



**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CWP No. 3461 of 2025**

**Date of decision: 19.05.2026**

**M/s. Amit Engineers**

**...Petitioner.**

**Versus**

**Union of India & Ors.**

**...Respondents.**

**Corum**

***Hon'ble Mr. Justice Vivek Singh Thakur, Judge.***

***Hon'ble Mr. Justice Ranjan Sharma, Judge.***

***Whether approved for reporting?<sup>1</sup>***

***For the Petitioner : M/s. Ajay Jain & Vandana Thakur, Advocates.***

***For the Respondents: Mr. Bharat Bhushan, Senior Penal Counsel, for respondent No.1 - UOI.***

***Mr. Vijay Kumar Arora, Senior Advocate, with M/s. Hitansh Raj, Avantika Bhandari & Godawari, Advocates, for respondents No. 2 and 3.***

***Mr. Raj Negi, Deputy Advocate General, for respondent No.4 - State.***

***Vivek Singh Thakur, Judge (Oral)***

Petitioner has approached this Court against the show cause notice dated 14.02.2025 (Annexure P-6), issued by respondent No. 2, Additional Director, Directorate General of Goods & Service Tax Intelligence, Chandigarh, whereby the amount demanded in the show cause notice has been directed to be paid within a period of thirty (30) days from the date of service of the said notice under

<sup>1</sup>***Whether the reporters of the local papers may be allowed to see the judgment? Yes***

Section 73(8) of the CGST Act read with the corresponding provisions of the SGST Act, whereupon the proceedings in respect of such GST, shall be deemed to be concluded in terms of Section 73(8) of CGST Act read with respective sections of IGST Act and SGST Act. At the same time, petitioner, if he indents to defend, has also been directed to produce, at the time of showing cause, all the evidences which they intend to rely upon in support of their defence with further observation that petitioner should indicate in their written explanation whether they wish to be heard in person before the case is adjudicated. It has been further notified in the notice that in case no reply to this notice is received within thirty days of the receipt of this notice or if they do not appear for personal hearing before the adjudicating authority when the case is posted for hearing, the case will be decided *ex parte* on the basis of the evidences available on record.

2. Admittedly, petitioner has not filed a reply to the notice, but has approached this Court on the ground that the impugned show cause notice issued by the respondent-authority is not sustainable in view of the Advance Ruling dated 11.04.2022, which has been accepted by the respondent-Authority, as the same was never assailed further in any manner and this has attained finality between the parties.

3. Advance Ruling dated 11.04.2022 has been placed on record as Annexure P-2. The relevant portion thereof reads as under:-

“15) Accordingly, we are in unison with the applicant and the jurisdictional GST officer that the classification of the “Roof Mounted AC Package Unit”, Manufactures as per the specific design and layout provided by the Railways(RDSO) and supplied to the Indian Railways only and no-where else falls under Chapter 86.07 of the Gst Tariff.

#### RULING

The advance Ruling on question posed before the Authority is answered as under:-

The classification of the “Roof Mounted AC Package Unit” manufactures as per the specific design and layout provided by the Railways and supplied to the Indian Railways only and no-where else, falls under Chapter 86.07 of the GST Tariff.

This ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the CGST Act, 2017.”

4. Mr. Vijay Kumar Arora, learned Senior Counsel, has submitted that a complete mechanism has been provided under the CGST Act and Rules for adjudication and redressal of the grievances of either party by providing an opportunity to file a reply and to assail the order passed by the Authority by filing an appeal by the aggrieved party. Therefore, instead of filing the present petition, the petitioner should have filed a reply to the notice and in case of an adverse order against him, could have availed the remedy of appeal provided under the CGST Act, 2017.

5. Admittedly, Advance Ruling was valid subject to the provisions of Section 103(2), unless and until it was declared void

under Section 104(1) of the CGST Act, 2017. The Department has neither disputed, nor assailed or questioned the Advance Ruling before any forum and being a settled proposition of law, the Advance Ruling is binding upon the Authorities.

6. In normal course, a party is relegated to filing a reply to the show cause notice, with a direction to the concerned Authority to pass an appropriate order in consonance with law and after taking into consideration the objections raised by the party. However, in the present case, it is *ex facie* clear that, in view of the finality attached to the Advance Ruling between the parties, the show cause notice dated 14.02.2025 (Annexure P-6) was without foundation. In view of the finality of the advance ruling between the parties, the notice is not sustainable and nothing is required to be adjudicated with respect to Advance Ruling and for existence Advance Ruling, Notice has to be treated as non-est. In such a situation, when fate of notice is apparent on face of record there will be no justification to relegate the petitioner to face proceeding on this count.

7. In given facts and circumstances, we are of the considered opinion that it is a fit case where discretion under Article 226 of the Constitution of India can be exercised for quashing the impugned notice issued in conflict with the settled law.

8. Accordingly, show cause notice dated 14.02.2025 (Annexure P-6) is quashed and set aside and the petition is allowed

and disposed of in the aforesaid terms, along with pending applications, if any.

**(Vivek Singh Thakur)**  
**Judge.**

**(Ranjan Sharma)**  
**Judge.**

**19<sup>th</sup> May, 2026**  
**(Shamsh Tabrez)**

High Court of HP