IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
CWP No.6587 of 2024
Decided on 05th October 2026

M/s J.B. Rolling Mills Limited

…Petitioner

Vs.

State of Himachal Pradesh and others

…Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Hon'ble Mr. Justice Yogesh Jaswal, Judge

[1]Whether approved for reporting?

For the petitioner : Mr. Ajay Vaidya, Advocate.

For the respondents : Mr. Sushant Keprate, Additional Advocate General.

Ajay Mohan Goel, Judge *(Oral)*

By way of this writ petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

> *"i) For issuance of a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ or direction calling for the records pertaining to the Petitioners' case and after going into the validity and legality thereof to quash and set aside notice dated 29.06.2024 issued for denying the Input tax credit to the petitioner,*
>
> *ii) This Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or direction, directing the Respondents, its servants, subordinates, agents and successors in office to forthwith withdraw and/or cancel the impugned notice dated 29.06.2024 issued by the Respondent No. 3 under Section 75 of the Act for denying the ITC of Rs.4316198/- and levying interest of*

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Rs.5025384/and Penalty of Rs.4316198/. as the show cause notice was issued without issuing ASMT-10 beside this show cause notice was issued without appreciating the factual and legal position as petitioner has already paid the tax to the sellers and in his possession all the documents required for claiming the ITC and the petitioner cannot be forced to do the impossible act that seller has discharged its tax liability or not."

2. Having heard learned counsel for the petitioner as also learned Additional Advocate General, we are of the considered view that the present petition is completely misconceived.

3. The scheme of Section 74 of the Himachal Pradesh Goods and Services Tax Act, 2017, *inter alia* is that in terms of sub-section (5) of Section 74, a person chargeable with tax may, before service of notice under sub-section (1) of Section 74, pay the amount of tax along with interest payable under Section 50 thereof and a penalty equivalent to 15% of such tax on the basis of his own assessment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. Sub-section (6) thereof further provides that the proper officer, on receipt of such information, shall not serve any notice under sub-section (1) in respect of

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the tax so paid or any penalty payable under the provisions of this Act or rules made thereunder. Sub-section (7) thereof provides where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

4. We are of the considered view that the scheme of the statute is such that before a notice is issued under Section 74(1) of the GST Act, a person chargeable with tax, has the discretion either to pay the tax himself on the basis of his assessment etc., as is provided in sub-section (5) of Section 74, or as may be ascertained by the proper officer and inform the proper officer in writing of such payment.

5. Herein, the notices in issue, against which the petitioner has approached this Court, are the ones which have been issued by the Officer in exercise of his powers under sub-section (5) of Section 74.

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6. In our considered view, issuance of these notices does not *per se* give any cause of action to the petitioner to approach this Court. If later on, the respondents invoke the provisions of sub-section (1) of Section 74, then, the petitioner always has a right to respond to the said show-cause notice. Thereafter, the parties can proceed with the matter in accordance with law including redressal of their grievances as per the scheme of the Act.

7. Accordingly, in light of the above observations, this petition is disposed of as not maintainable at this stage. Interim orders, if any, stand vacated.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

October 05, 2026
(Vinod)

High Court of H.P.

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