Kanakia Spaces Realty Private Limited v. The Union of India

A show cause notice and order-in-original issued under a legacy registration migrated automatically into GST, nearly a decade after the entity had merged out of existence. At issue: whether the defect was jurisdictional despite the department having been

Date of Order: June 24, 2026
Case Law No: GIB-BHC-2026-77
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background.

Kanakia Supremo Construction Private Limited merged into the petitioner under an order of the Bombay High Court dated 29.11.2016, with an appointed date of 01.04.2015, and stood dissolved and struck off the records of the Registrar of Companies. Its service tax registration was automatically migrated to GST under Section 139 without intimation. Despite the petitioner informing the department in 2019 that the company had ceased to exist, a show cause notice dated 25.06.2025 under Section 74 and an Order-in-Original dated 31.12.2025 were issued in the dissolved company's name.

Observations of the Court.

A valid show cause notice is the foundation of any tax proceeding. The department having been repeatedly informed of the amalgamation, the defect was a jurisdictional error and not a mere procedural oversight. The Court applied Maruti Suzuki India Ltd., Reliance Industries Limited v. P. L. Roongta and its own decision in Vodafone Idea Ltd., and rejected the contention that Section 87 could validate the initiation or continuation of proceedings against an entity that had ceased to exist.

It accordingly held that any show cause notice issued to an amalgamating company after it had ceased to exist pursuant to its merger, based on the scheme of amalgamation, would be without jurisdiction, and that any proceeding initiated thereunder would be null and void.

Final verdict.

The writ petition was allowed and the Order-in-Original dated 31.12.2025 was set aside. The Court clarified that relief was granted solely on the ground that proceedings were initiated on a notice issued to a non-existent company, that it had expressed no opinion on the merits of the claims and counter-claims, and that its order would not stand in the way of the authorities initiating proceedings in accordance with law for recovery of unpaid GST, interest and penalty from the petitioner if otherwise permissible.