

M/s Moral Pharmaceuticals Pvt. Ltd. v. Union of India & Ors.

Challenge to CBIC Circulars assigning “proper officer” functions to central tax officers rejected; writ against an appealable Section 74 order not entertained.

Date of Order: September 18, 2026
Case Law No: GIB-PHC-2026-128
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

On the basis of data received from DGA (Central), Lucknow, an SCN dated 12.07.2024 under Section 74 proposed GST of Rs.5,10,00,146/- (CGST and SGST Rs.2,55,00,073/- each) for July 2017-March 2018 for alleged false declaration of taxable value. After reply dated 07.08.2024 and a hearing, the order dated 13.11.2024 confirmed tax of Rs.2,91,39,160/- with interest and an equal penalty under Section 74(1) read with Section 122(2)(b), dropping Rs.2,18,60,986/-. The petitioner challenged Circulars No. 3/3/2017-GST, 31/05/2018-GST and 169/01/2022-GST as beyond the Board's power (relying on Canon India), and also the SCN/order for want of digital signature, personal hearing, ASMT-10, the Section 74 pre-conditions and limitation.

Final Verdict

Noting that the Bombay HC decision in Fomento Resorts & Hotels is under appeal but no Supreme Court direction restrains High Courts, the Court agreed with that view that Canon India is distinguishable, since the officers concerned are admittedly central tax officers appointed under Section 3 read with Section 5 via the notification dated 19.06.2017, and **held that the pleas questioning the three circulars have no basis to stand.** Finding that the order was passed after considering the reply and granting a personal hearing, and that none of the Chhabil Dass Agarwal exceptions applied, the Court declined to act as a fact-finding body and relegated the petitioner to the statutory appeal. Liberty was granted to appeal within 30 days; since the writ was filed on 07.03.2025, within 30 days after expiry of the three-month appeal period, the Appellate Authority would not oust the petitioner on limitation. The writ was disposed of accordingly.

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