HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 9323/2026
CNR: RJHC020473812026 | URN: CW / 20784U / 2026

Sumetco Alloys Private Limited, G-740, RIICO Industrial Area, Bhiwadi, Alwar, Rajasthan 301019 Through Its Director Mr. Priyank Bhandari S/o Nirmal Kumar Bhandari, Aged 41 (Approx) R/o 1/170, 2Nd Floor, Paschim Vihar, West Delhi, Delhi-110063.

----Petitioner

Versus

1. Union Of India, Through Its Secretary, Department Of Revenue, Ministry Of Finance North Block, New Delhi.
2. State Of Rajasthan, Through Additional Chief Secretary (Finance) To Government, Finance Department (Tax Division), Government Of Rajasthan, 1st Floor, Main Building, Government Secretariat, Jaipur, Rajasthan, 302005
3. Joint Commissioner, Commercial Taxes, Circle-C, Enforcement Wing-III, New Building Kar Bhawan, Ambedkar Circle, Jaipur, Rajasthan,
4. Chief Commissioner Of State Tax, Commercial Taxes Department, Ambedkar Circle, Jaipur

----Respondents

For Petitioner(s)	:	Mr. Jatin Harjai with Mr. Palak Gupta Ms. Nikshubha Sharma Mr. Bimal Jain
For Respondent(s)	:	Mr. Bharat Vyas, ASG- Sr. Adv. with Ms. Mahi Yadav, AAG Ms. Chelsi Agarwal, AAAG Mr. Yuvraj Singh Rajawat Mr. Devesh Yadav, CGC Ms. Anima Chaturvedi

HON'BLE MR. JUSTICE ARUN MONGA

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order(Oral)

13/08/2026

Per: Arun Monga, J.

1. *Vide* instant writ petition, three reliefs are pressed. The first is issuance of a writ in the nature of certiorari, quashing/declaring that Section 16(2)(c) of the Central Goods and Services Tax Act, 2017, alleged to be *ultra vires* the Constitution, being arbitrary and violative of

Article 14. The second is quashing of the order in original dated 10.04.2026 (Annexure P-10), whereby a demand of Rs. 56,44,08,265/- was raised against the petitioner. The third is quashing of the show cause notice dated 26.09.2025 (Annexure P-5), which was the precursor to that order.

2. The petitioner company manufactures pure lead and lead ingots. It procures raw material from Haryana, Delhi and Rajasthan, and also by way of imports. It asserts that in accordance with law it has maintained its books of account, discharged tax on outward supplies and availed input tax credit on the strength of purchases made from registered suppliers.

3. On 20.03.2024, the State Tax Authorities inspected the petitioner's premises. Queries were raised regarding purchases from certain suppliers whose registrations came to be cancelled thereafter. The petitioner produced ledgers, financial statements, stock details and creditor details. During the proceedings, the petitioner deposited Rs. 50,00,000/- through Form GST DRC-03. The deposit is stated to have been made under protest and without admission of liability.

4. Summons under Section 70 of the Act followed. The Director of the petitioner appeared and his statement was recorded on 22.04.2024. The petitioner again furnished input tax credit ledgers, financial statements, bank statements, tax invoices, e-way bills, transport documents, payment proofs, weighment slips and allied records. It is the case petitioner that the suppliers held valid registrations as on the dates of the transactions. That every transaction is backed by invoice, banking channel payment and transport documentation.

5. Notwithstanding, respondent No. 3 issued the impugned show cause notice dated 26.09.2025 under Section 74 of the Act for the financial years 2020-21 to 2023-24. The notice alleges wrongful

availment of input tax credit on purchases from certain suppliers. The petitioner replied in detail on 01.11.2025 with supporting documents. However, Respondent No. 3 thereafter passed the impugned order in original dated 10.04.2026 confirming the demand.

6. Hence, this writ petition.

7. Mr. Jatin Harjai, learned counsel for the petitioner submits that the petitioner is a *bona fide* purchaser.

7.1. He urges that once possession of a tax invoice, actual receipt of goods, payment through banking channels and filing of returns are established, the entitlement to input tax credit cannot be defeated by the default of a supplier over whom the petitioner has no control.

7.2. He relies on the judgment of the High Court of Tripura in **Sahil Enterprises v. Union of India**[1] and on the judgment of the High Court of Karnataka in **Instakart Services Private Limited v. Union of India**[2]**.** He submits that in both these judgments, Section 16(2)(c) has been read down and benefit thereof be accorded to the petitioner-Company.

7.3. He further submits that the writ petition is maintainable notwithstanding the appellate remedy, because there is a breach of the principles of natural justice and a want of jurisdiction under Section 74.

8. *Au contraire*, learned counsels for the respondents, at the outset raise a preliminary objection on maintainability. They submit that the order dated 10.04.2026 is appealable under Section 107 of the Act, with a further appeal under Section 112.

8.1. They submit that none of the recognised exceptions to the rule of alternative remedy is attracted in the case in hand. That, what the petitioner seeks herein is nothing but appreciation of disputed facts.

1 2026 SCC Tri 4
2 2026 SCC Kar 2469

8.2. On the constitutional challenge, they argue that the provision has been enacted with the legitimate object of protecting revenue and preventing evasion. Thus, it warrants no interference.

9. We have heard learned counsel for both sides and perused the record.

10. The petitioner assails the proceedings primarily on five planks. First, that Section 16(2)(c) is unconstitutional. Second, that the jurisdictional foundation for invoking Section 74 is absent, because the show cause notice contains no allegation of fraud, wilful misstatement or suppression of facts attributable to the petitioner. Third, that the pre-notice intimation in Form GST DRC-01A was not issued. Fourth, that Respondent No. 3, having himself conducted the investigation, also sat as the adjudicating authority, which is hit by the Rule of bias. Fifth, it is also urged that the reply to the show cause notice was not dealt with in the order in original.

11. In the aforesaid backdrop, the following questions thus arise for adjudication:-

(i) Whether Section 16(2)(c) of the Act is *ultra vires* the Constitution?

(ii) If not, whether the provision is liable to be read down so as to protect a *bona fide* purchaser?

(iii) Whether the show cause notice dated 26.09.2025 lacks the jurisdictional foundation for invoking Section 74?

(iv) Whether the proceedings are vitiated by breach of the principles of natural justice, including the rule against bias and the non issuance of Form GST DRC-01A?

(v) Whether, in the absence of any of the above, the petitioner ought to be relegated to the statutory appellate remedy?

12. Let us now find the answers one by one. The starting point is Section 16 of the Act. The relevant extract is reproduced verbatim as below:-

"16. Eligibility and conditions for taking input tax credit.—

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;

(b) he has received the goods or services or both.

...

(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply;

and

(d) he has furnished the return under section 39:"

13. Section 41, as substituted by the Finance Act, 2022 with effect from 01.10.2022, is the companion provision expressly referred to in clause (c). It reads as follows.

"41. Availment of input tax credit.—

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed."

14. Section 155 of the Act places the evidentiary burden. It reads as follows.

> *"155. Burden of proof.—*
>
> *Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person."*

15. From a cumulative perusal of the above, four decisive features of the statutory scheme emerge, viz.:-

15.1. First, sub-section (1) of Section 16 does not create an unqualified right. It confers entitlement expressly "subject to such conditions and restrictions as may be prescribed". The entitlement is therefore conditional at its very source.

15.2. Second, sub-section (2) opens with a non obstante clause and is cast in the negative form. It says that no registered person shall be entitled to credit unless the enumerated conditions are met. In our view, being a negatively worded non-obstante provision, it is mandatory in nature. The conditions in clauses (a), (aa), (b), (ba), (c) and (d) are cumulative and not alternative. Thus, satisfaction of five of them does not dispense with the sixth. The submission that compliance with clauses (a), (aa), (b) and (ba) by itself establishes entitlement, therefore, runs against the plain reading of the provision. If that submission were accepted, clause (c) would be rendered otiose.

15.3. Third, clause (c) does not operate in isolation. It is expressly made "subject to the provisions of section 41". Section 41(2) requires reversal of credit where the supplier has not paid, and the proviso then permits the recipient to re-avail that very credit once the supplier discharges the liability. The denial under clause (c) is, therefore, contingent and reversible, not final and confiscatory.

15.4. Fourth, Section 155 places the burden of establishing eligibility squarely on the person claiming the credit. The claimant must prove entitlement. The revenue is not required to disprove it in the first instance.

16. Taken together, the provisions, *ibid*, indicate a deliberate allocation of risk. Parliament has chosen to place the risk of supplier default on the recipient, while simultaneously providing a mechanism for restoration of the credit once the default is cured. Whether that allocation is wise or harsh is a question of legislative policy. Most certainly, it is not a question of constitutional validity to be adjudicated by us in the absence of any material to the contrary. Particularly, in light of the fact that benefit of Input Tax Credit is a contingent statutory entitlement, rather than a vested right, much less a constitutional right.

17. On the burden of proof, the position is equally well settled. In **State of Karnataka v. Ecom Gill Coffee Trading Private Limited[3],** it has been held that the burden of proving the genuineness of a transaction for the purpose of claiming input tax credit lies on the purchasing dealer, and that mere production of invoices, or payment by cheque, is not by itself sufficient. The dealer must establish the actual physical movement of goods and the genuineness of the transaction.

18. Pertinently, the constitutional validity of Section 16(2)(c) engaged the attention of different High Courts, which took divergent views. The High Court of Gujarat, in **Maruti Enterprise v. Union of India, R/Special Civil Application No. 18080 of 2023** and connected matters, decided on 01.05.2026 (High Court of Gujarat), upheld the provision and declined to read it down. That judgment was carried to the Supreme Court and has been duly upheld by way of dismissed the SLP.

19. Hon'ble the Supreme Court, in **Bhandari Scrap Traders v. Union of India[4],** and connected matters, decided on 24.07.2026, dismissed the batch of petitions. The operative reasoning is as follows.

> *"1. Though we are informed that a special leave petition has been entertained in relation to the decision of the Tripura High Court ... in*

3 (2023) 6 SCC 12
4 2026 SCC OnLine SC 1570

Sahil Enterprises vs. Union of India & Ors., we find from the judgment passed by the High Court of Tripura that the exercise undertaken by the High Court of Gujarat in the judgment, presently under challenge, was not undertaken by it.

2. The distinction and differences between the provisions of the Delhi Value Added Tax Act, 2004, and the Central Goods and Services Tax Act, 2017, brought out by way of a detailed analysis from paragraph 42 onwards in the impugned judgment along with the scheme of availing Input Tax Credit (ITC) under the GST regime, as set out in paragraph 56 of the impugned judgment, clearly demonstrate that there is no possibility of drawing parity between the provisions of the two enactments, so as to treat a purchasing dealer under the CGST Act on par with a purported bonafide purchasing dealer under the Delhi VAT Act in relation to ITC, when the supplier-dealer fails to pay the requisite tax.

3. Further, the High Court of Gujarat has also referred to the provisions of Section 41 of the CGST Act and also Sections 73 and 74 thereof in the context of the purchasing dealer under the CGST regime being entitled to re-avail the reversed ITC after the supplier-dealer is made to discharge the tax liability.

4. In that view of the matter, the High Court was fully justified in holding that no grounds were made out to declare Section 16(2)(c) of the CGST Act as unconstitutional or read down the provisions thereof. We find ourselves in complete and respectful agreement with the views expressed by the High Court of Gujarat and affirm and uphold the impugned judgment.

5. The special leave petitions are, accordingly, dismissed.

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

20. Thus, firstly in light of above, coupled with our discussion in the preceding part, Section 16(2)(c) suffers from no constitutional infirmity. Secondly, the existence of the reversal and re-availment mechanism under Section 41, read with Sections 73 and 74, is a sufficient answer to the charge of arbitrariness.

21. It is also canvassed, though may we say, rather faintly, by Mr. Jatin Harjai that the Hon'ble Supreme Court order being one dismissing special leave petitions, it does not constitute a binding declaration of law. The suggestion is untenable. For, the order is a speaking order. It records reasons, expresses "complete and respectful agreement" with the High Court of Gujarat. In no uncertain terms it affirms and upholds the impugned judgment. The constitutional challenge to Section 16(2)

(c), *ibid*, is thus water under the bridge and no more an issue which is *res integra*.

22. Question (i) is answered against the petitioner. Hence, the challenge to the *vires* of Section 16(2)(c) fails, and it is not open to be re-agitated.

23. When the instant order was being dictated, learned counsel for the petitioner also pressed the alternative plea of reading down. He relied on the judgment of the High Court of Tripura in **Sahil Enterprises *(supra)***, and the judgment of the High Court of Karnataka in **Instakart Services Private Limited *(supra)***. Reliance was also placed on the judgment of the High Court of Gauhati in **National Plasto Moulding v. State of Assam**[5].

24. The High Court of Tripura upheld the validity of Section 16(2)(c) but read it down, is the argument. It has been held that the provision ought to operate only where the transaction is found to be collusive or fraudulent, and not where it is *bona fide*. Its reasoning proceeded on the practical impossibility of a purchaser verifying whether the supplier has in fact remitted the tax, on the principle that income ought not to be taxed twice in the absence of express words, and on the line of cases decided under the Delhi Value Added Tax Act, 2004. The operative direction was in these terms.

> *"(a) Section 16(2)(c) of the Act is held not violative of articles 14, 19(1)(g) or 265 or 300-A of the Constitution of India;*
>
> *(b) But section 16(2)(c) of the Act ought not to be interpreted to deny ITC to purchasers in a bona fide transaction like the petitioner and it should be read down and applied only where the transaction is found to be not bona fide or is a collusive transaction or fraudulent transaction to defraud the revenue."*

25. It was also submitted that the High Court of Karnataka in **Instakart *(supra)*** followed that view and read down both Section

5 2024 (89) G.S.T.L. 82 Gauhati High Court

16(2)(c) and Rule 36(4) of the Central Goods and Services Tax Rules, 2017, so as to preserve credit in the hands of a *bona fide* recipient.

26. We are unable to apply these judgments in the case in hand, for two independent reasons.

27. The first reason is that the plea of reading down has itself been considered and rejected at the highest level, i.e., the Hon'ble Supreme Court in **Bhandari Scrap Traders *(supra).*** Not merely that the validity of the provision was also upheld. It was held, in terms, that no grounds were made out either "to declare Section 16(2)(c) of the CGST Act as unconstitutional or read down the provisions thereof". The alternative prayer was therefore expressly negated. The Supreme Court further recorded that it was aware of the pendency of the challenge to the Tripura view, and distinguished it on the ground that the exercise undertaken by the High Court of Gujarat had not been undertaken by the High Court of Tripura. In that state of affairs, the decisions of the High Courts of Tripura, Karnataka and Gauhati, to the extent that they read down Section 16(2)(c) are not applicable to the case in hand.

28. The second reason is that even if the petitioner's best case on reading down were assumed in its favour, it would not carry the petitioner across the threshold in the facts of the present case. Pertinently, the reading down propounded by the High Court of Tripura is not unconditional. It operates only where the transaction is found to be bona fide. It expressly preserves the full rigour of Section 16(2)(c) where the transaction is found to be collusive or fraudulent, or designed to defraud the revenue. Whether the petitioner's transactions fall on one side of that line or the other is a pure question of fact.

29. Moreover, it so appears that in **Sahil Enterprises *(supra)*,** itself the finding of *bona fides* rested on a specific factual foundation. The department there had invoked only Section 73 of the Act. It had not

invoked Section 74. It had not disputed that the purchaser had in fact paid the tax to the supplier. There was no allegation that the purchaser had failed to discharge its own liability. It was on those admitted facts that the transaction was held to be *bona fide*.

30. The present case is the converse. The department has invoked Section 74. The allegation is not of a supplier who collected tax and failed to remit it. The allegation is of fake invoices, bogus supplies and a chain of multi layered paper transactions in which no goods moved. That is precisely the class of case which the reading down, on its own terms, does not protect. Whether the allegation is made out is a matter for evidence and for the appropriate authority to consider which exercise is open to challenge by way statutory appeal. It is not a matter that can be resolved on affidavits in a writ petition.

31. Thus, the plea of reading down is not available to the petitioner in the facts of the present case. Question (ii) is answered accordingly. If and to the extent the petitioner contends that its transactions are *bona fide*, it is at liberty to raise such contention, which shall be considered in accordance with law as per the statutory remedies.

32. Adverting now to question no. (iii). Section 74(1) of the Act reads as follows.

> *"74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.—*
>
> *(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 by 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 equivalent to the tax specified in the notice."*

33. Two points on the import of the provision may be noted at the outset. The first is that Section 74 applies to the financial years in

question. Section 74A was inserted by the Finance (No. 2) Act, 2024, governs the financial year 2024-25 onwards. The relevant periods here are prior in time, i.e., 2020-21 to 2023-24. Second, the provision is triggered where it "appears to the proper officer" that credit has been wrongly availed by reason of fraud, wilful misstatement or suppression of facts to evade tax. The statutory threshold at the notice stage is one of, if it so appears, that is to say, *prima facie* satisfaction.

34. Speaking now of the expression "suppression of facts", we are in agreement with learned counsel for the petitioner that the initial burden of establishing the ingredients lies on the revenue. We accept, therefore, that Section 74 cannot be invoked mechanically. A bare recital of the statutory words, unsupported by any material, would not do. But that is not the case here. Let us see how.

35. We have examined the show cause notice dated 26.09.2025 which led to the impugned order. It runs into thirty three pages. It sets out, in detail, how multi layered transactions were routed between bogus suppliers and the suppliers with whom the petitioner dealt. The chain of that layering is depicted in graphic detail. It is alleged in terms that credit was availed on the strength of fake invoices and bogus supplies, that is to say, on paper transactions unaccompanied by any movement of goods. Those allegations, if established, would squarely constitute fraud and suppression to evade tax within the meaning of Section 74.

36. We are conscious that a show cause notice which, on its face, lacks the jurisdictional ingredient can be quashed in writ jurisdiction. However, the practice of challenging show cause notices, with an intent to stall the statutory process, has to be deprecated. The proper course, ordinarily, is for the noticee to respond and to have the factual issues determined by the competent authority.

37. That is exactly what the petitioner ought to do in the case in hand. In fact, the petitioner participated. It filed a detailed reply on 01.11.2025. The reply was not accepted, and the order in original followed. The grievance, therefore, is not that no jurisdiction existed. The grievance is that the material relied upon was inadequate and that the reply of petitioner ought to have prevailed. That is a grievance on merits to be adjudicated at the appropriate fora under the Act.

38. Question (iii) is thus answered against the petitioner.

39. Moving on now to question (iv), i.e., the plea of breach of natural justice. Rule 142(1A) of the Central Goods and Services Tax Rules, 2017, governs the pre-notice intimation. As it stood prior to 15.10.2020, the rule was couched in mandatory terms. By Notification No. 79/2020-Central Tax dated 15.10.2020, the word "shall" was substituted by the word "may". The rule, in its present form, reads as follows:-

> *"(1A) The proper officer may, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of section 73 or sub-section (1) of section 74, as the case may be, communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A."*

40. The import of the amendment is plain. The pre-notice intimation is now an enabling facility and not a condition precedent. Its non issuance does not, by itself, vitiate a notice issued under Section 74. In any event, the petitioner suffered no prejudice on this score. It had already been summoned under Section 70. Its Director's statement had been recorded. It had produced its records. It knew precisely what was alleged against it. It replied on the merits. No prejudice is pleaded and none is demonstrable. Moreover, to be noted that the Rule 142(1A) is not even under challenge by the petitioner.

41. The submission also is that Respondent No. 3, having conducted the investigation, could not have adjudicated upon it. The argument,

though seemingly attractive on first blush, but even that does not survive examination.

42. The scheme of the Act itself vests both functions in the "proper officer". Section 2(91) defines the proper officer in relation to any function as the Commissioner or the officer to whom the function is assigned. Section 67 empowers the proper officer to inspect and search. Section 70 empowers him to summon. Section 74 requires him to issue notice and, thereafter, to determine the amount due. Parliament has therefore consciously placed investigation and determination within the competence of same statutory office. Thus, as per legislation, it is the assessing authority which gathers, both, i.e., the material and then also assesses upon it.

43. Where a statute itself confers both functions on the same authority, the Rule against bias, unless there is other material on record, stands displaced to that extent. In any case, such is the statutory scheme.

44. Further, the test for disqualification of an officer or Rule of bias is not one of mere apprehension. The test of existence of real likelihood of bias, or of a reasonable apprehension in the mind of a fair minded person. The petitioner has pleaded no personal interest on the part of Respondent No. 3. No animus. No material suggesting a closed mind. The only foundation is that the same officer performed both the functions. Which, as already observed by us, is envisaged under the statute. Such a foundation cannot, thus, be used as bias in the absence of anything cogent.

45. The final limb is that the reply to the show cause notice was not dealt with in the order in original.

46. It is necessary to be precise about what is and what is not alleged. It is not alleged that no show cause notice was served. It is not

alleged that no opportunity to reply was given. It is not alleged that a personal hearing was refused. It is not alleged that material was used behind the petitioner's back. The conceded position is that notice was issued, a detailed reply was filed, hearing was afforded, and a reasoned order was passed. What is alleged is that the reply was not dealt with to the petitioner's satisfaction.

47. The alleged inadequacy in the appreciation of reply filed by petitioner stands on an entirely different footing. It is, at the moot, *arguendo*, an error within jurisdiction, if at all. The appellate authority under Section 107 has plenary power to examine it, including the power to make such further inquiry as may be necessary. The petitioner has been heard at every stage. All its contentions remain fully available to it in appeal. No prejudice of the kind that would justify bypassing the statutory remedy is made out.

48. Question (iv) is answered against the petitioner.

49. What remains is the preliminary objection that Section 107 of the Act provides the appellate remedy. Since the *vires* challenge fails, to permit bypassing Section 107 by labeling a grievance on merits as a breach of natural justice would render the appellate hierarchy, and the pre-deposit condition that Parliament has attached to it, nugatory.

50. Point (v) is answered against the petitioner. The petitioner has to be, therefore, relegated to the statutory remedy by filing appeal in accordance with law.

51. As an upshot, the writ petition is disposed of in the following terms:-

(a) The challenge to the constitutional validity of Section 16(2)(c) of the Central Goods and Services Tax Act, 2017, is rejected.

(b) The challenge to the show cause notice dated 26.09.2025 and the order-in-original dated 10.04.2026 is rejected.

(c) Liberty is granted to the petitioner to prefer an appeal under Section 107 of the Act against the order in original dated 10.04.2026. If such appeal is filed within thirty days of the instant judgment being uploaded on the website of this Court, the period spent in prosecuting this writ petition shall stand excluded in computing limitation. The appeal shall be decided on merits without objection as to limitation.

(d) The sum of Rs. 50,00,000/- deposited by the petitioner through Form GST DRC-03 shall be given credit for, and adjusted towards, the pre-deposit payable under Section 107(6) of the Act. This direction is without prejudice to the rival contentions on the character of that deposit.

(e) All contentions on the merits, including the contention that the transactions in question are *bona fide*, are kept open for consideration by the appellate authority in accordance with law. Nothing stated in the instant order shall be construed as an expression of opinion on the merits of the impugned demand.

52. All pending applications stand disposed of.

(ASHUTOSH KUMAR),J **(ARUN MONGA),J**

27/AARZOO ARORA