



MAJESTY LEGAL
Advocates & Solicitors

GST DEMAND BASED ON 4 YEARS CONSOLIDATED NOTICE IMPERMISSIBLE

"MS GRAINOTCH INDUSTRIES LTD VERSUS THE UNION OF INDIA"

Hon'ble Bombay High Court in case of *Ms Grainotch Industries Ltd Versus The Union Of India*¹, stayed demand of Rs.71,23,02,689/- with fine of equal amount reasoning that the demand is based on 4 years consolidated notice. Hon'ble Court observed and was satisfied with the petitioners' contention that issuing consolidated notice is impermissible and it goes to hook of the jurisdiction. Taxing double for the same thing, is prima facie unjustifiable and since the product for which the GST sought is industry base, it is not taxable.

Accordingly, Hon'ble Court stayed the demand till next date.

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¹ WRIT PETITION NO. 1262 OF 2025

² Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1262 OF 2025

MS GRAINOTCH INDUSTRIES LTD THROUGH ITS MANAGER AJAY
BABURAO KHAIRNAR
VERSUS
THE UNION OF INDIA THROUGH ITS SECRETARY AND OTHERS

...
Advocate for the Petitioner : Mr. Alok Sharma and Mr. B. S. Indani
Standing Counsel for Respondents No.1 and 2 : Mr. Ajay G. Talhar
Advocate for Respondent No.3 : Mr. Parikshit Dawalkar
AGP for Respondents No.4 to 6 : Mr. S. K. Tambe

...
**CORAM : S. G. MEHARE &
SHAILESH P. BRAHME, JJ.**

DATE : 30-01-2025

PER COURT:-

1. Heard the learned counsel for the parties on the alternate remedy against the impugned order.
2. The petitioner was served with consolidated notice by respondent No.3 for paying GST from the year 2017 - 2021. After show-cause, the petitioner had explained the said notice. However, his explanation was not accepted and the impugned order is passed, holding the respondents liable to pay Rs.71,23,02,689/- with fine of equal amount.
3. The learned counsel for respondent No.3 had raised objection that since efficacious alternate remedy is available under Section 107 of the Central Goods and Service Tax Act, 2017 (for short, "GST Act"), this Court may not exercise the writ jurisdiction under Article 227 of the Constitution of India.

4. The learned counsel for the petitioner has submitted that issuing consolidated notice is impermissible and it goes to hook of the jurisdiction. Taxing double for the same thing, is *prima facie* unjustifiable and since the product for which the GST sought is industry base, it is not taxable. He has taken us through the various pronouncements of the Court and amendment to Section 9 of the GST Act. In nut shell, he submits that the issue whether Extra Neutral Alcohol (ENA) is liable for GST has been set at rest in the case of ***State of U.P. and others vs. M/s. Lalta Prasad Vaish and sons, 2024 INSC 812***. In this case, the dispute raised by the petitioner has been elaborately discussed.

5. To bolster his arguments, the learned counsel for the petitioner has placed reliance on another case law of the Allahabad High Court. After hearing him and going through the law laid down by the Hon'ble Supreme Court and amendment to Section 9 of the GST Act, we are *prima facie* satisfied that the issue raised by the petitioner could be entertained under Article 226 of the Constitution of India. However, the learned counsel for respondent No.3 seeks time to make a search contrary to the case laws relied upon by the learned counsel for the petitioner as well as the arguments advanced by him. He submits that the issue of jurisdiction for alternate remedy may be kept open.

6. To follow the natural justice we must give an opportunity to the learned counsel for the respondent No.3 to comment on the arguments advanced by the learned counsel for the petitioner on the issue of jurisdiction under Article 226 of the Constitution of India.

7. Since we are *prima facie* satisfied with the arguments advanced by the learned counsel for the petitioner, there shall be *interim* stay to the impugned order till the next date.

8. Issue notice to the respondents, returnable on 14.02.2025.

9. Mr. Talhar, learned standing counsel waives service of notice for respondents No.1 and 2. Mr. Parikshit Dawalkar, learned counsel waives service of notice for respondent No.3. The learned A.G.P. waives service of notice for respondents No.4 to 6.

10. Respondent/State should take a decision, whether its affidavit-in-reply is necessary or not.

11. Tag this petition with Writ Petition No.13627 of 2024.

[SHAILESH P. BRAHME]
JUDGE

[S. G. MEHARE]
JUDGE

rrd