

M/s Chandan Patra v. Union of India & Ors.

Section 74 order passed ignoring a manually filed and acknowledged reply, and before the date allowed for documents, set aside for violation of natural justice.

Date of Order: October 7, 2026
Case Law No: GIB-ORCH-2026-127
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CASE DESCRIPTION / SUMMARY

Background

The petitioner, a works contractor, did not charge GST for FY 2019-20 irrigation works tendered on the 2014 Schedule of Rates. A Section 74 Demand-cum-SCN dated 04.09.2025 proposed GST of Rs.8,83,021/- with interest. On 27.01.2026 the petitioner appeared and filed a detailed reply, which the Superintendent acknowledged on its face; it questioned the very invocation of Section 74 and claimed only Rs.26,36,189/- was received, covered by Notification No.31/2017-Central Tax (Rate) at 5%. Time was granted till 13.02.2026 to file Form 26AS and the bills, but the Order-in-Original dated 04.02.2026 recorded that the noticee never appeared or replied in DRC-06. The Department argued that procedure was followed and the petitioner should be relegated to appeal.

Final Verdict

The Court found the writ maintainable under the natural justice exception (Radha Krishan Industries; T.N. Cements). Reading Section 74(9) with Rule 142(4), it held there is no bar on considering a reply merely because it was filed manually; DRC-06 is a procedural tool and not an absolute bar to the taxpayer's right of defence. **Ignoring a physically acknowledged reply, and passing the order before the date allowed for documents, amounts to a patent violation of natural justice; the Proper Officer must deal with each point raised and give reasons.** The order also did not show that the officer examined the requirements for invoking Section 74 (Tata Steel and G.R. Infra noted). The Order-in-Original dated 04.02.2026 was set aside and the matter remitted for fresh consideration of the reply and the jurisdictional objection; the petitioner is to appear within 15 days and the proceeding is to conclude within eight weeks. The pleas on limitation and on absence of Section 74 ingredients were left open, with no opinion on merits and no costs.

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