Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 377 of 2025 Date of Hearing: 19.05.2026
Date of Decision: 01.09.2026

M/s Assam Rifles Group Insurance Scheme (ARGIS)
Lower Arbuthnot Road, Nongrimmaw, East Khasi
Hills, Shillong, Meghalaya – 793001
Represented by its Director, Shri. Raju Kumar Singh,
S/o (L) Narayan Singh
R/o Assam Rifles Group Insurance Directorate,
HQ DGAR, Laitumkhrah, Shillong, East Khasi
Hills District, Meghalaya :::Petitioner

Versus

1.Additional Director General (Adjudication)
Directorate General of GST Intelligence
(Adjudication Cell), West Block-VIII, Wing-6,
2nd Floor, R.K. Puram, New Delhi-110066

2.Additional Director General (DGCEI)
(HQRS), Directorate General of Central
Excise Intelligence
West Block-VIII, Wing-6,
2nd Floor, R.K. Puram, New Delhi-110066

3.Central Board of Indirect Taxes and Customs,
Ministry of Finance, Department of Revenue,
North Block, New Delhi-110001 :::Respondents

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge
Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. S. Ghosh, Sr. Adv. with Mr. N. Khera, Adv. Ms. A. Syiem, Adv. Mr. A. Behura, Adv. Mr. R. Kharkrang, Adv.
For the Respondent(s)	:	Dr. N. Mozika, DSGI with Ms. M. Myrchiang, Adv.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER

Per H.S. Thangkhiew, Judge:

1. This writ petition has been preferred by M/s Assam Rifles Group Insurance Scheme (ARGIS), challenging the Order -in- Original dated 12.03.2025, issued by the respondent No. 1 under Section 74(2) of the Finance Act, 1994, which confirmed the demand for Service Tax, invoked the extended period of limitation under Section 73(1) and imposed interest and penalties under Section 75, 76, 77 and 78 of the Finance Act, 1994.

The petitioner has also assailed a notice dated 05.10.2016, apart from the order dated 12.03.2025, on the ground that the very jurisdictional fact necessary to trigger the invocation of Section 73(1) of the Finance Act, 1994, and the proviso thereto, which is the non-levy, short-levy etc., of Service Tax by a person chargeable under the Finance Act, 1994, has been erroneously assumed and decided in the present case.

2. The challenge to the notice and order is on several jurisdictional and substantive grounds, firstly, that they are a public authority performing a statutory duty and the mandatory deductions for mutual benefit do not constitute 'provision of service' for 'consideration' and are thus outside the ambit of Service Tax. Secondly, for the period after 01.04.2012, it is claimed by the petitioner that the same falls under the Negative List, as the service provided by the Government, and thirdly that, the impugned order was passed after a delay of nearly 8.5 years (3081 days), from the date of issuance of the show cause notice, which the petitioner contends is a manifest violation of the timelines prescribed under Section 73(4B), and is therefore arbitrary and time barred. The fourth ground taken is that a Notification No. 22/2014-ST dated 16.09.2014, is ultra vires for illegally vesting all India jurisdiction on the revenue officers, inasmuch as, the adjudicating officer belonged to the same cadre, as the Investigating Authority.

3. Mr. S. Ghosh, learned Senior counsel assisted by Mr. N. Khera, learned counsel for the petitioner has firstly addressed this Court on the issue of delay. Reference has been made to Section 73(4B) of the Finance Act, which he submits has prescribed certain time limits towards determination of assessment proceedings. Section 73 he submits, with regard to the recovery of service tax not levied or paid, or short levied, or short paid or erroneously refunded at 73(4B)(b), has provided that the same is to be within one year from the date of notice, where it is possible to do so, in respect of cases falling under the proviso to sub-section (1) or the proviso to sub-section (4A). This provision he contends, makes it clear that the revenue authorities are to complete the assessment within the prescribed timelines unless there are justified causes or reasons, which precluded such time limits from being adhered to. In the case at hand he submits, the extended period of limitation under the proviso to Section 73(1) of the Act, has been invoked against the petitioner on grounds of willful suppression, which would therefore attract Section 73(4B)(b), and thus the concerned Central Excise Officer (Respondent No. 1), as far as possible to do so, was to determine the amount of Service Tax vide an assessment order within one year from the date of notice.

4. The respondents it is submitted, have unduly delayed framing an assessment without any justified cause against the petitioner under the

proviso to Section 74(1) of the Finance Act, and has referred to Para – 140 of the writ petition, to illustrate this contention, wherein a table has been provided showing the sequence of dates, from the date of issuance of show cause on 05.10.2016, reply filed thereto on 25.10.2016, and personal hearing being granted on 05.04.2024, and on subsequent dates thereafter culminating on the impugned order dated 12.03.2025. This statement of facts he contends, shows a significant delay in framing the assessment, of nearly 3081 days, from the date of show cause notice dated 05.10.2016, which is well beyond the period of one year within which the respondent No. 1, was to strive to complete the assessment proceedings in terms of Section 73(4B)(b) of the Finance Act, 1994. On the respondents contentions and explanation for the delay that the same was caused by the petitioner's request, for retrospective exemption, and time taken for inter-departmental/coordination, it has been submitted that an investigation should substantially precede the issuance of a show cause notice, and further Section 33A restricts adjournments to three, and representations or repeated requests, cannot indefinitely extend the statutory timeline. In support of his arguments, reliance has been placed on the cases of ***IDFC First Bank, Sunder System, L.R. Sharma and company and Power Spectrum Sarbidpur***. Reliance has also been placed on the CBIC instructions dated 18.11.2021, which directed adjudication of extended period for Service Tax Notices to be within one year where possible.

5. It is then submitted that the Revenue Authorities had incorrectly assumed the jurisdictional facts necessary to initiate tax recovery under Sections 73(1) and 74(2) of the Finance Act, 1994, and that the mandatory pre-requisite for issuance of notice, or framing an order is the existence of an actual amount of Service Tax due from a person chargeable to tax. The schemes he submits, were not taxable services under either the Positive or Negative List Regimes, and no charge of tax was ever created, and as such, the charging provisions of Section 66 and 66B, were never triggered, which vitiated the entire assessment proceedings for want of jurisdiction. Reliance has been placed on the following decisions namely ***Carona Ltd. vs. Parvathy Swaminathan and Sons (2008) SCC 559*** and ***Raza Textiles vs. Income Tax Officer AIR 1973 SC 1362***, to try and show that an authority cannot grant itself powers by misinterpreting facts, and that a Court or a Tribunal cannot clothe itself with jurisdiction by incorrectly deciding, or assuming a jurisdictional fact.

6. The Learned Senior Counsel has also asserted that Notification No. 22/2014-ST dated 16.09.2014 is ultra vires, under which DGGI/DGCEI Officers were purportedly given all-India jurisdiction under Chapter V of the Finance Act 1994, inasmuch as, Rule 3 of the Service Tax Rules, 1994

permits Central Excise Officers to exercise powers only within specified local limits and in relation to specified taxable services. It is submitted that this statutory restriction does not permit the Board to confer unrestricted pan-India jurisdiction through a notification. He submits that the fact that DGCEI officer had all-India powers under the Central Excise Rules cannot, automatically confer the same jurisdiction under the Finance Act, 1994. As such, he submits the Notification No. 22/2014-ST dated 16.09.2014, having exceeded the Boards delegated power is ultra vires, and consequently the show-cause notice and subsequent order, issued by Delhi based authorities regarding a Shillong based entity, and its activities is without jurisdiction. The case of ***Redington (India) Limited***, he submits failed to consider the specific 'local limits' restriction in Rule 3, and also currently the subject challenge in the Madras High Court.

7. It has also been argued that the show-cause notice was issued by a DGCEI/DGGI Officer, while it was adjudicated by an Additional Director General (Adjudication) of the same organisation, which he submits violates the principle of 'no person should be a judge in their own cause'. The CBIC Circular No. 1053/02/2017-CX dated 10.03.2017, which permits the ADG (Adjudication) DGCEI, he submits to adjudicate cases and notice by DGCEI officers, itself facilitate institutional bias. The learned Senior counsel has then pointed out that under the subsequent GST regime, DGGI

officers were confined principally to investigation and issuance of notices, while adjudication was assigned to separate officers, which he contends is recognition of the earlier problem of bias. He therefore submits that both the circular and the resulting order violate the principle of natural justice and Articles 14 and 265.

8. It is then submitted that Service Tax itself is not legally leviable on the Assam Rifles schemes, as the demand concerns premiums and subscriptions relating to 3(three) schemes operated for the Assam Rifles personnel namely, Death Benefit Insurance Scheme and administrative charges, Disability Benefit Scheme and Post Retirement Insurance Scheme. The respondents he submits for the period 01.04.2011 – 31.03.2012 (positive list regime) had treated the schemes as taxable life insurance business, under Section 65(105)(zx). This he contends is incorrect, as the Finance Act, borrows the meaning of ‘life insurance business’ from the Insurance Act, 1938, wherein the petitioner was specifically exempted under Section 118(c) by Government Order dated 31.07.1978, and thus, it cannot be treated as carrying on ‘life insurance business’ or is an ‘insurer’. The subscriptions he submits, are compulsory deductions for schemes that are statutory welfare arrangements rather than commercial insurance business, and does not involve consideration pursuant to a contractual bargain, and thus, without consideration there is no relevant contractual

relationship, and hence, no taxable service. In this context, the learned Senior counsel has relied on the case of ***Govind Saran Ganga Saran vs. Commissioner of Tax AIR 1985 SC 1041***, to show that a valid tax levy requires an identifiable taxable event and taxable person. It is reiterated that since the petitioner is not carrying on a 'life insurance business' on being exempted under the Insurance Act, they cannot be classified as an 'insurer' for Service Tax purposes.

9. It is then contended that even if the definitions of the Insurance Act, 1938 were applied, they would still not be taxable, as the activity is not a 'life insurance business' as defined under Section 2(11) of the 1938 Act, as it does not involve a commercial intent, and further they are not performing a taxable service because the schemes lack 'consideration'. The Learned Senior Counsel then argues that activities carried out welfare or as ancillary to a primary non-commercial objective does not constitute a business, and providing insurance benefits solely for the welfare of the Assam Rifles personnel is not a commercial business. It is then pointed out that the subscriptions are mandatory deductions from salaries, and the members have no option to opt out, meaning that they do not engage in a voluntary act or a promise, that qualifies as consideration under Section 2(d) of the Contract Act.

10. It is then contended that the primary requirement to trigger the charging section 66B, was never met because no taxable service was provided, and that under Section 65B(44) a service is defined as an activity performed for consideration, and as such, therefore the compulsory deductions from the Assam Rifles personnel cannot constitute ‘consideration’ because there is no voluntary *quid pro quo*. It is then argued that alternatively, even if the activity (schemes) is treated as a service, it would fall under the Section 66D negative list, and therefore exempt from tax, inasmuch as, Section 66D(a) excludes services by Government or Local Authority from Service Tax. The petitioner it is submitted, qualifies as ‘government’ and has all the trappings to be considered as such, i.e. exemptions granted under the Insurance Act and Life Insurance Corporation Act, its operation under statutory rules, government control and audit, maintenance of accounts under accounting provisions. Reliance has also been placed upon a CBIC Circular dated 18.12.2006, which he submits that statutory functions performed by public authorities for compulsory levies do not constitute taxable services.

11. In rounding up his submissions, the learned Senior Counsel has reiterated his submissions that the impugned order dated 12.03.2025, is liable to be quashed for being passed after an unexplained delay of 8.5 years, the Officers who issued and adjudicated the notice lacked pan-India

jurisdiction, apart from the adjudication being in breach of the principles of natural justice, and that the welfare schemes were not taxable services under the Positive List or Negative List Regime.

12. Dr. N. Mozika, learned DSGI assisted by Ms. M. Myrchiang, learned counsel for the respondents has submitted that the services rendered by the petitioner under the various schemes are taxable to the extent that for the period prior to 01.07.2012, service tax operated under the Positive List regime and that the adjudicating authority had correctly examined the nature of the activities, their nexus with insurance related functions and the statutory framework before concluding that the services were taxable. It is contended that the petitioner's reliance on the concept of 'Government' and 'State' is misplaced particularly after the introduction of the Negative List Regime w.e.f. 01.07.2012. Under this framework he submits, all services became taxable unless specifically excluded by statute or covered by the Negative List under Section 66D of the Finance Act, 1994, and as such, even if it is assumed that the petitioner's interpretation regarding life insurance business was accepted, such contentions could only have limited relevance to a portion of the pre-2012 period and cannot govern the substantial post 2012 period. It is further submitted that the jurisdiction exercise by the DGCEI and the adjudicating authority was fully supported by statute, and that the impugned order was passed in accordance with the

requirements of the statutory provisions of the Finance Act, 1994 i.e. Section 73(1) and Section 174 of the CGST Act, 2017. It is also asserted that the show-cause notice was issued under the proviso of Section 74(1) of the Finance Act, 1994, by the respondent No. 2, after discovery of material facts indicating suppression, willful mis-statement with the intent to evade tax. The conferment of all India jurisdiction he submits, upon the respondents No. 1 and 2, is well within the competence of the respondent No. 3 and is consistent with the scheme of the Finance Act, 1994, and the Central Excise Act, 1944.

13. Learned DSGI then contends that the assertion against the impugned order dated 12.03.2025, as being time barred due to a delay of 8.5 years is incorrect, as Section 73(4B) of the Finance Act, 1994, is directory, and the complexity of the case, inter-departmental co-ordination, scrutiny of statutory records and detailed examination of the schemes operated by the petitioner were essential to ensure correct assessment, hence, justifies the time taken. It is submitted that the petitioner itself had approached the Department of Revenue seeking exemption from levy of tax via numerous letters, and that by a letter dated 14.05.2025, addressed to the Ministry of Finance, had requested a re-consideration of the petitioner's exemption proposal.

14. On another aspect, it is submitted that the impugned order dated 12.03.2025, was passed by the competent authority within lawful jurisdiction under Section 73(1) of the Finance Act, 1994, and Section 174 of the CGST Act, 2017. It is submitted that once the investigation indicated non-payment or short payment of service tax, the respondents were fully empowered to initiate proceedings and that the petitioners blanket claim of non-taxability cannot negate this assumption of jurisdiction, as the case is based on concrete findings and statutory authorities under the Finance Act, 1994. It is also contended that the allegation that the adjudicating authority had an interest in the outcome because the investigation and adjudication were undertaken within the same departmental framework is untenable, inasmuch as, tax statutes across the country contemplate investigation by departmental authorities and adjudication by competent officers of the same department, and that such institutional arrangements do not by themselves create an apprehension of bias. The doctrine of bias, it is submitted requires proof of personal interest, malafides, prejudice etc., but no such materials has been produced to substantiate this allegation, and in fact the impugned order demonstrates independent application of mind and consideration of submissions advanced by the parties.

15. The respondents then submitted that the case of ***Govind Saran Ganga Saran(supra)*** is inapplicable in the instant case, as all the essential

components for a valid tax levy such as taxable event, person liable, rate of tax and measure of tax are clearly established under the Finance Act, 1994, making the levy under Sections 66 and 66B read with Chapter – V legally enforceable, complete and operative. The petitioner's activities it is contended such as collecting consideration and extending risk cover/benefits attract the defination of 'service' regardless whether the entity generates a profit amount, and the subscription amount collected from members constitute clear and identifiable 'consideration' for the benefit extended. It is also urged that reliance on exemptions from the Insurance Act, Life Insurance Cooperation Act or Income Tax Act is misconceived and irrelevant, as statutory exemption in a different enactment does not automatically translate to an exemption from service tax, unless the same is provided under Finance Act. It is also argued that the petitioner's status as a Trust, or its performance of welfare related tasks under statutory oversight, does not automatically grant it the status of Government for service tax purposes, because the status for tax purposes must need mandatory statutory criteria and cannot be assumed by implication.

16. With regard to the extended period of limitation invoked under Section 73, it has been argued that the same was occasioned because the petitioner willfully suppressed materials fact and failed to disclose taxable

activities which can be characterized as a deliberate act rather than a mere default, and that 'willful suppression' is satisfied when an assessee fails to disclose information exclusively within its own knowledge. On the petitioner's claim that the schemes were framed according to Government instructions, it is submitted that the obligation to disclose or relevant operational and financial particulars rests squarely on the petitioner. Thus, it is submitted, the failure to furnish complete information regarding the nature and taxability of the schemes squarely attracts the proviso to Section 73(1) of the Finance Act, 1994.

17. It is then submitted that since the impugned notice and order were issued within the lawful statutory framework, the petitioner had recourse to available statutory appellate remedy which has been by-passed by the petitioner. It is asserted that the Finance Act, 1994, has an established complete and comprehensive appellate hierarchy, for challenging assessment orders including dispute over jurisdiction, limitation and the validity of departmental actions, which the petitioner has chosen not to avail of for unknown reasons. It is further submitted that merely challenging a notification or circular does not make the alternative remedy inefficacious, and that the petitioner being fully aware of the proceedings and timelines, the approximately 5(five) month delay in pursuing the

remedy is deliberate and unexplained, and as such, the writ petition is liable to be dismissed.

18. It is lastly contended that the prayer of the petitioner cannot be acceded to as it is based on incorrect facts and misinterpretation of statutory provisions. The impugned notification i.e. Notification No. 22/2014-ST dated 16.09.2014 and Circular No. 1053/02/2017-CX dated 10.03.2017, it is submitted was validly issued by the competent authorities exercising powers vested by the Board, and that ARGIS is not exempt under the Negative List of services (Section 66D) and therefore is liable for the payment of tax.

19. Having heard the learned counsel for the parties, the issues that arise for consideration are as follows:

(1) Whether the Impugned Order is manifestly arbitrary and time-barred because it was issued after a delay of nearly 8.5 years (3081) days from the Show-Cause Notice, violating the timelines prescribed under Section 73(4B)?

(2) Whether the Notification No. 22/2014-ST is *ultra vires* Rule 3 of the Service Tax Rules, 1994, because it purportedly vests Respondent No. 1 and 2 with pan-India jurisdiction to issue notices and adjudicate cases, which the Petitioner argues should be restricted to “local limits”?

(3) Whether the mandatory deductions from salaries constitute "consideration" *(a quid pro quo)* as defined under the Finance Act, or if they are compulsory exactions that lack the element of a contractual agreement?

(4) Whether the Petitioner falls under the definition of "Government" for the purposes of the Negative List (Section 66D(a)), thereby making its activities exempt from service tax?

(5) Whether the tax demand and the adjudication process violate Articles 14, 19(1)(g) and 265 of the Constitution of India?

(6) Whether the Writ Petition is maintainable despite the existence of an alternate remedy, particularly when the Petitioner challenges the vires of a notification, alleges violations of natural justice, and asserts a total lack of jurisdiction?

20. On the first issue, it is no doubt a fact that the impugned order dated 12.03.2025, was passed after a delay of 8.5 years (3081 days) after the issuance of the show-cause notice dated 05.10.2016. In this regard, it would be apposite to refer to Section 73(4B) of the Finance Act, 1994, wherein time limits have been prescribed towards determination of assessment proceedings, and the same is reproduced herein below.

"Section73. …………………………………………………

(4B) The Central Excise Officer shall determine the amount of service tax due under sub-section (2)-

(a) within six months from the date of notice where it is possible to do so, in respect of cases [falling under] sub-section(1);

(b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under the proviso to sub-section (1) or the proviso to sub-section (4A)"

A perusal of the aforementioned provision, shows that the Revenue Authorities are mandated to complete the assessments within the prescribed timelines unless justified reasons exist, that prevents the time limits from being adhered to. It is seen from the facts that the extended period of limitation under the proviso to Section 73(1) of the Act, had been invoked on grounds of willful suppression. As such, therefore, in view of this invocation, Section 73(4B)(b) would be attracted, and thus, the concerned Respondent No. 1, was as far as possible to do so, determine the amount of service tax vide an assessment order within one year from the date of notice.

21. In the instant case, a fact that cannot be ignored is that though the show-cause notice is dated 05.10.2016, it is not disputed that the first personal hearing was granted to the petitioner only on 05.04.2024, vide a

letter dated 14.03.2024, i.e. after nearly 2704 days, which is a significant delay. The learned counsel for the petitioner in this context had laid great emphasis on the judgments cited on this point, that the provisions of Section 73(4B) are mandatory in nature, and if the same are to be considered only directory or suggestive in nature, the timelines prescribed would be nullified and would defeat the well settled principles of law that a show-cause notice is required to be taken to its logical conclusion within a reasonable period of time. This Court in the backdrop of the facts and prevalent law, is therefore required to examine as to whether the long delay in passing the impugned order is justifiable, for the reasons given by the respondents, or whether the entire proceedings have been vitiated. The respondents have sought to justify the inordinate delay in passing the assessment order against the petitioner by contending that the proceedings could not be concluded earlier due to the petitioner's repeated failure to furnish complete documents, clarify discrepancies and to provide necessary records which have directly contributed to the time taken in finalizing the assessment. Specific mention has been made by the respondents that the petitioner had repeatedly approached the Department of Revenue through various communications from 2017 onwards, seeking retrospective exemption from levy of service tax, which was rejected and that even on 14.05.2025, the petitioner had sent a letter to the Ministry of Finance, Department of Revenue requesting for the petitioner's proposal of service tax exemption to be re-considered. It has also been advanced that Section 73(4B) being directory, the contention of the order being time barred would not arise. This Court on examining this contention and the provisions of Section 73(4B), wherein the phrase 'where it is possible to do so' has been used, deems it fit to refer to cases, wherein this question has arisen and discussed.

22. In the case of ***IDFC First Bank vs. Union of India (2023) 10 Centax 256 (Bom)***, at Paragraphs – 12, 15-18, on this issue, it has been held as follows:

> *12. If such are the averments in the reply affidavit, we wonder as to why respondent No.2 kept on granting requests of IDFC Ltd. for adjournment and did not pass appropriate order and/or final orders on the show cause notice. There is no justification whatsoever or any reason set out for such lapse/inaction of respondent no. 2, which would be acceptable, as set out in the reply affidavit, which can be accepted as a plausible reason preventing the Commissioner from passing appropriate orders for a period of almost five years upto May 2015. We may also note that there is no justification whatsoever for the inaction of the officer from 21 May 2015 to 10 June 2022 when the recent notice came to be issued.*
>
> *15. From a plain reading of the provisions of Section 73(4B) and more particularly, in the context of the legislative intent in introducing sub-section (4B), we cannot accept such contention as urged by the respondent that there is no mandate on the concerned officer of the department to decide the show cause notices expeditiously, and/or the timelines which are set out in sub-section (4B) would be required to be held to be merely directory, as the*

provision would make an allowance for a belated adjudication of the show cause notice. In our opinion, such contention as urged on behalf of the respondent would militate against the plain reading of sub-section (4B) when it pointedly provides that the Central Excise Officer "shall" determine the amount of service tax due under Section 73(2), which in Clause (a) thereof provides for the timelines, namely, within six months from the date of notice where it is possible to do so, in respect of cases falling under Section 73(1); and secondly, when it provides that such determination be made within one year from the date of notice, where it is possible to do so, in respect of cases falling under the proviso to Section 73(1) or the proviso to Section 73(4A).

16. We may observe that the legislature providing that the determination be made within six months from the date of the notice as provided for in clause (a) of sub-section (4B) is concerned, cannot be read to nullify or attaching no weightage to the timelines so prescribed. It can however, be acceptable that a reasonable / plausible delay beyond six months may in a given case be justified depending on the facts and circumstances of the case, for reasons which do not make it possible for the adjudicating officer to conclude the proceedings of the show cause notice. This can be for reasons which are acceptable in law which a reasonable body of persons would accept to be absolutely justifiable, considering the duration of such period. This would certainly not mean that it can be an unexplained, unjustified, unreasonable and an inordinate delay. The same principle would apply to clause (b) of sub-section (4B) of Section 73.

17. We may also observe that when the legislature uses the words 'where it is possible to do so' in clauses (a) and (b), the legislature is conscious of some free play which is required to be made available to the adjudicating officer. However, such limited relaxation cannot be intended to mean that it would defeat the sanctity and purpose for which the period of six months and one year has been set out to clause (a) and (b) of sub-section (4B). The word 'where it is possible to do so' thus cannot be read to defeat the timelines of six months and one year as set out in clauses (a) and (b) of sub-section (4B). Also these words cannot be construed to mean that by use of such words a complete freedom is available to the adjudicating officer to *adjudicate the show cause notice at his own sweet will, much less, with such inordinate delay as in the present case which is of almost more than 12 years.*

18. If the interpretation of the provisions as canvassed on behalf of the revenue is accepted, it would tantamount to defeating the well settled principles of law that a show cause notice is required to be taken to its logical conclusion within a reasonable period of time and expeditiously, as a show cause notices issued under any fiscal legislation and concerning recovery of revenue would have a very serious concern and bearing on the public revenue. Hence, there cannot be any laxity much less any lethargic approach on behalf of the officers is delaying adjudication of such notices. The legislative provisions which intend to bring about an expeditious and effective adjudication of a show cause notice cannot be defeated by the officers sitting tight on the show cause notice and/or not expeditiously taking them to the logical conclusion. Such is the view repeatedly taken in series of judgments of this Court, to which a detailed reference has been made by us in our decision in Coventary Estates Pvt. Ltd. (supra). These are decisions in ATA Freight Line (I) Pvt. Ltd. vs. Union of India & Ors. Writ Petition No. 3671 of 2022, against which Special Leave Petition (Civil) Diary No. 828 of 2023 filed by the Union of India came to be dismissed by the Supreme Court; in CMA-CGM Agencies (India) Pvt. Ltd. vs. Union of India & Ors. Writ Petition No. 1313 of 2021; in Shreenathji Logistics v. Union of India & Ors. Writ Petition No. 540 of 2020; in Sushitex Exports (India) Ltd. & Ors. v. Union of India & Anr. 2022 SCC Online Bom. 191; in Sanghvi Reconditioners Pvt. Ltd. v. Union of India, through the Secretary, Department of Revenue & Ors.; in Reliance Industries Ltd. v. Union of India; in Parle International Ltd. v. Union of India, and in Bombay Dyeing and Manufacturing Company Limited v. Deputy Commissioner of CGST and CX, DIV-IX, Mumbai Central GST Commissionerate."

23. The above quoted case has great persuasive value, as the facts and circumstances are similar, where the respondents therein had also put up a case that Section 73(4B) was only directory and that the delay was also attributable to the petitioner therein on account of adjournments sought.

24. Other decisions cited by the petitioner are as follows:

(i) ***Sunder System Pvt. Ltd. vs. Union of India 2020 (33) GSTL 621 (Del.); Delhi High Court (dated 17.12.2019) (Ref. Pg. 626-629 of W.P.; Paras 8-12)***

(ii) ***Ms L.R. Sharma and Co. vs. Union of India (2024 SCC Online Del 9031); Delhi High Court (dated 20.12.2024) (Ref. Pg. 630-639 of W.P; Paras 26-30)***

(iii) ***M/s Power Spectrum Sarbidipur vs. Union of India, Judgment dated 17.04.2025 in CWJC No. 16772/2024; Patna High Court (Ref. Pg. 640-651; Paras 16-19)***

25. In all the above noted decisions, what has been held is a consistent view with regard to the purport of Section 73(4B) of the Finance Act, 1994, such as, even if no time period is prescribed, the statutory authority must exercise its jurisdiction within a reasonable period otherwise the proceedings would be vitiated, and further that Section 73(4B), was framed to ensure effective administration of taxation, and that a time frame of 6 months/1 year cannot be extended for an inordinate period without valid

justification. In the instant case, taking the well settled position of law into consideration, the respondents have not provided any justified cause or reason to keep proceedings pursuant to the show cause notice dated 05.10.2016, pending for 8.5 years, which in the considered view of this Court caused an unreasonable and inordinate delay in passing of the impugned order dated 12.03.2025.

26. Though as mentioned earlier, the respondents had attempted to justify the delay and to place the onus on the petitioner by stating that exemption has been sought, and further that the nature of schemes operated by the petitioner required detailed examination, this argument would hold no water, inasmuch as, the show cause notice itself contains the relevant facts, allegations and reasons sought on why the tax is not to be levied. With regard to another aspect i.e. repeated adjournments from the year 2017 onwards, which the respondents maintained has contributed to the long delay, this argument also is of no assistance, in view of the fact that Section 33A of the Finance Act, 1994, has provided that during assessment proceedings, no adjournment shall be granted to a party more than three times. As such, the letters in question dated 07.11.2017, 21.02.2018, 04.06.2018, 14.06.2018, 26.06.2025, 10.03.2025 and 14.05.2025, which the respondents assert have caused the delay are of no consequence, in

view of Section 33A of the Finance Act, 1994, which is reproduced hereinbelow:

> *"33A. (1) The adjudicating authority shall, in any proceeding under this Chapter or any other provision of this Act, give an opportunity of being heard to a party in a proceeding, if the party so desires.*
> *(2) The adjudicating authority may, if sufficient cause is shown, at any stage of proceeding referred to in sub-section (1), grant time, from time to time, to the parties or any of them and adjourn the hearing for reasons to be recorded in writing:*
>
> ***Provided*** *that no such adjournment shall be granted more than three times to a party during the proceeding."*

27. The respondents were therefore duty bound to complete the adjudication as expeditiously as possible, and cannot regard the representations made by the petitioner to be a restraint or a bar under law, or to conclude the adjudication in a timely manner. The respondents therefore from the facts and materials provided, have failed to provide any justifiable cause or reason, that could have prevented them from framing the assessment in the prescribed timeline. The impugned order dated 12.03.2025, therefore being passed after an undue and unexplained delay of nearly 8.5 years, in the considered view of this Court, is violative of

Section 73(4B)(b) of the Finance Act, 1994, and is held to be arbitrary and bad in law.

28. Though, other substantive challenges with regard to jurisdiction, whether the petitioner qualifies as 'Government' under Section 66D(a) and whether salary deductions for the scheme would constitute 'consideration' have been raised, as also the issue whether the respondents can extend limitation period by alleging willful suppression is sustainable, in the absence of any material facts to prove a deliberate act of evasion, the finding on the unexplained 8(eight) year delay, would not require this Court to delve into these other questions.

29. The only other aspect that deserves consideration is whether the presence of alternative remedy would render the instant writ application not maintainable, as has been contended by the respondents. No doubt, constitutional courts in such matters, wherein, statutory appeal has been provided, impose a self-restraint in exercising powers under Article 226 of the Constitution of India. However, in the present case, in the issue decided that is 'delay', the basic question raised was the purport of Section 73(4B), and its interpretation, when placed alongside the facts, which made the question basically a question of law. The impugned order therefore apart from being arbitrary, also offends Article 14 of the Constitution of India.

30. Accordingly, for the reasons aforementioned the procedural challenge to delay being the most compelling reason, the impugned order dated 12.03.2025, on this ground alone, is hereby set aside and quashed.

31. Writ petition stands allowed to the extent indicated above, without deliberating on the other issues and is disposed of.

(B. Bhattacharjee)
Judge

(H.S. Thangkhiew)
Judge

Meghalaya
01.09.2026
"D.Thabah-PS"