



www.Taxheal.com

1

WP-5186-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

ON THE 10th OF SEPTEMBER, 2025

WRIT PETITION No. 5186 of 2025

MAHENDRA SINGH

Versus

ASSISTANT COMMISSIONER STATE TAX AND OTHERS

.....
Appearance:

Shri Amit Dubey - Advocate for the petitioner.

Shri Sudeep Bhargava - Dy. Advocate General for the respondent /

State.
.....

ORDER

Per. Justice Vivek Rusia

Petitioner has filed the present petition under Article 226 of the Constitution of India, challenging the show cause notice dated 21.01.2025 issued by the Assistant Commissioner State Tax, Commercial Tax, Indore Circle-1 under Section 74 of the Goods and Services Tax Act, 2017. The petitioner is also seeking quashment of the order dated 06.10.2021 passed by the respondent No.2 which is the Authority for Advance Ruling of Madhya Pradesh, on an application of Gulab Singh Chouhan.

02. Shri Gulab Singh Chouhan filed an application under Section 98(4) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act, 2017") and the MPGST Act, 2017 to get an advance ruling,



raising the issue of whether the business model would be selling Pan Masala, tobacco products, etc. and whether the composition scheme is available to the assessee if the turnover does not exceed Rs.1,50,00,000/- in the preceding financial year. During pendency of the said proceeding, Shri Gulab Singh Chouhan did withdraw all the questions other than whether he is eligible for the composition scheme or not under Section 10 of CGST/SGST, as his aggregate turnover is less than 1.5 crores.

03. Being a trader of Pan Masala and tobacco products falling under Section 24 of the GST Act and ice cream products falling under Section 21 of GST Act. Vide order dated 06.11.2024, the authority answered that the case of the applicant is fully and squarely covered under the restrictive condition of Section 10(2)(b) & (e) of GST Act, 2017 and the composition scheme under Section 10 of the CGST / MPGST Act, 2017, shall not be available to him.

04. The petitioner is a proprietor of a pan shop situated at Shop No.9, Meera Shree Apartment, 87, Mishra Nagar, Annapurna Road, Indore, having an independent GST number, and his annual receipts were below Rs.20,00,000/-. The petitioner sought GST registration under Section 10 of CGST / MPGST Act, 2017 composition scheme, having annual receipts less than Rs.1.5 Crores. According to the petitioner, he is a distinct person from Gulab Singh Chouhan and holds a separate PAN and GST number; therefore, the advance ruling given in the case of Gulab Singh Chouhan dated 06.10.2021 will not apply in his case. Ld. counsel submits that the petitioner cannot challenge the advance ruling given in the case of Gulab Singh



Chouhan, by virtue of Section 103 of GST Act, 2017 the said ruling is binding only on Gulab Singh Chouhan not on any other person.

05. The grievance of the petitioner is that the respondent authority is enforcing the order dated 06.10.2021 i.e. advance ruling against the petitioner, by issuing a show cause notice under Section 74 of the GST Act demanding the tax interest penalty in the total amount of Rs.64,89,965/-. During the pendency of this petition, a final order has been passed which has been brought on record by way of additional documents.

06. After notice, the respondents have filed the reply by submitting that there are as many as 8 firms engaged in the business of sale of paan having different GST numbers, but all are running under the same brand name, i.e. Karnawat Paan. The petitioners and other family members are related and connected to Gulab Singh Chouhan under a common brand trademark. They all are paying tax as per the composition scheme i.e. at the rate of 1% of the turnover. The petitioner and other firms are not only dealing in the purchase and sale of products, but they are also mixing the products for making Gutka and Paan out of those products. The advance ruling given in the name of the sister concerned is binding on the petitioner; therefore, the respondents have rightly issued the show cause notice enforcing the advance ruling. It is further submitted that the writ petition challenging the show cause notice is not maintainable. The respondents have come up with the specific plea that a total of 8 firms are registered under the different GST numbers but are running a paan shops under the same brand name of Karnawat Paan. The details of which, as per Para 3 & 4 of the



return, are as under:

"3. That, on merit of the case, it is most humbly submitted that there are in total eight firms registered, which have different GSTN number but all are of same Brand name i.e., Karnawat Pan. Copy of the list of all the firms is annexed herewith and is marked as ANNEXURE R/1. That, all the pan shops are operating under the name of the Karnawat brand, which carries the brand name trademark 'Gulab Singh'. That, without averting with the averments made in the Writ Petition, the following preliminary objections are being filed.

4. That, all the firms mentioned herein are being operated by relatives and are engaged in business under various trade names, including Karnawat Pan Bhojnalay Chat Chaupaty, Karnawat Paan & Kirana Stores, Karnawat Pan Centre, Karnawat Pan Bhojan Prasadi, Karnawat Bhojan Prasadi Anjani Nagar Mori, Karnawat Staff Mess, Karnawat Pan Bhojan Prasadi Chat Choupati, Karnawat Pan Centre, and Karnawat Pan Sadan. Except for Karnawat Pan Bhojnalay Chat Chaupaty, Karnawat Paan & Kirana Stores, Karnawat Pan Bhojan Prasadi, Karnawat Pan Bhojan Prasadi Anjani Nagar, and Karnawat Pan Bhojan Prasadi Chat Choupati, all the other firms have paid Goods and Services Tax (GST) under the composition scheme."

(Emphasis supplied)

07. There is no denial of the aforesaid facts by way of rejoinder in this petition. Gulab Singh Chouhan, being the head of the Karnawat Group, applied for advance ruling, and the same was given on 06.10.2021 against him, which has not been challenged till date. The petitioner has its independent GST number and has an independent business entity; therefore, the advance ruling in the case of Gulab Singh Chouhan cannot be applied by virtue of Section 103 of the GST Act. The proper officer ought to have examined the case independently without relying on the advance ruling given in the case of Gulab Singh. the operative part of the order is reproduced below:

"व्यवसायी द्वारा प्रस्तुत जवाब का अवलोकन किया गया जवाब संतोषजनक नहीं होने से अमान्य किया जाकर डीआरसी-07 जारी किया जाता है।

Tax and other dues अतः इस आधार पर माल एवं सेवाकर अधिनियम -



2017 की धारा 74 सहपठित 122 नियम 142 के तहत डीआरसी-07 आदेश जारी किया जाकर निम्नांकित कर, शास्ति एवं ब्याज आरोपित किया जाता है।"

08. From the perusal of the final order, it is apparent that after recording the reply given by the petitioner, the authority has simply held that "same is not satisfactory". The adjudication authority is supposed to decide the grounds taken by the petitioner in the reply of SCN. The application of mind should be reflected in the decision-making process as well as in the final order. In the absence of appreciation of facts and grounds in the non-speaking order, the petitioner cannot be relegated to the appellate authority for filing an appeal.

09. In view of the above, it is a fit case for interference in the writ petition. Accordingly, this Writ Petition stands **allowed**. The matter is remanded back to the respondent, i.e., the Assistant Commissioner of State Tax, Indore Circle-I, to decide afresh the SCN on merit independently without being influenced by advance ruling.

(VIVEK RUSIA)
JUDGE

(JAI KUMAR PILLAI)
JUDGE

Divyansh