IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2287 OF 2025

(Parshv Industries LLP, through POA Holder Shri Pravin Choudhary Vs. Assistant Commissioner, CGST & Central Excise, Nagpur – II & Anr.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. Abhishek Naik with Ms Kaumudi Deshpande, Counsel for the petitioner.
Ms P.D. Rane, Counsel for the respondents.

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CORAM : ANIL L. PANSARE AND
RAJ D. WAKODE, JJ.
NOVEMBER 7, 2025

The argument is that though alternate remedy under Section 107 of The Central Goods and Services Tax Act, 2017, is available, there is an apparent error in the impugned order that would require interference by this Court under Article 226 of the Constitution of India. Our attention is invited to paragraph 13 of the impugned order, which reads as under :

> *"13. In light of the above, I find that there is no doubt that Noticee had availed bogus ITC of Rs.29,93,216/- (Rupees Twenty Nine Lakhs Ninty Three Thousand Two Hundred and Sixteen Only) on strength of invoices in respect of the fictitious purchases/supply from M/s. INDIAN INTERNATIONAL which was neither physically existing nor having any business activities at the registered place of business. Although the Noticee has submitted so many documents relating to their supply and coated various case laws but facts are that the same are not applicable in this case, as during the Departmental verification M/s. INDIAN INTERNATIONAL found to be non-existence*

> *and it is the accepted facts that non-existing firm does not make and supply and also not issued valid invoices as per the provisions."*

2] As could be seen, respondent no.1 has acknowledged that the noticee, i.e., the petitioner, had submitted many documents relating to its supply to M/s. Indian International and had quoted various case laws, but these documents and case laws, as were submitted by the petitioner, are not considered on the ground that during the departmental verification, M/s. Indian International was found to be not in existence.

3] There is no dispute that the period, in which the transaction took place, is Financial Year 2018-19. The departmental verification was done in June – 2024. The Circular, which respondent no.1 has relied upon to infer that the petitioner – Company was not in existence, refers to the investigation initiated by respondent no.1's office on the basis of letter received from the Assistant Commissioner (AE), CGST & CX, Delhi East. The details of letter are not disclosed. The document only indicates that on investigation, the noticee was found to be not in existence at the registered place of business.

4] As such, the document further refers to certain findings as regards passing on/receiving ineligible input tax credit to/from various firms at the hands of M/s. Indian International, however, that is not taken as a ground to come to the conclusion of non-existence of the said Company.

5] That being so, respondent no.1 has committed an apparent error by ignoring the documents, which the petitioner has submitted in support of its claim. The order impugned, therefore, is liable to be quashed and set aside.

6] The petition is, accordingly, partly allowed. Order dated 4/2/2025 passed by respondent no.1 is quashed and set aside. The adjudication proceeding is remanded back to respondent no.1 for consideration afresh in accordance with law and what has been stated in the body of the order.

7] The petitioner shall appear before respondent no.1 on 19/11/2025 at 11:00 am.

8] The petition is disposed of in above terms.

(JUDGE) **(JUDGE)**

Sumit