Tata Steel Limited v. Union of India through the Secretary, Ministry of Finance & Ors.

Validity of Section 74 SCN and extended limitation based on alleged suppression of facts.

Date of Order: August 25, 2026
Case Law No: GIB-SC-2026-98
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

The proceedings originated from audit objections concerning mismatch of Input Tax Credit (ITC) for the three financial years and short payment of tax for FY 2019-20. Communications were exchanged in relation to the audit observations and supporting documents were sought. An SCN was subsequently issued on 13.06.2025 under Section 74 of the CGST Act.

The SCN was thereafter transferred to the “call book”, meaning that it was kept in abeyance, and the Department had contested the audit objection before the Public Accounts Committee. A fresh notice was subsequently issued on 01.07.2025, reviving the earlier notice and proposing a protective demand on the ground that the GST proceedings were time-bound.

COURT OBSERVATIONS

- Proceedings under **Sections 73/74** can be initiated only upon the satisfaction of the Assessing Officer. Even where an audit raises objections, the Assessing Officer must independently record satisfaction before issuing the notice. For Section 74, the satisfaction must extend to the existence of **fraud, wilful misrepresentation or suppression of facts** leading to the mismatch or short payment.
- The Court rejected the Department's reliance on **Explanation 2 to Section 74**, noting that even according to the Department it had been omitted with effect from 01.11.2024. The Court also rejected the argument that the proceedings had been initiated before expiry of the Section 73 limitation period.
- The fact that the Department itself had contested the audit objections before the Public Accounts Committee indicated that there was no satisfaction on the part of the Assessing Officer regarding the mismatch or short payment, much less regarding suppression. The SCN contained only a bland statement alleging suppression and did not provide the **foundational**

facts necessary to substantiate that allegation.

- The Court held that the extended limitation under Section 74 cannot be invoked merely by mechanically using expressions such as “fraud”, “wilful misrepresentation” or “suppression”. The foundational facts leading to such an inference must be apparent from the SCN itself.
- In the present case, the SCN did not disclose factual circumstances demonstrating any deliberate device to evade tax or avail excess ITC. The mere allegation of suppression, made to invoke the extended limitation, was insufficient to sustain proceedings under Section 74.

FINAL VERDICT

The Supreme Court **set aside the SCN as well as the consequential Order-in-Original dated 26.12.2025**. The appeal was accordingly allowed.

However, the Court granted liberty to the Department to initiate an appropriate proceeding under **Section 74**, if considered necessary, provided the foundational facts are set out in the notice itself and the order is passed **before 28.02.2027**.

CASES REFERRED BY COURT

In Re: Cognizance for Extension of Limitation
Court: Supreme Court of India
Order Date: 01 January 2022
The Court relied upon the suo motu proceedings to take into account the exclusion of the period from **15.03.2020 to 28.02.2022** for limitation purposes, which affected the computation of the Section 73 limitation period for the relevant financial years.