IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2973/2026

Hind Maha Mineral LLP Vs. The State of Maharashtra, through its Secretary, Department of Goods and Services Tax, Mumbai and others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. Shreyas Agrawal, Adv. with Mr. Saurabh Malpani, Adv. for petitioner
Mr. S.B. Bissa, AGP for Respondent Nos.1 to 3

CORAM: ANIL L. PANSARE AND NIVEDITA P. MEHTA, JJ.

DATED : 04.09.2026

1. The challenge is to the order dated 5th January, 2026 and the order of rectification of even date.

2. So far as the first order is concerned, it is passed under Section 74A(5) of the Central Goods and Services Tax Act, 2017 (In short, the Act of 2017).

3. The argument is that while passing the order under Section 74A(5), the respondent No.3 has not given opportunity of hearing to the petitioner as required under Section 75(4) of the Act of 2017. Subsection 4 provides that an opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

4. The learned counsel for the petitioner submits that the present case concerns later part of the provision which provides that where any adverse decision is contemplated, opportunity of hearing should be granted. The adverse decision in the present is imposing penalty amongst other liability. The learned counsel for the petitioner submits that opportunity of hearing was not given.

5. As against, the learned Assistant Government Pleader for the respondents submits that opportunity of hearing was given. To which, the petitioner's counsel submits that the hearing was given on 16th October, 2025 and it was pertaining to some different matter, which includes mismatch of input debt tax credit. According to him, the opportunity of hearing is to be given once notice is issued in the matter so as to enable the assessee to defend the case.

6. Admittedly, notice in the present case was given on 11th November, 2025 and no opportunity of hearing was given thereafter. In fact, the notice issued itself indicates that the personal hearing is not applicable. That being so, the impugned order is unsustainable having been passed without giving opportunity of hearing to the petitioner.

7. So far as the second challenge is concerned, the notice was issued on 11th November, 2025. The learned counsel for the petitioner has invited our attention to clause (ii) of Subsection 8 of Section 74A of the Act of 2017, which provides that where any tax is payable or which is short paid or erroneously refunded

and for such other contingencies as provided, the person may pay the said tax along with interest payable under Section 50 within 60 days of issuance of show cause notice and on doing so, no penalty shall be payable and proceedings in respect of the said notice shall be deemed to be concluded.

8. In the present case, there is no dispute that the notice demanding tax, interest and penalty was issued on 11th November, 2026, period of 60 days will conclude on 10th January, 2026. The order, however, has been passed on 5th January, 2026.

9. Upon enquiry, learned Assistant Government Pleader for the respondents, on instructions of Mr. Sopan K. Solanke, Deputy Commissioner of State Tax, Nagpur, submits that the order indeed has been passed within 60 days.

10. Despite such status, the learned Assistant Government Pleader raised objection saying that the petitioner should approach the appellate authority under Section 107 of the Act of 2017. In support, he has relied upon the judgment of the Division Bench of this Court in ***Writ Petition (L) No. 15871/2026 (Mahapuja Ltd. Through its Director Keyur Jaswant Shah Vs. The office of Commissioner of GST), dated 05.08.2026***. We have gone through the said judgment. The facts were altogether different.

11. It is well settled that where the order is passed in breach of principles of natural justice or is passed in breach of the provisions of law or where there

is an apparent error, the petitioner may approach the High Court under Article 226 of the Constitution of India.

12. In the present case, it is evident that opportunity of hearing was not given and secondly, that, the impugned order is passed in breach of the provisions under clause (ii) of subsection 8 of Section 74A of the Act of 2017. Thus, the respondents are aware that the order is unsustainable. The respondents, in such circumstances, should have taken corrective steps upon receiving notice in the petition. Having not done so, we deem it appropriate to direct the respondent No.3 to pay cost of the litigation to the petitioner, which we quantify to Rs. 50,000/- (Rs. Fifty Thousand only). The cost should be paid within two weeks from today.

13. The respondent Nos.1 and 2 may recover the cost from the officer, who has passed these orders.

14. Accordingly, the writ petition is allowed.

15. The impugned order dated 5th January, 2026 and rectification order dated 05th January, 2026, passed by the respondent No.3 are quashed and set aside.

16. The writ petition is disposed of in terms of above.

(NIVEDITA P. MEHTA, J.) **(ANIL L. PANSARE, J.)**

MP Deshpande