

Bhawani Industries Pvt. Ltd. and Others v. Union of India and Others

GST — Voluntary deposit of tax, penalty and interest during investigation; applicability of Section 74(6) of the CGST Act, 2017 and requirement to issue a show cause notice.

Date of Order: October 7, 2026
Case Law No: GIB-PHHC-2026-130
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The Revenue sought clarification/modification of clause (xiii) of paragraph 103 of the High Court's judgment dated 01.10.2026. That clause stated that a deposit made by a purchasing dealer during investigation, including through Form GST DRC-03, would not by itself dispense with a show cause notice disclosing the foundational facts, and that the character and effect of the deposit would be determined by the Proper Officer on the facts of each case. The Revenue contended that this observation should not be applied to cases where tax, penalty and interest had been voluntarily deposited and no proceedings were initiated to question the liability, since Section 74(6) provides that no notice is required in such circumstances.

The Court clarified that clause (xiii) must be read with clause (xii), which requires a reasoned order addressing the noticee's reply and disputed conditions of Section 16(2), and, where Section 74 is invoked, a specific finding regarding fraud, wilful misstatement or suppression. The observation about the need for a notice concerned cases where the foundational facts had not been disclosed. The Proper Officer must determine, on the facts of each case, whether the deposit was voluntary or involuntary and its effect. The Court expressly held that clause (xiii) does not narrow the scope of Section 74(6), and that voluntary deposits of tax, penalty and interest attract that provision, so no notice is required in such cases. The clarification also does not permit reopening closed transactions where voluntary deposits had not been questioned by the assessee.

Final Verdict

The modification application was disposed of with the above clarification. The Court preserved the requirement for a show cause notice where foundational facts have not been disclosed, while confirming that Section 74(6) continues to apply to voluntary deposits of tax, penalty and interest.

The character and effect of a deposit remain matters for the Proper Officer to determine on the facts of the individual case.

Key observation: “voluntary deposits made of tax, penalty and interest, would attract the applicability of Section 74(6) of the Act, in which case there would be no requirement of issuance of a notice.”

ADDITIONAL FOOTNOTES

Relationship with [Shaurya Alloys Pvt. Ltd.](#) (01.10.2026): This order clarifies clause (xiii) of paragraph 103 of the Court’s judgment in Shaurya Alloys, concerning when a deposit made during GST investigation dispenses with the requirement of a show cause notice, particularly in light of Section 74(6) of the CGST Act, 2017.