

**IN THE HIGH COURT OF MADHYA  
PRADESH  
AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE ROHIT ARYA**

**&**

**HON'BLE SHRI JUSTICE AMAR NATH (KESHARWANI)**

**ON THE 21<sup>st</sup> OF DECEMBER, 2023**

**WRIT PETITION No. 29545 of 2023**

**BETWEEN:-**

**M/S TARAN ANGAD TRADERS PVT. LTD. ADDRESS GROUND FLOOR 01  
INDER BHAWAN MLB ROAD LASHKAR GWALIOR THROUGH ITS  
MANAGING DIRECTOR MR. KULJINDER SINGH S/O SHRI INDER SINGH  
GYANI, AGED ABOUT 66 YEARS, INDER BHAWAN MLB ROAD LASHKRA  
GWALIOR 474009 (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI RAVI DWIVEDI - ADVOCATE)***

**AND**

**1. UNION OF INDIA THROUGH ITS SECRETARY DEPARTMENT OF  
REVENUE NORTH BLOCK NEW DELHI 110001 (DELHI)**

**2. THE ASSISTANT COMMISSIONER CENTRAL EXCISE AND CGST  
DIVISION I GWALIOR GARDEN PALACE NEAR GEMS PUBLIC  
SCHOOL GULMOHAR CITY ROAD, GWALIOR (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI PRAVEEN SURANGE - ADVOCATE )***

*This petition coming on for hearing this day, Justice Rohit Arya passed*

*the following:*

**ORDER**

Petitioner; an assessee under the GST Act is before this Court under  
Article 226 of the Constitution of India taking exception to the impugned

show cause notice dated 26-09-2023 (Annexure P-8) whereby in para 2 reasons are assigned for issuance of show cause notice quoted as under:-

*“During the course of scrutiny of GSTR-9 viz. GSTR-3B return for the period 2017-18, it was observed that the noticee has filed GSTR-9 return for the period 2017-18 on 22.02.2020 and declared ITC reversal of Rs.1,49,90,443/- (IGST Rs.1,46,04,184.62/- CGST Rs.1,93,129.10/- SGST Rs.1,93,129.10/-) in table 12 of GSTR-9, however Noticee has not reversed the same in any of his monthly GSTR 3B of the next FY till the specified date i.e., March, 2019. The study of table 8 of GSTR 9-2017-18 confirms the declaration made by Noticee that excess ITC of Rs.1,48,32,806/-(CGST Rs.1,88,351.92/-, SGST Rs.1,88,351.92, IGST Rs.44,56,102.01) has been taken by the Noticee, however no reversal of such excess ITC has been shown in any of the monthly GSTR 3B of relevant months and nor any payment of interest on such excess utilisation.*

<i>Particular</i>	<i>CGST</i>	<i>SGST</i>	<i>IGST</i>
<i>ITC as per GSTR-2A</i>	874930.6	874930.6	38909691.1
<i>ITC as per GSTR-3B</i>	1063282.52	1063282.5	53365793.11
<i>Excess Availment</i>	1878351.92	188351.92	14456102.01

2. Shri Praveen Surange, Advocate has entered appearance on advance notice on behalf of the respondent and raised an objection as against maintainability of the writ petition on the premise that the instant writ petition is against the show cause notice, reply to which has already been filed.

3. Shri Dwivedi, learned counsel for the petitioner made attempt to

prick holes in the impugned show cause notice touching jurisdiction of the assessing officer as well as on merits i.e. justifiability of demand.

4. Once petitioner has subjected itself to jurisdiction of the authority by filing reply, we do not deem it proper to address on the contentions raised by the petitioner touching the jurisdiction as well as merits of the show cause notice. Petitioner if so advised, may file additional reply incorporating the submissions as advanced before this Court.

5. This Court hopes and trusts that the authority concerned shall address on the issues raised in the reply/ additional reply and pass an order with due advertence to the record keeping in mind the provisions of GST Act maintaining judicial discipline.

6. With the aforesaid, the writ petition stands *disposed of*.

Certified copy as per rules.

**(Rohit Arya)**  
**Judge**

**(Amar Nath Kesharwani)**  
**Judge**