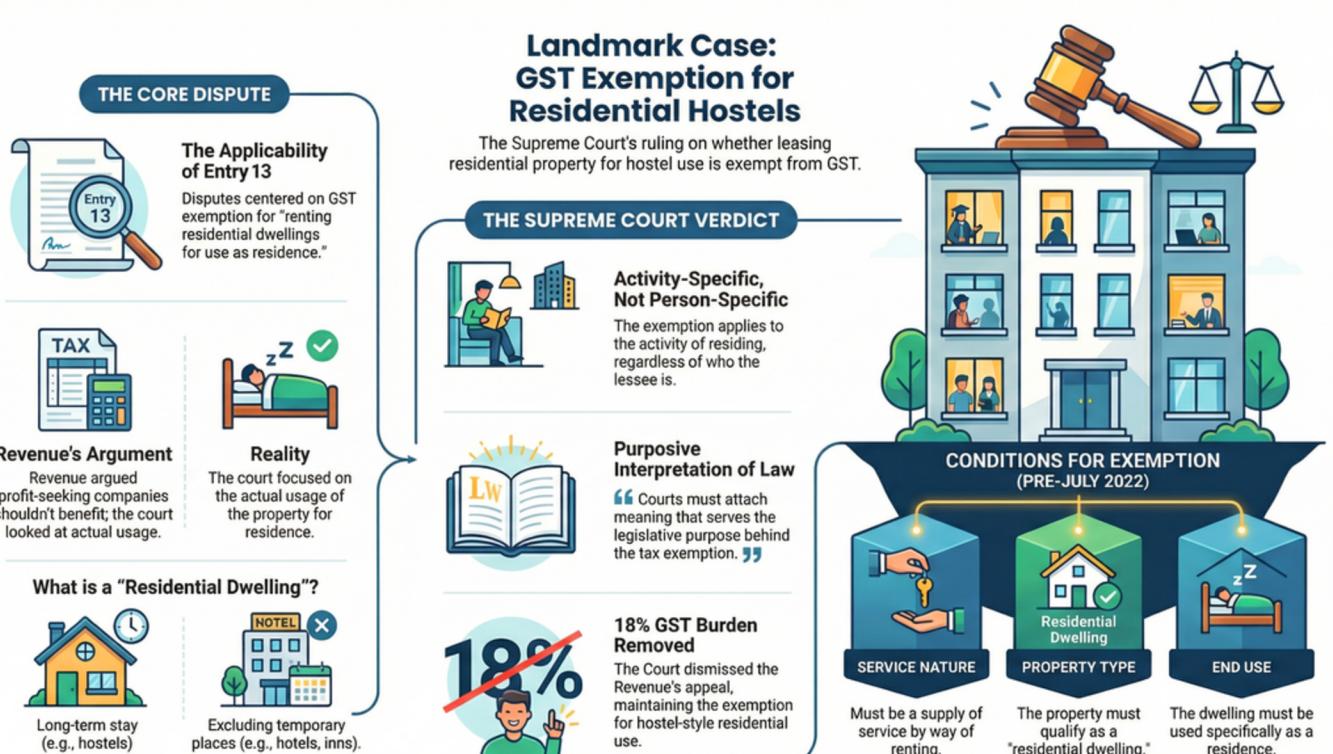
The Lessee need not personally reside there. Sub-leasing for residential use is permitted.

Beneficial Exemption Must Be Liberally Interpreted

- Entry 13 is a beneficial exemption
- Must be interpreted to advance its object
- Charging GST would defeat legislative intent

Order of the court :

The Supreme Court dismissed the appeal filed by the State and upheld the judgment of the Karnataka High Court. It held that renting of residential premises for use as a hostel by students or working professionals qualifies as “residential dwelling” and is entitled to GST exemption under Entry 13 of Notification No. 9/2017. The Court further ruled that the exemption cannot be denied merely because the property was leased through an intermediary or used by sub-tenants for residential purposes.



GST Demand Set Aside for Travelling Beyond Show Cause Notice – Calcutta High Court Reaffirms Section 75(7)

M/s. Vedant Road Carriers Pvt. Ltd. & Anr. Vs. The Assistant Commissioner of West Bengal State Tax

WRIT PETITION No. 12654 OF 2025 - Order dated : 14th Jan 2026
HIGH COURT AT CALCUTTA

The Calcutta High Court held that a GST adjudication order cannot travel beyond the grounds mentioned in the show cause notice. Since the tax demand was confirmed on a ground entirely different from what was alleged in the notice, the action violated Section 75(7) of the CGST Act. Accordingly, both the adjudication and appellate orders were quashed and the matter was remanded for fresh adjudication.

Facts of the case :

The petitioner, Vedant Road Carriers Pvt. Ltd., was issued multiple show cause notices alleging under reporting of outward supplies in GSTR-3B. The notices required reply and personal hearing on 31 March 2023. The petitioner sought time due to multiple years being involved.

But adjudication order dated 17 May 2023:

- Did not decide the issue mentioned in the SCN, and
- Instead held the petitioner liable under Forward Charge Mechanism based on a different notification.

The petitioner appealed, but Appellate Authority upheld the order, calling defect “technical”. Aggrieved by this petitioner approached the Calcutta High Court.

Observations of Court:

Order Cannot Go Beyond Show Cause Notice

The Court held that the SCN alleged short declaration of turnover but the final order was passed on wrong applicability of Forward Charge.

This is a direct violation of Section 75(7) of the CGST Act.

Section 75(7) Is Mandatory

The court emphasized that no demand can be confirmed on grounds other than those mentioned in the show cause notice.

Appellate authority wrongly treated the violation as a “technical issue”. Violation of Section 75(7) is substantive, not technical.

Natural Justice Violated

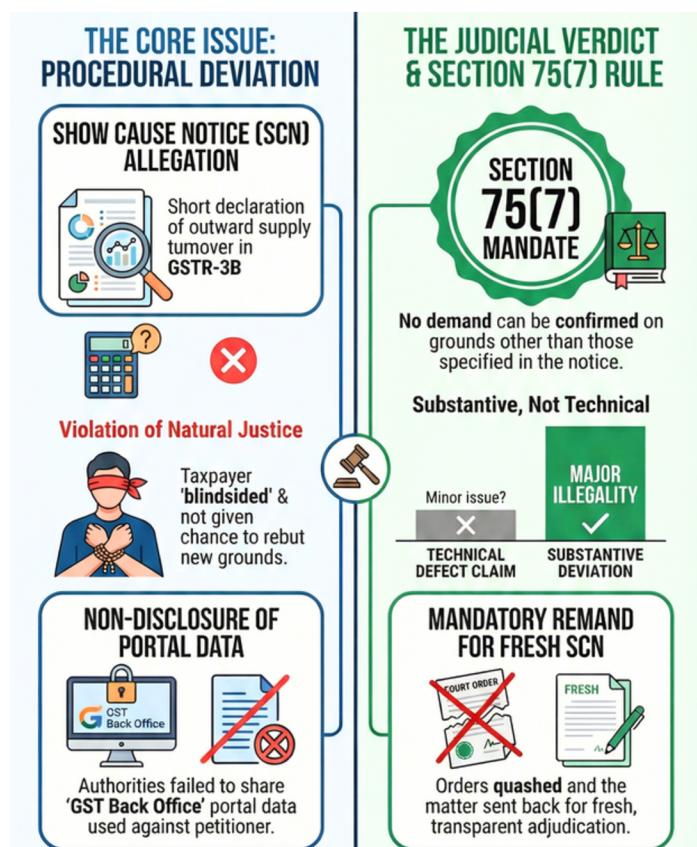
Petitioner was never put to notice regarding:

- Forward Charge liability
- Applicability of Notification dated 22.08.2017

Hence, no effective opportunity of hearing was granted.

Order of the Court:

The Calcutta High Court set aside both the adjudication order and the appellate order on the ground that the tax demand was confirmed on issues not mentioned in the show cause notice. The Court held that such action violates Section 75(7) of the CGST Act and principles of natural justice. The matter was remanded to the Proper Officer for fresh adjudication after issuing a proper show cause notice and granting due opportunity of hearing.





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