



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

255-1

CWP-4495-2024 (O&M)
Date of Decision: 02.04.2026

ABBOTT HEALTHCARE PRIVATE LIMITED

.....Petitioner

Versus

EXCISE AND TAXATION COMMISSIONER, PUNJAB AND ORS.

...Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present:- Mr. Bharat Raichandani, Advocate
Mr. Rana Gurtej Singh, Advocate and
Mr. Marmik Kamdar, Advocate
for the petitioner.

Mr. Sourabh Kapoor, Addl. A. G., Punjab.

Mr. Brijesh Mittal, Advocate (through V. C.) and
Mr. Simranpreet Singh, Advocate
for respondent No.3.

DEEPAK SIBAL, J. (Oral)

Through the instant petition challenge is made to the show cause notice dated 31.01.2024, issued to the petitioner under Section 73(1) of the Punjab Goods and Services Tax Act, 2017 (for short, 'PGST Act') and the Central Goods and Services Tax Act, 2017 (for short, 'CGST Act') read with relevant sections of Integrated Goods and Services Tax Act, 2017 (for short, 'IGST Act') on the ground that the sole basis of such show cause notice is factually incorrect; the same is vague and therefore, unsustainable in law.

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2. Learned counsel for the parties have been heard and with their able assistance, the record of the case has also been perused.
3. The impugned notice dated 31.01.2024 is reproduced below for ready reference:-

To

Name. ABBOTT HEALTHCARE PRIVATE LIMITED

GSTIN: 03AAACK3935D1Z2

Sub: Show Cause Notice under Section 73(1) of the PGST Act, 2017 and the CGST Act, 2017 read with relevant sections of the IGST Act, 2017.

Brief facts of the case

A special audit was conducted by the CAG of your firm for the period 2018-19 in which following observations have been made:

1. Excess ITC availed as per table 8D of GSTR-9 after considering subsequent year's adjustment Rs. 60159417.
2. Excess ITC availed as per table 8D of GSTR-9 after considering subsequent year's adjustment Rs.37763342.
3. Excess ITC availed under ISD mechanism Rs.174080719.
4. Short payment of tax under Reverse Charge Mechanism (RCM) Rs. 313948.
5. Mismatch in ITC availed between Annual Return and Financial Statements Rs. 98694.
6. Mismatch of ITC as per table 8A of GSTR-9 and ITC available in GSTR-2A Rs. 22396067.
7. Undischarged tax liability Rs. 474719.

Tax and other dues:

Thus, as mandated u/s 73(1) you are hereby directed to pay the amount of tax due as calculated above or show cause as to why the above said amount be not recovered from you. The relevant part of the Section is reproduced as under: -

“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 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”

ACT	TAX	INTEREST	PENALTY	TOTAL
IGST	0	0	0	0
CGST	147643453	144455972	14764345	306863770
SGST	147643453	144455972	14764345	306863770
TOTAL	295286906	288911944	29528690	613727540

You have availed ITC in GSTR 3B filed after limitation period, details of which are attached.

- It may be noted that the amount of interest is subject to change depending upon the actual date of payment of tax.

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- "No Penalty u/s 73 will be imposed if tax, interest and penalty are deposited within 30 days of the issuance of SCN/DRC-01. This notice is being served upon you to Show cause (with documentary evidence) within 30 days of receipt of this notice, as to why you should not pay the amount and penalty as detailed above along with interest under Section 50, failing which action shall be initiated against you as per law.

[Emphasis supplied]

4. A perusal of the afore quoted show cause notice reveals that the same is solely based on a special audit of the petitioner company conducted by the Comptroller and Auditor General of India (for short – CAG) but it is admitted before us by learned counsel for the respondent-State that no such audit of the petitioner company was conducted by the CAG and that the audit, on the basis whereof the afore quoted show cause notice is based was by the CAG of the GST Department in the State of Punjab. Thus, the very premise on which the impugned show cause notice is based, is factually incorrect.

5. It is also not disputed before us that the report of the CAG, which forms the sole basis behind issuance of the impugned show cause notice was never supplied to the petitioner.

6. Further, a perusal of the impugned show cause notice reveals that the same is absolutely vague. Allegations in such show cause notice have been made with regard to availing of excess Input Tax Credit (for short – ITC) by the petitioner company as per table 8A and 8D of its GST returns but the basis for arriving at such conclusion is not found in the said show cause notice. The impugned show cause notice further refers to alleged mismatch in the ITC availed by the petitioner company but after examining the said show cause notice details of the alleged mismatch are not found forthcoming. The impugned show cause notice further refers to



undischarged tax liability of Rs.474719/- by the petitioner company but no head under which such tax liability remained undischarged is found. Further short payment of tax under reverse charge mechanism is alleged @ Rs.313948/- but after scrutinizing the impugned show cause notice one is left to wonder as to what was the basis for such allegations.

7. Before raising a demand, the purpose of putting an assessee to notice, is to make the assessee aware of the department's intent to enable the assessee to effectively respond. A vague notice does not fulfil such object. Serving of a non-specific notice is nothing but an empty formality which does not fulfil the afore object and is even otherwise, violative of the principles of natural justice. Not only should the notice be specific and detailed, the material which forms the basis of the notice, should also be supplied to the assessee alongwith the notice.

8. Even as per Section 73(3) of the CGST Act, where a notice has been issued for any period under sub-section (1), the proper officer is required to serve a statement upon the assessee containing therein details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under sub-section (1). Relevant portions of Section 73 of the CGST Act are reproduced below for ready reference:-

“73. (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 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

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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.”

(Emphasis supplied)

9. Thus, Section 73(3) of the CGST Act makes it clear that “details” of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised have to be brought to the assessee’s notice through the show cause notice issued to the assessee under such provision.

10. In the case in hand, the impugned show cause notice is not only based on a wrong premise but is also found to be utterly vague and bereft of any details as are required to be furnished under Section 73(3) of the CGST Act.

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11. In the light of the above, the impugned notice dated 31.01.2024 is set aside with liberty to the respondent-authorities to proceed against the petitioner, in accordance with law.

12. Pending application(s), if any, shall stand disposed of.

**[DEEPAK SIBAL]
JUDGE**

**[LAPITA BANERJI]
JUDGE**

02.04.2026

Jyoti Thakur

*Whether speaking/reasoned:
Whether reportable:*

*Yes/No
Yes/No*