IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 2485 of 2026

M/s. Tata Steel Limited, a public limited company registered under the provisions of the Indian Companies Act, 1956, having its registered office at Bombay House, Homi Modi Street, P.O.- Mumbai G.P.O, P.S. Colaba, District Mumbai, Maharashtra 400 001, and its works in Jamshedpur, P.O. and P.S. Bistupur, District - East Singhbhum, Jharkhand 831 001, through its Chief Legal Counsel [Indirect Taxation, Legal (I & L)], Mr. Vikash Mittal, aged about 54 years, son of Mr. Hari Kishan Mittal, resident of 26, Kaiser Bungalows, Inner Circle Road, B.H Area, Kadma, Jamshedpur 831005, P. O. and P. S. Kadma, Town Jamshedpur, District Singhbhum (East), Jharkhand.

... Petitioner

Versus

1. Union of India, through the Secretary, Ministry of Finance, Department of Revenue, having its office at North Block, New Delhi, P.O.-G.P.O, P.S. Sansad Marg, District - New Delhi, 110 001.
2. Central Board of Indirect Taxes and Customs, through its Chairman, having its office at North Block, New Delhi, P.O. -G.P.O, P.S. Sansad Marg, District - New Delhi, 110 001.
3. Commissioner of Central Goods and Services Tax & Central Excise, Jamshedpur Commissionerate, having its office at Outer Circle Road, Bistupur-831 001, P.O. and P.S. Bistupur, Town Jamshedpur, District - Singhbhum East, Jharkhand.
4. Joint Commissioner, Central Goods and Services Tax & Central Excise, Jamshedpur, having its office at Outer Circle Road, Bistupur 831 001, P.O. and P.S. Bistupur, Town Jamshedpur, District - Singhbhum East, Jharkhand.
5. Additional Commissioner, Central Goods and Services Tax & Central Excise, Jamshedpur, having its office at Outer Circle Road, Bistupur 831 001, P.O. and P.S. Bistupur, Town - Jamshedpur, District - Singhbhum East, Jharkhand.
6. Assistant Commissioner, Central Goods and Services Tax & Central Excise, Jamshedpur, Division - I, having its office at Outer Circle Road, Bistupur 831 001, P.O. and P.S. Bistupur, Town Jamshedpur, District Singhbhum East, Jharkhand.

7. Superintendent, Central Goods and Services Tax & Central Excise, TISCO Range, Jamshedpur, having its office at Outer Circle Road, Bistupur 831 001, P.O. and P.S. Bistupur, Town - Jamshedpur, District - Singhbhum East, Jharkhand.
8. Director General of Audit (Central), Lucknow at Ranchi, through the Director, CRA (Ranchi), having its address at AG Office, Main Building, Doranda, P.O. and P.S. – Doranda, District - Ranchi, 834002.

... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner: Mr Kavin Gulati, Sr. Advocate (through VC)
Mr Salona Mittal, Advocate
For the Respondents: Mr Amit Kumar, Sr. S.C. (CGST)
Mr. Anurag Vijay, Jr. S.C. (CGST)

Reserved on: 22.04.2026 **Pronounced on: 23/04/2026**

***Per* M. S. Sonak, C.J.**

1. Heard Mr Kavin Gulati, learned Senior Counsel appearing for the petitioner, and Mr Amit Kumar, learned Sr. S.C. (CGST) for the respondents.

2. The petitioner challenges Order-In-Original dated 26.12.2025 made under Section 74 of the CGST Act, 2017. The petitioner admits that it has an alternative and efficacious remedy of an appeal to challenge the impugned Order-In-Original. However, the learned Senior Advocate for the petitioner submitted that this matter falls within the exceptions provided by the Hon'ble Supreme Court in the case of **Whirlpool Corporation v. Registrar of Trade Marks** [(1998) 8 SCC 1] and, therefore, this petition should be entertained without requiring

the petitioner to avail of the alternate remedy provided under the CGST Act, 2017.

3. The learned Senior Advocate for the petitioner raised two contentions in support of his argument that this petition should be entertained despite the existence of an alternate remedy to challenge the impugned Order-In-Original: -

(a) Firstly, he contended that none of the ingredients of Section 74 of the CGST Act, which are required to co-exist, are fulfilled in this matter. Therefore, he submitted that the very exercise of powers under Section 74 was an exercise without jurisdiction and consequently, even the impugned Order-In-Original is an order made without jurisdiction.

(b) This was a case of violation of natural justice because the show-cause notice in this case was based on an audit report. The Revenue had contested this audit report and yet issued the show-cause notice. The matter, which was kept in abeyance/ referred to the callbook, was summarily recalled on the spacious plea that otherwise the assessment would be time-barred. It was submitted that such a procedure violates the principles of natural justice and fair play. In any event, it was contended that jurisdictional contentions, though raised in the reply to the show-cause notice, were not considered in the impugned Order-In-Original, thereby violating the principles of natural justice.

4. After the arguments concluded, the learned Senior Advocate, through his junior, who was present in the Court, handed over a list of dates and a synopsis of the arguments. Apart from the above two contentions, the synopsis argues that "*even on merits, the mismatch has fully been explained*". Based on this, it is contended that we should interfere with the impugned Order-In-Original, bypassing the statutory alternate remedy provided in such matters.

5. Other than the above arguments, no other arguments were advanced by the learned Senior Advocate for the petitioner.

6. The learned counsel for the Revenue contested the contentions raised on behalf of the learned Senior Advocate for the petitioner. He firstly submitted that this was not some extraordinary case to bypass the alternative remedies provided under the statute. Secondly, he submitted that there were no jurisdictional errors and the principles of natural justice were fully complied. He submitted that the response of the petitioner was duly considered, and both the so-called jurisdictional issues and the merits have been decided in the impugned Order-In-Original. He submitted that if the petitioner was aggrieved by the determination, it was always open to the petitioner to appeal the impugned Order-In-Original.

7. He relied on the decision of the Bombay High Court in **Oberoi Constructions Ltd v. Union of India** [2024 SCC OnLine Bom 3508] and submitted that this decision has been followed by this Court in

several orders, based upon which the petitioners were relegated to avail of the alternate statutory remedies.

8. The rival contentions now fall for our determination.

9. Admittedly, in this case, the petitioner has an alternative and efficacious remedy to appeal the impugned order. This is not even disputed by the petitioner. However, the contention is that the impugned Order-In-Original is without jurisdiction and violates the principles of natural justice. It is submitted that these are the two well-known exceptions where the petitioners are not usually relegated to avail of the alternate remedy provided by the statute.

10. In the case of **Whirlpool Corporation (supra),** the Hon'ble Supreme Court has held that where the impugned action is "*wholly without jurisdiction*", or where there is a patent breach of the principle of natural justice, then the rule or practice of exhaustion of alternate remedy is not rigidly enforced.

11. In the present case, the petitioner argued that the three jurisdictional parameters for invoking the provisions of Section 74 of the CGST Act were not fulfilled. The petitioner contends that even on a demurrer, the alleged wrongful availment of ITC cannot be attributed to any fraud, willful misstatement or suppression to evade taxes. There is no proper record of satisfaction of the proper officer to this effect. Therefore, relying upon **ITW Signode India Ltd v. C.C.E.** [(2004) 3 SCC 48] and **Tamil Nadu Housing Board v. C.C.E.** [1995 SCC Supp (1) 50] and **Uniworth Textiles Limited v. C.C.E.** [(2013) 9 SCC 753]**,**

it is contended that the proceedings under Section 74 were in excess of jurisdiction.

12. From perusal of the impugned show-cause notice, we are unable to accept that the same was issued wholly without jurisdiction or without the proper officer being satisfied that there was wrongful availment of ITC because of fraud, willful misstatement and suppression to evade taxes. On merits, it was open to the petitioner to establish that there was neither any wrongful availment nor any fraud, willful misstatement, or suppression to evade taxes. The petitioner did attempt to do precisely that; however, the impugned Order-In-Original, upon considering the petitioner's response and the other material on record, has rejected the petitioner's contention on the merits.

13. The argument that the impugned Order-In-Original is incorrect on merits, or that there was no mismatch included in the written synopsis, cannot be considered at this stage. For that reason, the petitioner has been provided with an alternative remedy of a statutory appeal. Any consideration of such a factor would involve adjudication of the disputed issues and evaluation of the material on record. This Court, in such matters, does not exercise any appellate jurisdiction but only exercises its powers of judicial review.

14. At this stage, it is premature to say whether the findings in the impugned Order-In-Original on the issue of wrongful availment of ITC because of fraud, willful misstatement or suppression to evade taxes is correct. Precisely to test the correctness of such findings, which involve

largely factual elements, the Legislature has provided an appeal against the order of the proper officer.

15. By attempting to argue that these findings of fact are incorrect, or that there is some error in the evaluation of the material on record, this matter cannot be elevated to the status of a matter involving a patent jurisdictional error that should be examined by this Court without relegating the petitioner to the alternate remedy provided by the statute. The alternate remedy in this case would be much more efficacious, given the width of the appellate jurisdiction, as compared to the limited jurisdiction of judicial review vested in this Court at this stage.

16. In the case of **Special Director v. Mohd. Ghulam Ghous** [(2004) 3 SCC 440], the Hon'ble Supreme Court has explained that unless the High Court is satisfied that the show-cause notice was totally *non est* in the eyes of the law for absolute want of jurisdiction of the authority even to investigate the facts, writ petitions should not be entertained for mere asking and as a matter of routine. The writ petitioner should invariably be directed to respond to the show-cause notice and raise all defences and contentions highlighted in the writ petition.

17. In **State of Maharashtra v. Greatship (India) Limited** (2022) 105 GSTR 300 (SC); (2022) 17 SCC 332; 2022 SCC OnLine SC 1262; [2022] LiveLaw (SC) 784.] , the Hon'ble Supreme Court, after referring to its earlier precedents on the subject, *held that Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only*

where statutory remedies are entirely ill-suited to meet the demands of extraordinary situations, for instance, where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up, and the prevention of public injury and the vindication of public justice require it that recourse may be had to article 226 of the Constitution. But even then, the court must have a good and sufficient reason to bypass the alternative remedy provided by statute. Surely, matters involving the revenue where statutory remedies are available are not such matters.

18. The court, after referring to its earlier precedent in **United Bank of India v. Satyawati Tondon** [(2010) 8 SCC 110; (2010) 3 SCC (Civ) 260; 2010 SCC OnLine SC 776.] observed that "*we can also take judicial notice of the fact that the vast majority of the petitions under article 226 of the Constitution are filed solely for the purpose of obtaining interim orders and thereafter prolong the proceedings by one device or the other. The practice certainly needs to be strongly discouraged.*"(page 126 in SCC).

19. In **Greatship (India) Limited (supra)**, the Hon'ble Supreme Court did not approve the decision of the High Court to entertain the writ petition under Article 226 of the Constitution, challenging the assessment order, given the statutory alternate remedies available under the Maharashtra Value Added Tax Act, 2002 and the Central Sales Tax Act, 1956. The Hon'ble Court held that the assessee showed no valid reasons to bypass the statutory remedy of appeal and that the Supreme

Court has consistently taken the view that when an alternate remedy is available, judicial prudence demands that the courts refrain from exercising their jurisdiction under constitutional provisions.

20. In **Thansingh Nathmal v. Superintendent of Taxes** [(1964) 15 STC 468 (SC); 1964 SCC OnLine SC 13; AIR 1964 SC 1419.] , the Constitution Bench of the Hon'ble Supreme Court, disapproved the petitioner's invoking the jurisdiction of the High Court under Article 226, bypassing alternate statutory remedies that were clearly available. The Constitution Bench observed that the jurisdiction of the High Court under Article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations.

21. The Constitution Bench held that resorting to this jurisdiction is not intended as an alternative remedy for relief, which may be obtained in a suit or other mode prescribed by statute. Ordinarily, the court will not entertain a petition for a writ under Article 226, where the petitioner has an alternative remedy that provides an equally efficacious remedy without being unduly onerous. Again, the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce

which the writ is claimed. The High Court does not, therefore, act as a court of appeal against the decision of a court or Tribunal to correct errors of fact and does not, by assuming jurisdiction under Article 226, trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another Tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under Article 226 of the Constitution, the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up.

22. Considering the above decisions and the circumstance that the so-called jurisdictional issues now raised by the petitioner involve adjudication into factual issues, this cannot be said to be a matter where the impugned Order-In-Original is wholly without jurisdiction, in the sense of the same being passed by an authority that had no jurisdiction to pass the same or that there was unimpeachable material to show that the jurisdictional parameters were completely absent. Therefore, the first exception of the order being wholly without jurisdiction, carved out in **Whirlpool Corporation (supra),** is not attracted to the facts and circumstances of the present case.

23. As regards the violation of natural justice, again, this is a matter which will have to be established after evaluating the material on record. Admittedly, the show-cause notice was issued to the petitioner, and the petitioner was granted an opportunity to file a response. The

argument that some of the petitioner's contentions, *inter alia,* relating to jurisdiction were not considered is not correct. Such a response was duly considered, and the impugned Order-In-Original answers the issues raised. Again, whether such answers are correct or not is something that cannot be easily tested by the petitioner by availing of the alternate statutory remedy. However, this is not a case of a patent failure of natural justice as was sought to be projected.

24. The argument that the proper office that issued the show-cause notice had itself doubted the correctness of the audit report may also not be entirely correct. In any event, this is also a matter that can always be agitated in appeal and based upon the petitioner's evaluation of certain letters, it is not possible to hold at this stage itself that there was some failure of natural justice either because the proper officer was not satisfied because of the existence of the jurisdictional parameters under Section 74 or because the matter was initially referred to the Call Book, but later on recalled.

25. In matters of recall of the proceedings, there was no question of violation of principles of natural justice. No provision was shown which required any hearing to be given to the petitioner before the matter was recalled. Assigning a matter to the Call Book was mainly an administrative convenience. In any event, even this argument need not be foreclosed at this stage, because the same can always be tested by the petitioner in the statutory appeal provided in law.

26. Thus, this is not a case where the impugned Order-In-Original can be held to be wholly without jurisdiction or that this is a case where there has been some patent breach of the principles of natural justice and fair-play. Therefore, neither of the two exceptions put forth for bypassing the alternate statutory remedies could be said to be attracted in the present matter.

27. In the case of **Oberoi Constructions Ltd (supra),** the Bombay High Court has referred to several decisions of the Hon'ble Supreme Court on the issue of 'alternate remedy'. The decision in **Oberoi Constructions Ltd (supra)** has been followed by this Court in several matters.

28. Accordingly, by adopting the reasoning in **Oberoi Constructions Ltd (supra)** and the various decisions of the Hon'ble Supreme Court referred to therein, we do not think that this case is exceptional and, therefore, the ordinary practice of exhaustion of alternate remedies needs to be bypassed.

29. The decisions in **ITW Signode India Ltd (supra), Tamil Nadu Housing Board (supra)** and **Uniworth Textiles Limited (supra)** can admit of no dispute whatsoever. The question in this case is not whether all three conditions for invoking the powers under Section 74 ought to co-exist. These orders of the Hon'ble Supreme Court indeed provide that they should co-exist. The proper officer, upon consideration of the material on record, has concluded that they co-exist. Whether this conclusion is right or not is something that can always be tested in the

statutory appeal, and no case is made out to entertain a writ petition to virtually re-evaluate or reassess the impugned Order-In-Original, as if this Court were exercising some appellate jurisdiction in this matter.

30. For all the above reasons, we are satisfied that the petitioner has not made out any case for bypassing the alternate statutory remedy of appeal. This petition is therefore not entertained, but liberty is granted to the petitioner to avail of the statutory remedy of appeal and therein, raise all contentions permissible under the law, including those raised in this petition.

31. Learned Senior Advocate for the Petitioner submitted that, should this Court be disinclined to entertain this petition, liberty may be granted to the petitioner to file an appeal within four weeks, followed by directions to the Appellate Authority to consider the matter on merits, without adverting to the issue of limitation.

32. Considering the several orders made by this Court to the above effect, the request now made by the Senior Advocate for the petitioner is reasonable and accepted. If the petitioner indeed files an appeal after complying with all statutory prerequisites, within four weeks from today, then the Appellate Authority must consider the appeal on merits without adverting to the issue of limitation. This is because this petition was filed on 24.02.2026 to challenge the impugned Order-In-Original dated 26.12.2025, and the petitioner was bona fide pursuing this petition.

33. All contentions of all parties, including those raised in this petition, are left open to be determined by the Appellate Authority, should the petitioner appeal the impugned Order-In-Original within four weeks from today. None of the observations in this order need influence the Appellate Authority in deciding the appeal. The observations are only in the context of deciding whether this is a fit case to bypass the alternate remedy and entertain this petition.

34. The petition is dismissed, with liberty in the above terms and no costs.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

April 23, 2026
A.F.R.
Manoj/Cp.2
Uploaded on 23-Apr-26