

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (T) No. 5535 of 2024

M/s. Sri Ram Stone Works, (A Proprietorship concern), having its Place of Business at Mouza Nimgachhi, P.O. & P.S. Mirzachowki, District Sahibganj, PIN 813208 (Jharkhand), through its Authorized Signatory, namely, Bajrangi Bhagat, aged about 37 years, son of Rajendra Bhagat, resident of Village Mahadevbaran, Mirzachouki, P.O. Sahibganj, P.S. Mirzachouki, District Sahibganj, PIN 813208 (Jharkhand).

.... Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 5425 of 2024

M/s. G.D. Stone Company (A Proprietorship concern), having its works at Mouza Telo, P.O. & P.S. Sahebganj, District Sahebganj, through its Proprietor namely, Ghanshyam Dokania, aged about 58 years, son of Late Shiv Shankar Dokania, resident of Gram Sabji Mandi Road, Barharwa, P.O. Barharwa, Ratanpur, P.S. Sahibganj, District Sahibganj, PIN 816101 (Jharkhand).

.... Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) 5427 of 2024

M/s. Karambi Stone Works (a Proprietorship Firm), having its Principal Place of Business at Mouza Karambi & Pindhari, P.O. & P.S. Sahibganj, District Sahibganj (Jharkhand), through its Proprietor namely, Md. Ehtesham, aged about 56 years, son of Late Abdul Salam, resident of Village Anjuman Nagar, P.O. Moahadeoganj, P.S.Sahibganj O.P., District Sahibganj (Jharkhand), PIN 816109. Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) 5684 of 2024

M/s. Maa Raksi Stone Works (a Partnership Firm), having its place of business at Mahadevbaran, P.O. & P.S. Mirzachouki, District Sahibganj, PIN-813208 (Jharkhand), through its Authorized Signatory namely, Bajrang Bhagat, aged about 37 years, son of Rajendra Bhagat, resident of Village Mahadevbaran,, Mirzachouki, P.O. Sahibganj, P.S. Mirzachouki,, District Sahibganj, PIN 813208 (Jharkhand). Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 5725 of 2024

M/s. Durga Stone Works, (A Proprietorship concern), having its Place of Business at Mouza Adro, Block Borio, Sahibganj, P.O. and P.S. Sahibganj, District Shibganj, through its Proprietor namely, Aditya Kumar Singh, aged about 62 years, son of Amar Dev Singh, resident of College Road, Sahibganj, District Sahibganj, PIN 816101 (Jharkhand).

.... Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 5840 of 2024

M/s. Shakti Stone Works, (A Proprietorship Firm), having its Principal Place of Business at Adro, P.O. & P.S. Sahibganj, District Sahibganj, PIN 816109 (Jharkhand), through its Proprietor namely, Shambu Jajodia, aged about 66 years, son of Late Jai Kishan Lal Jajodia, resident of Jajodia Bhawan, Bharitya Road, P.O. Sahibganj, P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 5913 of 2024

M/s. Shakti Stone Works, (A Proprietorship Firm), having its Principal Place of Business at Adro, P.O. & P.S. Sahibganj, District Sahibganj, PIN 816109 (Jharkhand), through its Proprietor namely, Shambu Jajodia, aged about 66 years, son of Late Jai Kishan Lal Jajodia, resident of Jajodia Bhawan, Bharitya Road, P.O. Sahibganj, P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.

2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 6056 of 2024

M/s. Jai Mata Di Stone Works, (A Proprietorship concern), having its Place of Business at Mouza Mathadih, Plot No. 636, P.O. Sahibganj, P.S. Mirzachouki District Sahibganj, PIN 813208 (Jharkhand), through its Authorised Signatory, namely, Bajrangi Bhagat, aged about 37 years, son of Rajendra Bhagat, resident of Village Mahadevbaran, Mirzachouki, P.O. Sahibganj, P.S. Mirzachouki, District Sahibganj, PIN 813207 (Jharkhand).

.... Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 6079 of 2024

M/s. Vaishanv Stone Works, (A Proprietorship concern), having its works at Mouza Damin Bhatta, Mirzachouki, P.O. and P.S. Sahibganj, District Sahibganj, through its Proprietor, namely, Awadh Kishor Singh, aged about 60 years, son of Diwakar Singh, resident of Mirzachouki, P.O. and P.S. Sahibganj, District Sahibganj, PIN 813208 (Jharkhand).

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 6080 of 2024

M/s. Vaishanv Stone Works, (A Proprietorship Concern), having its works at Mouza Damin Bhatta, Mirzachouki, P.O. & P.S. Sahibganj, District Sahibganj, through its Proprietor namely, Awadh Kishor Singh,

aged about 60 years, son of Diwakar Singh, resident of Mirzachouki, P.O. and P.S. Sahibganj, District Sahibganj, PIN 813208 (Jharkhand).

.... Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 6093 of 2024

M/s. Awadh Kishor & Sons, (A Proprietorship concern), having its works at Mouza Tetaria, Plot No. 93, 94P, P.O. & P.S. Mirzachouki, District Sahibganj, through its Proprietor, namely, Awadh Kishor Singh, aged about 60 years, son of Diwakar Singh, resident of Mirzachouki, P.O. and P.S. Sahibganj, District Sahibganj PIN 813208 (Jharkhand).

.... Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.

2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 6190 of 2024

M/s. A Creation, (A Proprietorship concern), having its place of business at Chowk Bazar, Sahibganj, P.O. Sahibganj, P.S. Sahibganj, District Sahibganj PIN 816109 (Jharkhand), through its Proprietor namely, Avinash Narsaria, aged about 35 years, son of Jagdish Prasad Narsaria, resident of Chowk Bazar, Sahibganj, P.O. Sahibganj, P.S. Sahibganj, District Sahibganj, PIN 816109 (Jharkhand). Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 171 of 2025

M/s. Saraswati Stone Works, (A Proprietorship Firm), having its Principal Place of Business at Kirikuria, Sakrigali, P.O. Sahibganj, P.S. Sahibganj, District Sahibganj, PIN 816115 (Jharkhand), through its Proprietor namely, Dinesh Kumar Yadav, aged about 42 years, son of Hira Lal Yadav, resident of Mangal Bazar, Sakrigali River Block, P.O. Sahibganj, P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816115. Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

With

W.P.(T) No. 1239 of 2025

M/s. Saraswati Stone Works, (A Proprietorship Firm), having its Principal Place of Business at Kirikuria, Sakrigali, P.O. & P.S. Sahibganj, District Sahibganj, PIN 816115 (Jharkhand), through its Proprietor namely, Dinesh Kumar Yadav, aged about 42 years, son of Hira Lal Yadav, resident of Mangal Bazar, Sakrigali River Block, P.O. Sahibganj, P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816115. Petitioner

Versus

1. **State of Jharkhand**, through the Secretary, Department of State Tax, having its office at Jharkhand Mantralaya (Project Building), P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand), PIN 834004.
2. **Joint Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
3. **Assistant Commissioner of State Tax**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.
4. **State Tax Officer**, Sahibganj Circle, having its office at Sahibganj, P.O. and P.S. Sahibganj, District Sahibganj (Jharkhand), PIN 816109.

.... Respondents

CORAM: **HON'BLE THE CHIEF JUSTICE**
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Sumeet Kumar Gadodia, Advocate
Mrs. Shilpi Sandil Gadodia, Advocate
Mr. Ranjeet Kushwaha, Advocate
Ms. Shruti Shekhar, Advocate
Ms. Sanya Kumari, Advocate
Ms. Nidhi Lall, Advocate
(in all writ petitions).

For the Resp.-State : Mr. Sachin Kumar, A.A.G.-II,
Mr. Ashok Kumar Yadav, Sr. S.C.-I,
Mr. Piyush Chitresh, A.C. to A.G.
Mr. Gauraav Raj, A.C. to A.A.G.-II,
Mr. Aditya Kumar, A.C. to Sr. S.C.-I,
Mr. Sahbaj Akhtar, A.C. to A.A.G.-III
(in all writ petitions)

C.A.V. ON :17/04 /2025

PRONOUNCED ON:09 / 05 /2025

Per Deepak Roshan, J.

Heard learned counsel for the parties.

2. Present batch of writ petitions are involving identical facts and are disposed of by this common order.

3. The only question for determination in these writ petitions is *“Whether GST-ASMT-10 notices issued by Respondents purporting to invoke power under Section 61 of Jharkhand Goods and Services Tax Act, 2017 (‘JGST Act’) by alleging that Petitioners, in their returns filed under the Act, quoted lower market price than the actual market price and asking the Petitioners to explain the same, are wholly without jurisdiction and beyond the scope of Section 61 of the Act since the issue raised does not relate any discrepancy in the returns filed by Petitioners. ?”*

4. Facts of all the cases are identical and, for convenience, facts pertaining to *W.P.(T) No. 5535 of 2024* filed by M/s. Sri Ram Stone Works are enumerated herein.

5. Petitioners are mining lessees/dealers engaged in the business of sale of stone boulders, stone-chips, etc. to various customers and are registered under the provisions of Jharkhand Goods and Services Tax Act, 2017.

6. In exercise of powers under Section 61 of JGST Act, 2017, notices were issued to Petitioners stating, in substance, inter alia, that Petitioners have sold stone-boulders/stone chips at a price lesser than the prevalent market price and, accordingly, Petitioners were directed to show cause as to why proceeding under Section 73/74 be not initiated against them.

7. Some of Petitioners replied to aforesaid notices and contended, inter alia, that notices under Section 61 of the JGST Act read with Rule 99 of Jharkhand Goods and Services Tax Rules, 2017 (‘JGST Rules’) is

limited to the extent of discrepancy occurring in the returns, and, issuance of notices by comparing taxable value of supply disclosed by Petitioners in their returns with that of market price of goods, is beyond the scope of Section 61 of the Act. Despite such reply being filed, in some cases, subsequent notices in Form GST ASMT-10 were again issued and all such notices are under challenge in the instant writ petitions.

8. Mr. Sumeet Kumar Gadodia, Counsel appearing for Petitioners, submitted that very issuance of notices i.e. GST-ASMT-10 under Section 61 of the JGST Act read with Rule 99 of JGST Rules, are wholly without jurisdiction and Respondent-authorities have exceeded their jurisdiction in issuing the notices, as said notices do not relate to any of the discrepancies in the returns filed by Petitioners, but, on the contrary, relies upon the returns filed by Petitioners and, thereafter, records, inter alia, that in the returns filed by Petitioners, taxable supply of goods have been reflected at a price lesser than the prevalent market price.

9. It was submitted that bare perusal of Section 61 of the Act would reveal that proper officer may scrutinize the returns and related particulars furnished thereto and verify correctness of such returns and inform discrepancies occurring in the returns and said provisions of Section 61 cannot be invoked merely because a dealer has sold its goods at a price lesser than the prevalent market price of goods.

10. It was further submitted that under Section 15 of JGST Act, 2017, value of supply of goods or services is the transaction value i.e. the consideration received towards such supply, and, merely because a dealer

received consideration less than prevalent market price of such goods cannot be a cause for invoking proceedings of ‘scrutiny of returns under Section 61 of the Act’.

11. It was also submitted that a dealer is entitled to arrange the affairs of its business in the manner best suited to it, and, merely because certain goods are sold allegedly at a rate less than the market value, cannot constitute a cause of action for initiating proceedings under Section 61 of JGST Act, unless it is alleged that goods have actually been sold at a price higher than the price as reflected in the returns. Reliance in this regard was placed upon a Division Bench decision of this Court in the case of *Nirmal Kumar Pradeep Kumar Vs. State of Jharkhand & Ors.* (decision dated 21.02.2023 in W.P.(T) No. 2222 of 2022).

12. Per contra, Mr. Sachin Kumar, learned AAG-II, appearing for Respondent-State, defended the notices and stated that from bare perusal of the notices, it is evident that although, initially, notices were issued to Petitioners comparing taxable value of goods reflected in returns of Petitioners by comparing the same with market value, but, in subsequent notices issued to some of writ petitioners, other issues relating to discrepancy in returns were also highlighted.

13. It was also submitted that under Section 61 of JGST Act, competent authority can, at the time of verification of correctness of returns, inform the dealer the discrepancies noticed in its returns and require the dealer to correct the same. In the event, dealer fails to correct the discrepancy, further proceedings under Sections 65, 66 or 67 of JGST

Act can be initiated, or, the competent authority can proceed to issue show cause notice for determination of tax and other dues under Sections 73 and 74 of JGST Act.

14. It was submitted that that notice pertaining to scrutiny of returns is merely a procedural notice having no adverse civil consequences and Petitioners, instead of approaching this Court challenging said notices, should have replied to the same. If reply submitted by Petitioners would have been found satisfactory, no further proceeding under Sections 65 to 67 or under Section 73 and/or 74 would have been initiated against Petitioners. It was thus contended that writ petition filed by respective Petitioners is premature and is liable to be dismissed by this Court.

15. We have heard learned Counsels for parties and have considered the relevant pleadings and statutory provisions in question. For the sake of ready reference, Section 61 of JGST Act is quoted herein-below:-

“61. Scrutiny of returns.—(1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.

(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.”

16. Thus we see that the aforesaid provisions prescribed under JGST Act are with a clear objective to enable an Assessing Officer to point out discrepancies and errors which are occurring in the return filed by a

registered person with that of the related particulars. In fact, aforesaid Section also provides, inter alia, that in spite of discrepancies pointed out, if corrective measures are not undertaken by registered person, the proper officer may initiate appropriate action including action under Sections 65 to 67 and Section 73 or 74 of the Act.

17. Under the scheme of the GST Act, three separate enabling provisions are notified namely,--

- (i) At preliminary stage of return filing;
 - (a) Section 61 – Scrutiny of returns,
- (ii) Investigating provisions
 - (a) Section 65- Audit by tax authorities;
 - (b) Section 66- Special audit.
 - (c) Section 67- Power of inspection , search and seizure;
 - (d) Section 68-Investigation of goods in movement;
 - (e) Section 69- Power to arrest;
 - (f) Section 71 – Access to business premises.
- (iii) Adjudicatory provisions:
 - (a) Section 73- Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willful-misstatement or suppression of facts.
 - (b) Section 74- Determination of tax nor paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful-misstatement or suppression of facts.

18. Admittedly, in present cases, notices under Section 61 have been issued to writ petitioners and instead of pointing out discrepancies in the returns filed by writ petitioners, the competent officer has embarked upon an exercise of comparing the price at which Petitioners have sold their stone-boulders/stone-chips with that of prevalent market price and, thereafter, accordingly, issued notices to writ petitioners asking them to

show cause as to why appropriate proceedings for recovery of tax and dues be not initiated against them.

19. We are of the firm opinion that notices issued comparing the particulars at which Petitioners have sold their goods with that of prevalent market price, is wholly without jurisdiction and beyond the scope of Section 61 of the Act. In fact, it is settled law that unless transactions of sale are shown to be sham transactions or the mere fact that the goods were sold at a concessional rate/rate less than market price would not entitle the Revenue to assess the difference between the market price and the price paid by the purchaser as transaction value.

20. For the aforesaid reasons, we have no hesitation in declaring that notices issued under Section 61 to the respective writ petitioners are wholly without jurisdiction and are, accordingly liable to be quashed/set aside by this Court.

21. At this stage, we may clarify that in the notices, there are certain overlapping facts relating to alleged discrepancy occurring in returns of various writ petitioners apart from alleged discrepancy relating to market value of goods. We are not commenting upon aforesaid discrepancy as mentioned in the notices vis-à-vis returns, and the Assessing Officer would be at liberty to issue fresh notices relating to discrepancies in the returns, if any, with respect to individual writ petitioners.

However, it is clarified that no action can be taken merely because of difference in transaction value at which Petitioners have sold the goods with that of prevalent market value of goods.



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22. Accordingly, instant writ petitions are allowed to the extent indicated above and impugned notices issued under Section 61 of JGST Act in all the writ petitions are, hereby, quashed and set aside.

23. Pending Interlocutory applications, if any, also stands closed. In the facts and circumstances of the case, there shall be no order as to costs.

(M.S. Ramachandra Rao, C.J.)

(Deepak Roshan, J.)

Amardeep/-
NAFR/AFR