



## Is bunching of SCNs or assessment orders across multiple AYs valid?

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**GERMANE:** High Court of Kerala Judgment Re *DHANLAXMI BANK LIMITED AND ANR Vs UNION OF INDIA AND STATE & ORS* issued on THE 16TH DAY OF FEBRUARY 2026 in WP(C) NO. 15618 OF 2025 & others {[2026-TIOL-353-HC-KERALA-GST](#)}

Conflicting verdicts have been rendered by the high courts across the country on the validity of bunching of Show Cause Notices (SCNs) or assessment orders for more than one Assessment Year (AY).

I. In recent judgments, the Kerala High Court has held that the notices issued and impugned orders passed for multiple assessment years (AYs) under the provisions of the CGST /SGST Act are not valid in law and has accordingly quashed these notices.

II. The issue before the Court was sustainability of notices issued under Sections 73 and 74 of the CGST/SGST [Act 2017](#) in the form of a composite notice for multiple AYs.

III. In *M/s. Lakshmi Mobile Accessories v. Joint Commissioner (Intelligence & Enforcement)* - [2025-TIOL-850-HC-KERALA-GST](#), the Kerala High Court held that such composite SCNs were unsustainable, since they caused serious prejudice to the assesseees for various reasons.

IV. In *Tharayil Medicals v. The Deputy Commissioner* - [2025-TIOL-828-HC-KERALA-GST](#), the Court reiterated the view taken in *M/s. Lakshmi Mobile Accessories v. Joint Commissioner (Intelligence & Enforcement)*.

V. The Madras High Court in *M/s. Oriental Lotus Hotel Supplies Private Limited. v. The Joint Commissioner, Chennai GST Audit II, Commissionerate* - [2025-TIOL-1869-HC-MAD-GST](#) and the Karnataka High Court in *M/s Bangalore Golf Club v. Assistant Commissioner of commercial Taxes, (Enforcement) Bengaluru* - [2024-TIOL-1614-HC-KAR-GST](#) also held similar views.

VI. On the contrary, the Division Bench of the Bombay High Court in *RioCare India Private Limited. v. Assistant Commissioner CGST and C.Ex. & Ors. [(2025) 26 Centax 339(Bom.)]* held that such composite notice is permissible in view of the fact that the statute does not contain any prohibition in issuing the said notice. Paragraphs 3 and 4 of the said judgment read as follows:

"3. At least prima facie we are not impressed with this argument. There is nothing in Section 74 and more particularly 74(1) which would prohibit the Authority from issuing a notice calling upon the assessee to pay tax that has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised, by reason of fraud, or any wilful misstatement or suppression of facts to evade tax. At least prima facie, a notice under Section

*74(1) can be issued for any period provided that the said notice is given at least 6 months prior to the time limit specified in sub-section (10) of Section 74 for issuance of the order.*

*4. In the present case, admittedly there is no issue of limitation as contemplated under Section 74(10). In these circumstances, at least prima facie we are not satisfied that this Writ Petition challenging the show cause notice ought to be entertained. The Petitioner will have to face the show cause notice and can canvass all arguments before the authority concerned, including the issues raised in the present Writ Petition."*

VII. Similar view taken by the Delhi High Court in *Vallabh Textiles v. Additional/Joint Commissioner, CGST Delhi East Commissionerate and Others* [WP(C) No.13855 of 2024] which was followed in *Ambika Traders v. Additional Commissioner, Adjudication DGGSTI, CGST Delhi North* [2025-TIOL-1247-HC-DEL-GST](#) and the orders passed by the Hon'ble Supreme Court in SLP upholding the said decisions, could not yield for the reason that the orders passed in the said SLPs in limine simply implies that the case was not worthy of examination by the Supreme Court for a reason, other than merits of the case and thus not speaking orders, so as to treat those as precedents.

VIII. In view of conflicting judgments on the issue, this article examines the validity of SCNs for multiple assessment years in terms of CGST Act, CGST Rules and specified statutory forms vis-à-vis the erstwhile Central Excise law governing similar provisions.

IX. The governing provision for demand of tax falls under Section 73 or Section 74 of the CGST [Act, 2017](#).

Section 73 (1) reads:

*Where it appears to the proper officer that **any tax** has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay **the amount specified in the notice** along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.*

IX.1 Section 73(1) contemplates issuing demand notice for 'any tax' and not for any tax pertaining to a financial year. Further, the demand notice is for payment of the amount specified in the said notice. If a demand notice specifies amount pertaining to more than one financial year, then there appears no bar under the statute. The demand notice can be for any tax amount for any number of financial years provided it is issued within the stipulated time period. Similar is the provision under Section 74 (2) except for the time period. Section 74 (2) stipulates the period for issuing notice for demand. It reads:

*The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.*

IX.2 The vital context of the above provision is the relevant date and, therefore, inevitable to examine for any stipulation having restriction for issuing notice for demand for a financial year only.

IX.4 The relevant date for reckoning period is mentioned under Sub Section 10 of Section 74 which says:

*The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short*

*paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.*

IX.5 According to the above provision, the relevant date for issuing a demand notice is two years and nine months from the due date for furnishing annual return for the financial year. It means that any number of annual returns for the financial years can be accumulated if these fall within the period of 2 years and 9 months from the date of issuing the notice. Also, there is no bar that a notice cannot be issued prior to the due date of any financial year.

IX.6 This analogy is in tandem with the provisions of sub-Sections (3) and (4) of Section 73 wherein the statement can be issued for any tax periods, other than those covered under the notice issued under sub-Section (1), meaning that the notice as well as statement can be issued for any tax periods.

X. Against this backdrop, it is imperative to examine whether there is any conscious departure by the legislator in GST law from the similar demand provisions under the erstwhile Central Excise Act and Service Tax, as the GST is the amalgamation of central excise duty on goods and service tax on services. The provisions of recovery of duties not levied or not been paid or short levied or short paid or erroneously refunded are governed under Section 11A of the Central Excise Act, 1944, which says:

*Where **any duty of excise** has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason, other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, -*

*(a) the Central Excise Officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty which has not been so levied or paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not **pay the amount specified in the notice**;*

.....

*(10) The Central Excise Officer shall, after allowing the concerned person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty of excise due from such person not being in excess of the amount specified in the notice.*

*(11) The Central Excise Officer shall determine the amount of duty of excise under sub-section (10) -*

*(a) within six months from the date of notice where it is possible to do so, in respect of cases falling under sub-section (1);*

*(b) within two years from the date of notice, where it is possible to do so, in respect of cases falling under sub-section (4)*

#### **Relevant date for reckoning period:**

*(i) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid, and no periodical return as required by the provisions of this Act has been filed, the **last date on which such return is required to be filed under this Act** and the rules made thereunder;*

(ii) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid and the return has been filed, the date on which such return has been filed;

X.1 Under the Excise law, the assesseees were filing the monthly returns in terms of Rule 12 of the Central Excise Rules. These monthly returns were subjected to scrutiny in terms of Rule 12 (3) of *ibid*.

XI. If a judicial view is taken in respect of GST law that notice to be issued for each financial year, being subjected to assessment, consider just and proper, then there was never the case that the notice to be issued for each month being subjected to scrutiny under the central excise law. The Rule 12 of the Central Excise Rules is similar to the Section 39 and Section 42 of the CGST Act.

XII. Further, the provisions of the Section 73(9) of the CSGT Act for the determination of amount of tax due from a person after considering representation against the notice and amount specified in the notice under Section 73(1) of *ibid* is *pari materia* to the provision of sub Section (10) of Section 11A of Central Excise Act (*supra*) for determination of amount of duty of excise due from a person not being in excess of the amount specified in the notice. The provision of Section 73 (8) & (9) of the CSGT Act are extracted below:

(8) Where any person **chargeable with tax under sub-section (1)** or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by person **chargeable with tax**, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

XIII. While comparing the provisions of the Central Excise Act with the CGST Act, there appears no departure from the principles of issuing demand notice and determination for the specified duty/tax within specified time period which is to be reckoned from the monthly return in case of Central Excise and annual return in case of GST and such notice can cover any months or years provided they fall within the specified period. Thus, the notion for issuing demand notice and then determination should not be based on the tax period in isolation, but for the amount specified in the notice, being *sine qua non*.

XIV. When determination of tax is based on the amount specified in the notice, it is apposite to examine the GST Rules that prescribes statutory notice to be issued in the particular FORM so as to check whether or not, these FORMS include only one financial year or any financial years.

**Rule 142. Notice and order for demand of amounts payable under the Act. –**

*The proper officer shall serve, along with the*

(a) **Notice issued** under section 52 or **section 73** or section 74 or section 74A or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in **FORM GST DRC-01** or

(b) **statement under sub-section (3) of section 73** or sub-section (3) of section 74 or subsection (3) of section 74A, a summary thereof electronically in **FORM GST DRC-02**, specifying therein the details of the amount payable.,.

.....

(2) Where, before the service of Notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or clause (i) of sub-section (8) of section 74A, as the case may be, or tax, interest and penalty in accordance with the provisions of subsection (5) of section 74 or clause (i) of sub-section (9) of section 74A, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A), he shall inform the proper officer of such payment in FORM GST DRC-03 and an acknowledgement, in FORM GST DRC-04 shall be made available to the person through the common portal electronically.

.....

(4) The **representation referred to in sub-section (9) of section 73** or sub-section (9) of section 74 or sub-section (6) of section 74A or sub-section (3) of section 76 or the reply to any Notice issued under any section whose summary has been uploaded electronically in **FORM GST DRC-01** under sub-rule (1) shall be furnished in **FORM GST DRC-06**.

(5) A **summary of the order** issued under section 52 or section 62 or section 63 or section 64 or **section 73** or section 74 or section 74A or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in **FORM GST DRC-07, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned**].

(6) The order referred to in sub-rule (5) shall be treated as the Notice for recovery.

XIV.1 Whether tax demand could be for only a financial year or any financial years, the examination of **FORM DRC 01** which communicates to the person about details of amount of tax payable; FORM DRC 03 vide which the person intimates payment of any tax; representation in **FORM GST DRC 06** against the notice issued; and summary of order in **FORM DRC 07**, being the communications from person and officer and vice versa, would be res-ipsa-loquitur meaning that these FORMs would speak for itself and may ease conclusion in the matter.

XIV.2 The **FORM DRC 01** provides inclusion of any tax period in its column 4 & 5. The row for 'Total' in summary Table is indicative of the fact that statute expects entry of more than one financial year, otherwise there was no need to have row for 'Total' in the table. Similarly, the intimation of payment against the demand notice in FORM DRC 03 do contain provisions for intimation of payment of any Tax period in its column 2. Summary of order in FORM DRC 07 provides to include any tax period in its column 4 & 5. Therefore, it could be easily comprehensible that neither the statute, nor the rules and Forms do contemplate each demand notice for each annual return for each financial year and a cumulative demand of tax subject to satisfaction of all other ingredients is sufficient compliance of Section 73 or Section 74 of the CGST Act.

X.V Thus, it emerges that the most vital part of the provisions for demand and determination of the tax is the **notice issued with the specified time period and the amount specified in the notice** and not the tax period in isolation. The above logical deduction is in parity with the long-standing excise law which had undergone judicial scrutiny time and again without any doubt on the notice issued for limited tax period of each month. Further, the most important part of justice is based on the principles of natural justice Audi Alteram Partem that no one should be condemned unheard. This aspect is ensured in the FORMs communicating the demand of tax, representation thereto and order passed. So long as the demand notice does adhere to include statutory ingredients like amount of tax and issued within the specified time period, there appears a substantive compliance to the provision of Section 73 and 74 of the CGST Act irrespective of assessment years.

**[The author was Joint Commissioner (AR) (Retd), CESTAT, New Delhi and the views expressed are strictly personal.]**

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