2026:HHC:40152

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 4120 of 2019
Decided on : 21.09.2026

M/s U.R. Sinter Private Ltd. ...Petitioner

Versus

The State of H.P & Ors ...Respondents

Coram
Hon'ble Mr. Justice Ajay Mohan Goel, Judge
Hon'ble Mr. Justice Yogesh Jaswal, Judge

Whether approved for reporting?[1]

For the petitioner : Mr. J.S. Bedi & Mr.Umesh Kanwar, Advocate.

For the respondents : Mr. Anup Rattan, Advocate General along with Mr. Sushant Keprate and Mr. Pushpinder Jaswal, Additional Advocates General, for the respondents-State.

Ajay Mohan Goel, Judge *(Oral)*

Having heard learned counsel for the parties, this petition is disposed of by passing the following consent order.

2. Section 74 of the HPGST Act, inter alia, provides that where it appears to the proper officer that any tax has not been

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1*Whether reporters of the local papers may be allowed to see the judgment?*

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paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of **fraud** or any **willful-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 paid, or who has wrongly availed or utilized input tax credit, requiring such person to show cause as to why he should not pay the amount specified in the notice along with interest and penalty.

3. Thus, the pre-condition for the issuance of a notice under Section 74 is that the non-payment of tax etc, has to be on account of either fraud, willful-misstatement or suppression of facts to evade tax.

4. The Hon'ble Supreme Court of India in **M/s Tata Steel Limited vs. Union of India, SLP (C) No.16859 of 2026** has held that proceedings under Sections 73 and 74 of the Central Goods and Services Act, 2017 can be initiated only upon the satisfaction of the assessing officer and the officer should be satisfied that either fraud, willful-misstatement, or suppression has led to the short payment or mismatch of tax. The Hon'ble Apex Court has also been pleased to hold in this judgment that

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the words of Section 74 are not to be mechanically recited in the notice to enable recovery beyond the normal period of limitation, and the foundational facts which lead to the inference arrived at of fraud/willful misrepresentation or suppression should be evident from the notice itself.

5. If we apply the judgment of the Hon'ble Supreme Court to the facts of the present case, we have no hesitation in holding that the show cause notice (Annexure P-2) dated 05.12.2018 does not fulfill the criteria, as has been observed by the Hon’ble Supreme Court of India. The show-cause notice is more or less a cryptic one. It does not establish that the alleged act of the petitioner herein is on account of fraud, willful-mis-representation, or suppression of facts.

6. Therefore, without making any further observations on the merits of the issue, the writ petition is disposed of by quashing show cause notice (Annexure P-2) and the the impugned order (Annexure P-3) dated 20.05.2019 with liberty reserved to the assessing authority to proceed afresh against the petitioner on the same subject matter, if so advised, by issuing a fresh show-cause notice under Section 74 of the HPGST Act.

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7. As agreed, in case such a show-cause notice is issued within 60 days from today, the same shall be deemed to be within limitation and shall be responded to by the petitioner on merits. Pending application(s), if any, shall also stand disposed of.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

September 21, 2026 (meera)

High Court of H.P.

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