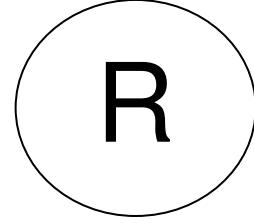


Reserved on : 12.02.2026
Pronounced on : 11.03.2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT APPEAL No. 101 OF 2025 (T-RES)

BETWEEN:

1. ADDITIONAL COMMISSIONER OF CENTRAL TAX,
BENGALURU NORTH-WEST COMMISSIONERATE,
SOUTH WING, BMTC BUS STAND COMPLEX,
SHIVAJINAGAR, BENGALURU-560051.
2. COMMISSIONER OF CENTRAL TAX,
TRADE CENTRE, BUNTS HOSTEL ROAD,
MANGALORE COMMISSIONERATE,
MANGALORE-575003.
3. PRINCIPAL COMMISSIONER OF CENTRAL TAX
BENGALURU NORTH-WEST COMMISSIONERATE,
SOUTH WING, BMTC BUS STAND COMPLEX,
SHIVAJINAGAR, BENGALURU-560051.

...APPELLANTS

(BY SRI SHISHIRA AMARNATH, ADVOCATE)

AND:

1. M/S. VIGNESHWARA TRANSPORT COMPANY,
REPRESENTED BY ITS PROPRIETOR,
MR. PRAVEEN SUVARNA,



VIGNESHWARA NILAYA,
PANCHAVATI VILLAS,
BEHIND SHANTALA HERITAGE,
VYASANGAR, YEYYADI,
MANGALORE, KARNATAKA.

...RESPONDENT

(BY SRI PRANAY SHARMA Y., ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 28.11.2024 PASSED BY THE LEARNED SINGLE JUDGE IN WP No.18305/2023 ANNEXURE-A CONSEQUENTLY FURTHER UPHOLDING THE VALIDITY OF THE SHOW-CAUSE NOTICE DATED 11.04.2023 ISSUED BY THE ADDITIONAL COMMISSIONER OF CENTRAL TAX BENGALURU NORTH WEST COMMISSIONER.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, **K.V. ARAVIND J.**, DELIVERED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K.V. ARAVIND)

Heard Sri Shishira Amarnath, learned counsel for the appellants-Revenue and Sri Y. Pranay Sharma, learned counsel for the respondent-Assessee.

2. This intra-Court appeal is filed under Section 4 of the High Court Act, 1961, challenging the order dated 28.11.2024 passed in W.P. No.18305/2023 (T-RES) by the learned Single Judge.

Factual Matrix:

3. The respondent-assessee in this appeal is registered under the Central Goods and Services Tax Act, 2017 (for short, 'the CGST Act') and the Karnataka Goods and Services Tax Act, 2017 (for short, 'the KGST Act'), and is engaged in the transportation of goods. An investigation conducted by the Mangaluru Commissionerate of the appellants revealed alleged manipulation of invoices and e-way bills, as well as unauthorized transportation activities. It was further found that the goods were removed clandestinely by evading Goods and Services Tax (GST).

3.1 The findings of the investigation were shared with the Bengaluru Commissionerate, which issued a show cause notice in accordance with law, alleging GST evasion and manipulation of documents. The said show cause notice was challenged in the writ petition, *inter alia*, contending that the officers who conducted the investigation lacked jurisdiction and that the

material evidence gathered in the course of such investigation, being without jurisdiction, cannot be relied upon against the respondent–assessee. It was further contended that the search action conducted by the officers of the Mangaluru Commissionerate was without jurisdiction and contrary to the settled principles of law governing search and seizure.

3.2 The learned Single Judge, upon examination of various decisions, held that the officers of the Mangaluru Commissionerate, i.e., appellant No.2, were not “proper officers” competent to undertake inspection, search and seizure, or to issue the show cause notice. The learned Single Judge further held that the issuance of a show cause notice under Section 74 of the CGST Act, founded upon search and seizure proceedings and statements recorded by an officer lacking jurisdiction, cannot be sustained in law. It was observed that such a notice cannot be issued on “borrowed satisfaction.”

3.3 Accordingly, the learned Single Judge directed refund of ₹50.00 lakhs deposited by the respondent–assessee during the course of investigation and also ordered the return of the seized documents and other goods. Liberty was, however,

reserved to appellant No.1 to proceed against the respondent- assessee in accordance with law.

Submissions:

For Appellants-Revenue:

4. Sri Shishira Amarnath, learned counsel appearing for the appellants-Revenue, submits that the investigation conducted by the Mangaluru Commissionerate was not the sole basis for issuance of the show cause notice. He contends that the show cause notice has been issued by the proper officers having competent jurisdiction. It is submitted that the search was conducted by the Superintendent of Central Tax, Chitradurga Division, Bengaluru North-West Commissionerate, pursuant to authorization issued by the Additional Commissioner, Bengaluru North-West Commissionerate, who is the competent authority.

4.1 Learned counsel further submits that upon receipt of information from the Mangaluru Commissionerate, the appellants initiated independent proceedings and issued the show cause notice. It is contended that the notice was not issued solely on the basis of material collected by the Mangaluru Commissionerate, but also on the basis of investigation carried out by the Bengaluru North-West

Commissionerate, including the recording of statements of concerned individuals. The material so collected corroborates the evidence gathered by the Mangaluru Commissionerate.

4.2 It is therefore submitted that the show cause notice cannot be said to be founded entirely on the material collected by the officers of the Mangaluru Commissionerate. It is further submitted that due summons were issued to the respondent-assessee and, upon non-compliance, a complaint under Section 200 of the Criminal Procedure Code, 1973 (for short, 'Cr.P.C.') was filed before the jurisdictional Economic Offences Court at Bengaluru.

4.3 Learned counsel further submits that on account of the non-cooperation of the respondent-assessee, the Commissioner of the Bengaluru North-West Commissionerate invoked the powers under Section 83 of the CGST Act and provisionally attached the bank accounts of the respondent-assessee in order to safeguard the interest of the Revenue.

4.4 It is further submitted that the proper officer of the Bengaluru North-West Commissionerate seized 1,964 e-way bills, which allegedly revealed GST evasion to the tune of ₹27.56 crores. The investigation is stated to have uncovered a

systematic *modus operandi* whereby e-way bills were modified by altering vehicle details so as to transport multiple consignments under the cover of the same e-way bill.

4.5 Learned counsel submits that issuance of a show cause notice under Section 74 of the CGST Act is not a natural or automatic consequence of search and seizure operations. According to him, a notice under Section 74 can be issued based on the material gathered upon inspection by the proper officer. He further contends that even assuming that certain material was collected by an officer lacking jurisdiction, the same would nonetheless retain evidentiary value.

4.6 It is submitted that the entire material forming the basis of the show cause notice has been furnished to the respondent-assessee and that it is open to the respondent to raise all contentions, including those relating to jurisdiction and relevancy, in reply to the show cause notice. Entertaining a challenge to the show cause notice at this stage, when an opportunity to submit a reply has been afforded, is premature.

4.7 Learned counsel therefore contends that the writ petition itself was not maintainable, as it was filed at a premature stage and in the face of an efficacious alternative remedy of

submitting a reply to the show cause notice and participating in the adjudication proceedings.

4.8 On these submissions, learned counsel prays that the order of the learned Single Judge be set aside and the show cause notice be restored.

For Respondent-Assessee:

5. *Per contra*, Sri Y. Pranay Sharma, learned counsel appearing for the respondent-assessee, submits that inspection, search and seizure under Section 67 of the CGST Act ordinarily culminate in the initiation of proceedings under Section 74 of the CGST Act. According to him, a notice under Section 74 must necessarily be founded on material lawfully in the possession of the proper officer. It is contended that if such material is gathered pursuant to an action that is without jurisdiction or otherwise unsustainable in law, the show cause notice founded thereon would itself be vitiated.

5.1 Learned counsel further submits that the search conducted under Section 67 of the CGST Act is contrary to the mandate of Sections 100 and 165 of the Cr.P.C. It is also contended that the show cause notice has been issued without proper application of mind; that the "reason to believe" has

been recorded in a mechanical manner; and that the notice is founded on "borrowed satisfaction."

5.2 It is further submitted that the subsequent summons issued during the course of investigation under Section 70 of the CGST Act and the statements recorded pursuant thereto are contrary to the jurisdictional provisions and are impermissible to be relied upon against the respondent-assessee. According to learned counsel, the search conducted in violation of statutory safeguards amounts to an infringement of Article 21 of the Constitution of India.

5.3 Learned counsel further submits that the amount deposited by the respondent-assessee during the course of investigation has rightly been directed to be refunded by the learned Single Judge. It is contended that the liberty reserved in favour of the proper officer to proceed afresh in accordance with law sufficiently safeguards the interest of the Revenue.

5.4 On these grounds, learned counsel submits that the writ appeal is devoid of merit and prays that the same be dismissed.

5.5 Learned counsel has relied on the following judgments of the Hon'ble Supreme Court and various High Courts, which are as under:

"1. R.J. Trading Co. vs. Commissioner of CGST, Delhi North ([2021] 128 taxmann.com 344 [Delhi]).

2. Reevan Creation vs. State of Gujarat ([2026] 182 taxmann.com 783 (Gujarat).

3. Commercial Taxes Officer, Bharatpur vs. Krishna Oil Industries ([2015] 59 taxmann.com 459 [Rajasthan]).

4. Sri Sai Food Grain and Iron Stors vs. State of Bihar ([2025] 174 taxmann.com 84 [Patna]).

5. Dayal Product vs. Additional Commissioner Grade-2 ([2025] 172 taxmann.com 263 [Allahabad]).

6. Additional Commissioner Grade-2 vs. Dayal Product ([2025] 178 taxmann.com 288 (SC)).

7. Lari Almira House vs. State of U.P. ([2023] 149 taxmann.com 476 (Allahabad)).

8. Vijay Trading Company vs. Additional Commissioner ([2024] 166 taxmann.com 69 (Allahabad)).

9. Additional Commissioner Grade-2 vs. Dinesh Kumar Pradeep Kumar ([2025] 181 taxmann.com 973 (SC)).

10. Dinesh Kumar Pradeep Kumar vs. Additional Commissioner Grade-2 ([2024] 165 taxmann.com 166 (Allahabad)).

11. Additional Commissioner Grade-2 vs. Shree Om Steels ([2026] 182 taxmann.com 592 (SC)).

12. *Gopal Trading Company vs. State of U.P.* ([2025] 174 taxmann.com 576 (Allahabad)).
13. *Maa Mahamaya Alloys (P.) Ltd. vs. State of U.P.* ([2023] 150 taxmann.com 158 (Allahabad)).
14. *I.J. Rao, Assistant Collector of Customs vs. Bibhuti Bhushan Bagh* ([1989] 1989 taxmann.com 619 (SC)).
15. *ITC Limited vs. State of Karnataka and another* (Civil Appeal No.11799/2025).
16. *Radhika Agarwal vs. Union of India* ([2025] 171 taxmann.com 832 (SC)).
17. *Commissioner of CGST vs. Deepak Khandelwal* (Spl. Leave Petition No.18536/2024)
18. *Deepak Khandelwal Proprietor M/s. Shri Shyam Metal vs. Commissioner of CGST, Delhi West and another* (W.P.(C) 6739/2021)
19. *Dabur India Ltd. and another vs. State of Uttar Pradesh and others* [(1990) 4 SCC 113)
20. *Kesari Nandan Mobile vs. Office of Assistant Commissioner of State Tax* ([2025] 177 taxmann.com 481 (SC))
21. *Commissioner of Commercial Taxes and others vs. Ramkishan Shrikishan Jhaver and others* [(1967) 66 ITR 664]
22. *Commissioner of Income Tax vs. J.Alexander* (I.T.R.C.No.64/1999)(HCK)
23. *SNJ Breweries Pvt. Ltd. vs. Principal Director of Income-tax* [(2024) 468 ITR 37]
24. *P. Kishore vs. Secretary to Government of India and others* (2025 SCC OnLine Mad 3053)

25. *Harikisandas Gulabdas and Sons and another vs. the State of Mysore and another* ([1971] 27 STC 434 (Kar))

26. *Intelligence Officer, Directorate General of GST Intelligence vs. Kesar Color Chem Industriest* ([2025] 171 taxmann.com 739 (Karnataka))

27. *Pooran Mal vs. the Director of Inspection (Investigation) New Delhi and others* [(1974) 1 SCC 345]

28. *Aasha Lata Soni vs. Durgesh Soni* (CRMP No.2112/2022) (High Court of Chhattisgarh)

29. *Vinit Kumar vs. Central Bureau of Investigation and others* (2019 SCC OnLine Bom 3155)

30. *Ukha Kolhe vs. State of Maharashtra* [(1964) 1 SCR 926]

31. *R.M. Malkani vs. State of Maharashtra* [(1973) 1 SCC (471)]"

Analysis:

6. We have considered the submissions of learned counsel for the parties and perused the appeal papers.

7. The primary contention urged by the respondent in the writ petition is that the respondent-assessee is assessed within the jurisdiction of appellant Nos.1 and 3, whereas the inspection, search and seizure were conducted by the officer falling within the jurisdiction of appellant No.2, namely, the Mangaluru Commissionerate. It is contended that the evidence

seized and the statements recorded by the officers of the Mangaluru Commissionerate are without jurisdiction and, therefore, cannot be relied upon against the respondent-assessee. It is further contended that the search action is contrary to Sections 100 and 165 of the Cr.P.C.

7.1 Section 74 of the CGST Act empowers the proper officer to issue a show cause notice where tax has not been paid, short paid, or erroneously refunded, or where input tax credit has been wrongly availed or utilized by reason of fraud, willful misstatement, or suppression of facts. The said provision prescribes a comprehensive procedure culminating in adjudication, including the period of limitation.

7.2 Sub-section (3) of Section 74 of the CGST Act requires the proper officer to serve a statement containing details of tax not paid, short paid, or erroneously refunded, or input tax credit wrongly availed or utilized. Sub-section (9) of Section 74 mandates that the proper officer, after considering the representation of the person chargeable with tax, shall determine the amount of tax, interest and penalty due and pass an order to that effect.

7.3 Section 67 of the CGST Act empowers the proper officer to conduct inspection and to seize documents, books of account or goods. Upon completion of inspection and investigation, determination of tax liability is to be undertaken under Section 73 or Section 74 of the CGST Act, as the case may be.

7.4 In the present case, we are concerned with proceedings under Section 74 of the CGST Act.

7.5 A combined reading of these provisions would indicate that Section 74 of the CGST Act contemplates the issuance of a show cause notice and service of a statement containing the details of the tax allegedly not paid, short paid, or erroneously refunded, or input tax credit wrongly availed or utilized. As provided under sub-section (1), the noticee is afforded an opportunity to submit a reply. The proceedings culminate in an order of determination of the amount of tax, interest and penalty under sub-section (9).

7.6 If the entire scheme and scope of Section 74 of the CGST Act is examined, it becomes evident that the initiation of proceedings thereunder is not necessarily dependent upon an action under Section 67 of the CGST Act. At the most, initiation of proceedings under Section 74 may, in a given case, follow

from scrutiny or other proceedings such as those contemplated under Section 61 of the CGST Act. However, it cannot be held that recourse to Section 74 is conditional upon, or inseparably linked to, the outcome of proceedings under Section 67.

7.7 Section 74 of the CGST Act is an independent provision conferring substantive power upon the proper officer to initiate adjudicatory proceedings in the circumstances enumerated therein.

7.8 In that view of the matter, the contention urged by the respondent–assessee that the show cause notice under Section 74 is vitiated solely on account of the alleged infirmities in the action under Section 67 cannot be accepted.

8. It is strenuously contended that the inspection, search and seizure carried out under Section 67 of the CGST Act are contrary to the mandate of Sections 100 and 165 of the Cr.P.C and are therefore illegal. On this premise, it is urged that the documents seized, the evidence gathered and the statements recorded in the course of such alleged illegal action cannot be relied upon or utilized in proceedings initiated under Section 74 of the CGST Act.

8.1 Section 74 of the CGST Act, on a plain reading, contemplates issuance of a show cause notice on the basis of material in the possession of the proper officer. The provision may be invoked in any one or more of the contingencies enumerated therein. Significantly, none of those contingencies prescribe or qualify the legal source from which such material must emanate. What the provision mandates is the existence of material forming the basis for issuance of the show cause notice and the furnishing of the relevant particulars to the noticee so as to enable an effective reply.

8.2 In the present case, though it is contended that the material was not supplied along with the show cause notice, it is not in dispute that the foundational material forming the basis of the notice has been made available to the respondent for the purpose of submitting a suitable reply. While filing the reply, it is open to the respondent–noticee to demonstrate the relevancy, admissibility or otherwise of such material for the purposes of proceedings under Section 74 of the CGST Act. Such an exercise necessarily falls within the domain of factual adjudication to be undertaken by the proper officer in accordance with law.

8.3 It is trite that, while interpreting a fiscal statute, the Court cannot add to or subtract from the language employed by the legislature. No words can be implied or omitted on considerations of equity or intendment. The provision has to be construed strictly in accordance with its plain and unambiguous text.

8.4 The contention that the material forming the basis of the show cause notice has been gathered in proceedings allegedly instituted without jurisdiction and, therefore, cannot constitute the foundation for action under Section 74 of the CGST Act, is liable to be rejected, and for an additional reason as well.

8.5 It is urged by the respondent-assessee that the inspection, search and seizure conducted under Section 67 of the CGST Act are contrary to the mandate of Sections 100 and 165 of the Cr.P.C, and are therefore vitiated.

8.6 The writ petition has the following prayers;

- "(i) Issue a writ of Certiorari or any other direction or writ for quashing the show cause notice dated 11/04/2023 issued by the Respondents as showed in Annexure-B in the interest of justice and equity.*
- (ii) Issue a writ of mandamus/order/direction/ appropriate order directing the Respondent*

authorities to restore GST registration in the interest of equity and justice.

- (iii) Further direct the respondents to refund the pre-deposit of Rs.50 Lakhs with interest from the date of deposit till date or refund interest of justice and equity.*
- (iv) Pass any order, or direction as deemed fit in the facts and circumstances of the case including cost in the interest of justice and equity."*

8.6.1 The prayers in the writ petition do not call in question the validity of the search conducted under Section 67 of the CGST Act. There is no specific relief sought to declare the search as illegal or contrary to law. In the absence of such a prayer, it would not be permissible to record a finding that the action under Section 67 is illegal. The said issue has not been adjudicated in the order impugned before us.

8.6.2 Further, the respondent has not preferred any appeal challenging the order of the learned Single Judge on that aspect. In the absence of a specific prayer before the learned Single Judge, to that extent, it is not open to the respondent to canvass the legality or otherwise of the action taken under Section 67 of the Act in an intra-Court appeal.

8.7 The Hon'ble Supreme Court, while dealing with similar submissions in ***Pooran Mal v. Director of Inspection (Investigation), New Delhi***, reported in ***(1974) 1 SCC 345***, has held as under:

"24. So far as India is concerned its law of evidence is modelled on the rules of evidence which prevailed in English Law, and Courts in India and in England have consistently refused to exclude relevant evidence merely on the ground that it is obtained by illegal search or seizure. In Barindra Kumar Ghose v. Emperor [ILR 37 Cal 467 : 7 1C 359] the learned Chief Justice Sir Lawrence Jenkins says at p. 500:

"Mr Das has attacked the searches and has urged that, even if there was jurisdiction to direct the issue of search warrants, as I hold there was, still the provisions of the Criminal Procedure Code have been completely disregarded. On this assumption he has contended that the evidence discovered by the searches is not admissible, but to this view I cannot accede. For, without in any way countenancing disregard of the provisions prescribed by the Code, I hold that what would otherwise be relevant does not become irrelevant because it was discovered in the course of a search in which those provisions were disregarded. As Jimutavahana with his shrewd common sense observes — "a fact cannot be altered by 100 texts," and as his commentator quaintly remarks: "If a Brahmana be slain, the precept 'slay not a Brahmana' does not annul the murder". But the absence of the precautions designed by the Legislature lends support to the argument that the alleged discovery should be carefully scrutinized."

In Emperor v. Allahdad Khan [ILR 35 All 358 : 19 1C 332] the Superintendent of Police and a Sub-Inspector searched the house of a person suspected of being in

illicit possession of excisable articles and such articles were found in the house searched. It was held that the conviction of the owner of the house under Section 63 of the United Provinces Excise Act, 1910, was not rendered invalid by the fact that no warrant had been issued for the search, although it was presumably the intention of the Legislature that in a case under Section 63, where it was necessary to search a house, a search warrant should be obtained beforehand. In Kuruma v. Queen [1955 AC 197] where the Privy Council had to consider the English Law of Evidence in its application to Eastern Africa, Their Lordships propounded the rule thus:

"The test to be applied, both in civil and in criminal cases, in considering whether evidence is admissible is whether it is relevant to the matters in issue. If it is, it is admissible and the Court is not concerned with how it was obtained."

Some American cases were also cited before the Privy Council. Their Lordships observed at p. 204 thus:

"Certain decisions of the Supreme Court of the United States of America were also cited in argument. Their Lordships do not think it necessary to examine them in detail. Suffice it to say that there appears to be considerable difference of opinion among the judges both in the State and Federal Courts as to whether, or not the rejection of evidence obtained by illegal means depends on certain articles in the American Constitution. At any rate, in Olmstead v. United States(1828) 277 U.S. 438, the majority of the Supreme Court were clearly of opinion that the common law did not reject relevant evidence on that ground."

In Kuruma case, Kuruma was searched by two police officers who were not authorised under the law to carry out a search and, in the search, some ammunition was found in the unlawful possession of Kuruma. The question was whether the evidence with regard to the

finding of the ammunition on the person of Kuruma could be shut out on the ground that the evidence had been obtained by an unlawful search. It was held it could not be so shut out because the finding of ammunition was a relevant piece of evidence on a charge for unlawful possession. In a later case before the Privy Council in Herman King v. Queen [(1969) 1 AC 304] which came on appeal from a Court of Appeal of Jamaica, the law as laid down in Kuruma case was applied although the Jamaican Constitution guaranteed the constitutional right against search and seizure in the following provision of the Jamaica (Constitution) Order in Council 1962, Sch. 2, Section 19:

"(1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises. (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Section to the extent that the law in question makes provision which is reasonably required for the purpose of preventing or detecting crime...."

In other words search and seizure for the purposes of preventing or detecting crime reasonably enforced was not inconsistent with the constitutional guarantee against search and seizure. It was held in that case that the search of the appellant by a Police Officer was not justified by the warrant nor was it open to the Officer to search the person of the appellant without taking him before a Justice of the Peace. Nevertheless it was held that the Court had a discretion to admit the evidence obtained as a result of the illegal search and the constitutional protection against search of person or property without consent did not take away the discretion of the Court. Following Kuruma v. Queen the Court held that it was open to the Court not to admit the evidence against the accused if the Court was of the view that the evidence had been obtained by conduct of which the prosecution ought not to take advantage. But that was not a rule of evidence but a rule of prudence and fair play. It would thus be seen that in India, as in England, where the test of admissibility of evidence lies

in relevancy, unless there is an express or necessarily implied prohibition in the Constitution or other law evidence obtained as a result of illegal search or seizure is not liable to be shut out.

25. *In that view, even assuming, as was done by the High Court, that the search and seizure were in contravention of the provisions of Section 132 of the Income Tax Act, still the material seized was liable to be used subject to law before the Income tax authorities against the person from whose custody it was seized and, therefore, no Writ of Prohibition in restraint of such use could be granted. It must be, therefore, held that the High Court was right in dismissing the two writ petitions. The appeals must also fail and are dismissed with costs."*

8.8 The Hon'ble Supreme considered the scope of Section 132 of the Income-tax Act, 1961 which is in *pari materia* with Section 67 of the CGST Act. As held by the Hon'ble Supreme Court *supra*, neither the statutory provision governing search nor the adjudicatory provision imposes any express or implied prohibition against the use of material gathered in the course of an illegal search or seizure. It was observed that exclusion of evidence is not a rule of evidence under Indian law, but at best a rule of prudence and fair play. The test of admissibility of evidence is primarily one of relevancy.

8.9 Applying the aforesaid principle, neither Section 67 nor Section 74 of the CGST Act contains any express bar to the use of material gathered during alleged illegal search and seizure

proceedings. As observed hereinabove, the respondent-assessee has been afforded full opportunity to demonstrate the relevancy, admissibility or otherwise of the material referred to in the show cause notice during the course of adjudication under Section 74 of the CGST Act.

8.10 It is also apposite to refer to the judgment of the Bombay High Court in **Vertiv Energy Pvt. Ltd. v. Union of India [(2025) 140 GSTR 140]**. In the said case, a show cause notice issued under the provisions of the GST enactments was founded upon a report of the Comptroller and Auditor General of India (CAG). The show cause notice was assailed on the ground that the CAG had no jurisdiction to audit a private company and, therefore, a notice entirely premised on such audit report was without jurisdiction and unsustainable in law.

8.11 The Bombay High Court, while considering the said contention and referring to the judgment of the Hon'ble Supreme Court in **Pooran Mal** (*supra*), has held as under:

"26. *In the above context, we must refer to Pooran Mal v. Director of Inspection (Investigation), Income-tax, New Delhi [(1974) 93 ITR 505 (SC); (1974) 1 SCC 345; 1974 SCC (Tax) 114; 1973 SCC OnLine SC 41.] , and Balwant Singh v. R.D. Shah, Director of Inspection, Income-tax [(1969) 71 ITR 550 (Delhi); 1968 SCC OnLine Del 41.] in which there are some observations to*

the effect that there could be no bar to the use of information gathered from search or seizure, which may eventually be declared as illegal. In the context of section 132 of the Income-tax Act, Balwant Singh [(1969) 71 ITR 550 (Delhi); 1968 SCC OnLine Del 41.] held that there was nothing in article 19 of the Constitution which forbids the use of evidence obtained as a result of an illegal search. Consistent with this view, the relief of a writ of prohibition to use such information from the documents which had been illegally seized was denied.

27. *In Pooran Mal [(1974) 93 ITR 505 (SC); (1974) 1 SCC 345; 1974 SCC (Tax) 114; 1973 SCC OnLine SC 41.] , the court held that India's law of evidence is modelled on the rules of evidence that prevailed in English law. Courts in India and England have consistently refused to exclude relevant evidence merely because it was obtained by illegal search or seizure. In any event, we do not pursue this line any further because, in this case, the impugned show-cause notice was not even based on any audit by CERA/CAG."*

8.12 In addition to the reasons assigned hereinabove, and for the further reasons that follow, we find ourselves unable to agree with the conclusion reached by the learned Single Judge.

8.13 Sections 67 and 74 of the CGST Act operate in distinct spheres. Section 74 is not dependent upon, nor is it controlled by, the outcome of proceedings under Section 67. Even assuming that there is any infirmity in the action taken under Section 67, the same would not, by itself, denude the proper officer of the power to initiate proceedings under Section 74,

provided the material gathered discloses circumstances contemplated therein.

8.14 Neither Section 67 nor Section 74 of the CGST Act contains any express or implied prohibition against the use of material collected during search and seizure for the purpose of initiating adjudicatory proceedings under Section 74. The learned Single Judge, in our considered view, has expanded the scope of Section 74 by reading into it a requirement that the material forming the basis of the notice must necessarily emanate from a validly initiated action. Such a requirement is not borne out from the plain language of the provision.

8.15. The material available to the proper officer may flow from multiple sources. Such sources may be identifiable or otherwise; what is material for the purpose of Section 74 is the relevancy of the material forming the foundation for initiation of proceedings. This is precisely the principle enunciated by the Hon'ble Supreme Court in **Pooran Mal** (*supra*). Though the said decision was rendered while interpreting Section 132 of the Income-tax Act, 1961, the underlying principle regarding admissibility and use of material would equally apply to proceedings under Section 74 of the CGST Act.

9. The learned Single Judge proceeded to hold that the action under Section 67 of the CGST Act was not carried out by a “proper officer” within the meaning of the Act. It was observed that if inspection, search and seizure are conducted by an officer other than the proper officer, the same would be invalid in law.

9.1 On that premise, it was held that the inspection, search and seizure carried out by appellant No.2 were *void ab initio*. Consequently, it was further held that a notice issued under Section 74 of the CGST Act, founded upon such search and seizure and the statements recorded therein could not be sustained, as there would be no valid basis for issuance of the show cause notice. The learned Single Judge also observed that the notice under Section 74 was issued on “borrowed satisfaction.”

9.2 Accordingly, directions were issued to refund the sum of ₹50.00 lakhs deposited by the respondent–assessee during the course of investigation and to return the seized documents and other goods. However, liberty was reserved to the competent authority to initiate appropriate proceedings against the respondent–assessee in accordance with law.

10. In the statement of objections filed by the appellant-authorities in the writ petition, it is stated that intelligence was gathered regarding the clandestine removal of goods, namely areca nuts, without payment of appropriate duty. A number of traders were allegedly involved in such transactions, and the respondent is stated to be the transporter of the said goods. It is further averred that such transactions by various dealers were detected at different places falling within the jurisdiction of different GST Commissionerates. Search and seizure operations were conducted on multiple business entities, including dealers and transport companies.

10.1 Insofar as the respondent is concerned, it is stated that the respondent has business branches at various places beyond the jurisdiction of the Northwest Commissionerate, Bengaluru.

10.2 The statement of objections indicates that the residential premises of Praveen Suvarna and the business premises of the respondent were searched. Praveen Suvarna is stated to be the proprietor of the respondent concern. The said search was conducted pursuant to authorisation issued by the competent authority under Section 67 of the Act. It is further stated that the Mangalore Commissionerate was examining other entities

within its jurisdiction and, in that connection, summons were issued to the respondent and statements were recorded. The materials so collected, being relevant for determination of the respondent's liability, were thereafter transferred to the proper officer at Bengaluru.

10.3 The aforesaid aspects are not in dispute. In order to ascertain the correctness of the above factual position, we have perused the show-cause notice placed on record.

10.4 Even prior to the issuance of the show-cause notice, various correspondences between the Bengaluru Commissionerate and the Mangaluru Commissionerate are available on record. The said correspondences indicate that investigation into a fake invoice racket involving multiple entities, spread across jurisdictions, was undertaken, and the materials pertaining to entities falling within other Commissionerates were forwarded by the Mangaluru Commissionerate to the respective authorities.

10.5 We also find that summons were issued under Section 70 of the GST Act requiring Sri Praveen Suvarna to appear before the Superintendent of Central Excise, Mangaluru.

10.6 A summons under Section 70 of the Act may be issued to any person whose attendance is considered necessary to give evidence or to produce documents or any other material in the course of any enquiry. The scope of Section 70 cannot be construed in a restricted manner so as to confine the issuance of summons only to matters directly connected with the business activities of the respondent in the present case.

10.7 In the instant case, the respondent is stated to have multiple places of business and dealings with various dealers across different jurisdictions. The proper officers having jurisdiction over such dealers or transactions are, therefore, empowered to summon the respondent in connection with enquiries within their respective territorial limits. In the course of such enquiry, material or information may be gathered either in relation to those entities or in relation to any alleged evasion attributable to the person so summoned.

10.8 If the proper officer issuing the summons does not have jurisdiction to initiate adjudicatory proceedings against the respondent, no fault can be found with such officer in transferring the material collected during the enquiry to the

competent proper officer for initiation of proceedings and adjudication in accordance with law.

10.9 The show-cause notice indicates that search operations were conducted on multiple entities, including various business establishments as well as the residential and business premises of the respondent, and mahazars were drawn in that regard. The materials relating to the respondent were gathered in the course of investigation conducted in respect of other business entities.

10.10 All such materials were thereafter forwarded to the proper officer having jurisdiction over the respondent, who has formed the basis for issuance of the show-cause notice. We find that the notice makes reference to mahazars drawn by the Mangaluru Commissionerate in respect of other persons and seeks to demonstrate the involvement or facilitation allegedly extended by the respondent in the issuance of fake invoices and in the modification of e-way bills, so as to enable repeated use of the same invoice and e-way bill for multiple transportations.

10.11 The show-cause notice, running into 253 pages, indicates the involvement of multiple entities in the alleged fake

invoicing racket. Specific instances of fake e-way bills are also referred to therein, pointing towards the role attributed to the respondent. The show-cause notice sets out specific instances of alleged fake invoices and furnishes details thereof, which encompass as many as 1,964 e-way bills involving the respondent. It is stated that these particulars were unearthed during investigations conducted not only in the case of the respondent but also in proceedings relating to other entities.

10.12 The notice further records that the respondent is stated to have admitted to clandestine supply of goods through the use of fake invoices and e-way bills. The materials so relied upon have been furnished to the noticee, namely the respondent. The entire material forming the basis of the show-cause notice has been gathered through search and seizure operations and by recording statements during the course of such proceedings. The material collected is *prima facie* incriminating and is stated to be crucial for adjudication of the alleged fake invoicing racket involving evasion of duty/tax.

10.13 We also note that, during the course of investigation, a sum of Rs.50 lakhs has been directed to be deposited to safeguard the probable tax liability that may arise

upon adjudication of the show-cause notice. It is further noticed that, on account of the alleged non-cooperation of the respondent, the bank accounts of the respondent were provisionally attached under Section 83 of the Act. But for the search and seizure operations conducted in the course of investigation, the foundational material forming the basis of the show-cause notice would not have been unearthed.

10.14 The learned Single Judge directed return of the seized documents and other goods on the ground that the same had been collected by an officer lacking jurisdiction. However, the search and seizure operations conducted by the competent authority under Section 67 of the Act at places falling within the jurisdiction of the Bengaluru Commissionerate were not brought to the notice of the learned Single Judge.

10.15 We find it difficult to approve the finding of the learned Single Judge directing return of the seized material. No doubt, liberty has been granted to the authorities to initiate fresh proceedings. However, in our considered view, such liberty would be illusory in the absence of the very seized material which constitutes the foundational basis for issuance of the show-cause notice.

10.16 Once the crucial and incriminating materials are ordered to be returned, as directed by the learned Single Judge, it cannot reasonably be expected that the proper officer would be in a position to issue a show-cause notice devoid of supporting material. As noticed hereinabove, a show-cause notice must necessarily be founded on tangible and documentary evidence, particularly when serious allegations of evasion are made and extended limitation is sought to be invoked.

10.17 As observed earlier in this order, at this stage what is required to be examined is not the source or legality of collection of the material for the purpose of assessing its evidentiary value, but its relevancy to the proceedings. The Hon'ble Supreme Court in **Pooran Mal** (*supra*) has held that evidence obtained, even if irregularly, is not liable to be excluded so long as it is relevant to the matter in issue.

10.18 The order of the learned Single Judge proceeds on the premise that the search and seizure operations were conducted only outside the jurisdiction of the Bengaluru Commissionerate, namely by the Mangaluru Commissionerate. However, the material on record, which remains undisputed,

indicates that the business premises as well as the residential premises at Chitradurga, falling within the jurisdiction of the competent authority, were also searched, and documents/materials were recovered and seized therefrom. These materials form part of the foundation for issuance of the show-cause notice.

10.19 We further observe that where materials are gathered by two different Commissionerates in the course of simultaneous or coordinated action undertaken to unearth a tax evasion racket, it is neither practicable nor legally permissible to confine proceedings under Section 74 of the Act solely to the materials collected by the proper officer within his territorial jurisdiction. There is no legal impediment for the proper officer to rely upon materials disclosing tax evasion, even if such materials were gathered by an officer of another jurisdiction.

10.20 It is precisely for this reason that the statutory scheme mandates supply of all materials forming the basis of the show-cause notice to the dealer or assessee, so as to afford an effective opportunity of rebuttal in compliance with principles of natural justice.

11. Learned counsel for the respondent has relied upon a bunch of 35 judgments to advance two prepositions: Firstly, the principles governing the validity of a search and the consequences thereof; and secondly, the requirements for constituting a valid search.

11.1 If valuable material and evidence, having financial implications, are gathered during inspection and search and are thereafter directed to be returned on the premise that such material cannot be utilized, the liberty reserved to initiate fresh proceedings would, in effect, become illusory. In such circumstances, the grant of liberty, while simultaneously foreclosing the use of the material already collected, would render the reserved right nugatory. We therefore find no justification in the submission of the learned counsel for the respondent that the liberty granted to the Revenue sufficiently safeguards its interest.

12. After the judgment was reserved and before pronouncement, this Court noticed the judgment of the Hon'ble Supreme Court in ***Dr. Naresh Kumar Garg vs. State of Haryana and Others [2026 SCC Online SC 295]***. The Hon'ble Supreme Court, reiterating the principles laid down in

Pooran Mal (supra), has held that evidence collected in the course of a search, in the form of seized articles or documents, cannot be discarded altogether merely on the ground that the search was illegal. The material or evidence gathered or collected in the course of such search can still be acted upon or relied upon, subject to the rule of relevancy and the test of admissibility. The said pronouncement fortifies the view taken by this Court.

Conclusions:

13. In light of the observations made hereinabove, we conclude the following:

(i) Proceedings under Section 74 of the CGST Act constitute an independent adjudicatory mechanism and are not contingent upon action taken under Section 67 of the CGST Act.

(ii) The legality or otherwise of the search and seizure proceedings does not, by itself, render the material gathered during such proceedings inadmissible for the purpose of initiating proceedings under Section 74, so long as such material is relevant to the issues involved.

(iii) There is no prohibition under the CGST Act preventing the proper officer from relying upon material gathered during investigations conducted by officers of another Commissionerate.

(iv) Once all materials forming the basis of the show cause notice are furnished to the respondent-assessee, it is open to the respondent to raise all permissible contentions regarding relevancy of such material in the course of adjudication under Section 74 of the CGST Act.

(v) Interference by the writ Court with the show cause notice at the threshold, when the respondent has an effective opportunity to submit a reply and participate in the adjudicatory process, is premature.

14. In light of the above, the following;

Order

- (i) Writ appeal is allowed.
- (ii) The impugned order dated order dated 28.11.2024 in WP No.18305/2023 (T-RES) is set aside.
- (iii) The WP No.18305/2023 is dismissed.
- (iv) The respondent-Assessee is granted 15 days time from today to file reply to the show cause notice.

- (v) The appellants-Revenue are at liberty to proceed further with the show cause notice, in accordance with law.
- (vi) All contentions of both parties insofar as merits are kept open.
- (vii) No orders as to costs.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(K. V. ARAVIND)
JUDGE**

MV/DDU