

CNR No: PHHC012059722025

152 CM-18923-CWP-2026 IN CWP-37853-2025

**BHAWANI INDUSTRIES PVT LTD AND OTHERS
VS
UNION OF INDIA AND OTHERS**

Present: Mr. Sandeep Goyal, Sr. Advocate, with
Ms. Aakriti, Advocate
for the petitioners.

Mr. Sourabh Goel, Sr. Standing Counsel, UOI,
Ms. Geetika Sharma, Advocate,
Ms. Himanshi Gautam, Advocate, and
Ms. Drishti Saraf, Advocate
for the Revenue/applicants in CM-18923-CWP-2026.

1. This petition was disposed of by this Court vide a composite judgment dated 01.10.2026 passed in CWP-34296-2024 and other connected matters.

2. A modification application has been filed by the Revenue stating that voluntary payments made, in which no proceedings have been initiated questioning the liability, the judgment of this Court may not be made applicable.

3. The guidelines in clause (xiii) in para 103 of the judgment dated 01.10.2026 are sought to be modified, which reads as under:-

“(xiii) The fact that the purchasing dealer has deposited an amount during the course of investigation, whether through Form GST DRC-03 or otherwise, shall not, by itself, dispense with the requirement of the show cause notice disclosing the foundational facts. The character of such deposit and its effect shall be determined by the proper officer on the facts of each case.”

4. Learned counsel representing the Revenue states that the aforesaid

observation is likely to be misutilized by those persons, who have already deposited tax, penalty and interest voluntarily, in which case no notice is required to be issued by virtue of Section 74(6) of the GST Act, 2017, and therefore, the aforesaid observation be clarified in the context of it.

5. The observations contained in the judgment, as are sought to be modified by the Revenue, have to be read in conjunction with the preceding observations made in clause (xii), which reads as under:-

“(xii) The order shall set out the relevant facts and the basis of the decision, as mandated by Section 75(6) of the Act of 2017, deal with the reply and the documents produced by the noticee, and record a specific finding on each of the conditions of Section 16(2) which is in dispute. Where Section 74 has been invoked, the order shall also record a specific finding as to the fraud, willful misstatement or suppression of facts attributable to the noticee.”

6. It is in the context of such cases where the foundational facts have not been disclosed, that we proceeded to observe that the deposit of amount would not dispense with the requirement of notice. However, the latter part of the observations contained in clause (xiii) clarifies the position, as per which the character of such deposit, i.e. whether it is voluntary or involuntary, and its effect, is left to be determined by the Proper Officer on the facts of each case.

7. Our observations in clause (xiii) of para 103, therefore, in no manner whittle down the scope of Section 74(6) of the Act, inasmuch the deposits made voluntarily 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.

8. The observations made in clause (xiii) of para 103, otherwise would

not give rise to raking up of closed transactions, where voluntary deposits made, have not been questioned by the assessee.

9. Application stands **disposed of** accordingly.

(ASHWANI KUMAR MISHRA)
CHIEF JUSTICE

(ROHIT KAPOOR)
JUDGE

07.10.2026
mohit goyal