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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1115/2025 & CM APPL. 5550/2025 (Stay)

RAMESH WADHERA .....Petitioner

Through: Mr. Naveen Malhotra and Mr. Ritwik Malhotra, Advs.

versus

DEPUTY DIRECTOR (INT.) DIRECTORATE GENERAL OF GST INTELLIGENCE AND ORS .....Respondents

Through: Mr. Aditya Singla, SSC for CBIC along with Mr. Arya Suresh Nair, Adv.

**CORAM:**
**HON'BLE MR. JUSTICE YASHWANT VARMA**
**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR**

**O R D E R**

% **29.01.2025**

**CM APPL. 5549/2025 (Ex.)**

Allowed, subject to all just exceptions.

The application stands disposed of.

**W.P.(C) 1115/2025 & CM APPL. 5550/2025 (Stay)**

1. The instant writ petition has been preferred seeking the following reliefs:-

> "A, issue a writ of certiorari or any other writ, direction or order thereby, declaring the Circular No. 3/3/2017-GST dated 05.07.2017 and Circular No. 31/05/2018-GST dated 09.2.2018 as ultra vires the provisions of the Central Goods and Services Tax Act, 2017; And/Or;
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> B. issue a writ in the nature of certiorari, or any other writ or direction thereby, quashing the impugned Show Cause Notice bearing number 06 of 2024 dated 02.08.2024 issued by the Respondent-No. 1; And / Or;

C. issue a writ of mandamus, or any other writ or direction thereby, directing the Respondent No. 1 to supply the relied upon documents to the Petitioner; And / Or;

D. issue a writ of mandamus, or any other writ or direction thereby, directing the Respondent No. 1 to supply the nonrelied upon documents to the Petitioner; And/Or;

E. issue a writ of prohibition to restrain the Respondents from taking any coercive measures against the Petitioner pursuant to the Impugned Show Cause Notice bearing number 06 of 2024 dated 02.08.2024; And / Or;

F. issue any other appropriate writ, order or direction and / or consequential relief that this Hon'ble court may deem fit and proper in the facts and circumstances of the case; And/Or;

G. pass such other or further order/s which this Hon'ble Court may deem fit and proper in the interest of justice."

2. Insofar as the challenge to the Circulars dated 05 July 2017 and 09 February 2018 designating 'proper officers' for the purposes of discharge of functions under the **Central Goods and Services Tax Act, 2017**[1] is concerned, although the Circulars themselves are challenged, the petitioner contends that the **Show Cause Notice**[2] proceedings are being adjudicated by an authority who has not been designated as the proper officer. It was contended that although the impugned SCN was issued by the first respondent, the SCN proceedings are being adjudicated by respondent no. 4.

3. The aforesaid fact is refuted by Mr. Singla, learned counsel for the respondents who states on instructions that it is the authority as designated in terms of Sl. No. 3 of the Circular dated 05 July 2017 and posted in the West Directorate who is adjudicating the SCN proceedings. We, consequently, find no merit in the challenge which stands raised to the Circulars.

4. That then takes us to the challenge which stands raised to the

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[1] CGST Act
[2] SCN

impugned SCN in itself with learned counsel drawing our attention to our order passed in W.P.(C) 14788/2024 to contend that the petitioner is liable to be accorded identical relief. We find ourselves unable to sustain that submission since the said writ petition itself had been instituted by an individual who was not named or had been found in the course of any investigation to be the operator of the various firms concerned.

5. Insofar as the present writ petitioner is concerned, we take note of the following allegations that stand levelled in the SCN:-

> "**11.a.** Search at residence of Sh. Ramesh Wadhera: Whereas, on the basis of search authorization dated 14.08.2019 under Section 67(2) of the CGST Act, 2017, the officers of this office reached the residential premises of Shri Ramesh Wadhera located at B-765, Shushant Lok-1, Gurugaon, Haryana on 15.08.2019. Upon reaching the premises, one person, who identified himself as Shri Bahadur, working as servant at the premises, opened the door. Shri Ramesh Wadhera was present at the premises. Thereafter, a search was carried out at the residential premises, which consisted of Ground Floor, First Floor and Second Floor. During the search proceedings, four persons came in front of the main gate and started shouting and knocking the main gate. They also hurled abuses and created nuisance with the officers. In this regard, an information/complaint was lodged with the local Police Station after arrival of the local police at the spot. During search proceedings, officers also noticed an entry to the basement, which was then also searched. During the search proceedings, some of the mobile phones/pendrives found to be relevant to the ongoing investigation were resumed by the officers. Details of the search proceedings were recorded in Panchnama dated 15.08.2019 (**RUD-20**).
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> **11.b.** Statement dated 15.08.2019 of Sh. Ramesh Wadhera: Shri Ramesh Wadhera, in his statement dated 15.08.2019 (**RUD-21**) under Section 70 of the CGST Act, 2017, inter-alia, stated:
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> > i. that he was born and brought up in Batala, Gurdaspur District, Punjab; that his date of birth is 13.04.1955; that he completed his schooling from Govt. High School, Batala in 1972 and graduation in 1976 from Batala only; that after that he started working with his father who was in the business of Departmental store upto 1979; that in 1979, he joined Punjab and Sindh Bank as a cashier and continued there till 1992-1993; that in 1996 he shifted to Delhi and started milk supply

business; that thereafter, he started supplying garments to various exporters; that his office was in Rani Bagh Delhi; that in 2009 he started his own business of garment export initially from the office located at Palika Place, Pachkuiyan Road Delhi; that after one year he shifted his office at E-513, Gupta Plaza, near Ramphal Chowk Sector 07, Dwarka, Delhi; that in 2017 he, started providing building construction services and Customs Consultancy regarding export; that as on date, out of 03 Customs cases booked by the DRI, only one case related to duty drawback is pending in ACMM, Court Patiala House New Delhi, against him; that in the other two cases penalty were imposed on him by the Courts; that he has been arrested 3 times by the DRI in different cases; that in his family, he has his wife Smt. Sumita Wadhera, son Shri Rahul Wadhera, Shri Rajat Wadhera and daughter Ms. Poonam; that Shri Rahul and Shri Rajat are running a hotel namely Delmon Palace, Deira, Dubai in Dubai from the last two and half years;

ii. that there is no firm or business establishment owned by him, only fake firms created with the help of Shri Mukesh Kumar, Shri Bharat Ahuja CA, Shri Sanjeev Maggu and Shri Akhil Krishan Maggu on his directions are being operated by him in order to avail fraudulent IGST refund on the strength of fake invoices; that there are four employees in his office located at Ramphal Chowk and they are looking after the office work; that the names of those employees are Ms. Gurmeet Kaur, Shri Uday Raj, Shri Shankey Saini and Shri Mukesh Kumar; that salary is paid to all in cash only; that Shri Sanjeev Maggu and Shri Akhil Krishan Maggu are his partners in the whole process of fake firms created for the purpose of availing fraudulent IGST refund;

iii. on being shown a list of 14 firms, namely M/s Monal Enterprises, M/s Aircori Overseas, M/s Miera Overseas, M/s Ganeshi Inc., M/s Numero Enterprises, M/s Cuba Enterprises, M/s Stalk Overseas, M/s Cameo Overseas, M/s Roxan Solutions Inc., M/s Mouni Overseas, M/s Aditya Overseas, M/s Cameo Overseas, M/s Ambay Trading Inc. and M/s Swadeshi Enterprises, involved in the export related activities and what he know about them, he stated that all these companies, namely M/s Monal Enterprises, M/s Aircon Overseas, M/s Micra Overseas, M/s Ganehi Inc., M/s Numero Enterprises, M/s Cubo Enterprises, M/s Stalk Overseas, M/s Cameo Overseas, M/s Roxan Solutions Inc., M/s Mouni Overseas, M/s Aditya. Overseas, M/s Cameo Overseas, M/s Ambay Trading Inc. and M/s Swadeshi Enterprises firms are involved in the export of different items and claiming refund of IGST; that he is controlling and operating all these firms through Shri Mukesh Kuihar, resident of Vikas Nagar, Uttam.Nagar; that Shri Bharat Ahuja, CA helped them in getting GST registration of all these firms on the basis of identity cards, and other documents arranged by Shri Mukesh Kumar in lieu of Rs. 10,000 per month for every person and Rs. 20,000 paid to Shri Mukesh for office expenses;

iv. on being asked about the proprietors of the firms and how he came in touch with them, he stated that he did not recollect all the names but some of the names are Shri Deepak Kumar Mishra, Shri Praveen Tiwari, Shri Manoj Kumar and Shri Arun; that Shri Mukesh Kumar has arranged the KYC documents like Aadhar Card, PAN cards of some persons mostly residing in his vicinity, i.e., Vikas Nagar, Uttar Nagar; that the documents are arranged by him on payment of Rs. 10,000 to Rs. 15,000 per month per person; that further Rs. 20,000 is paid to Shri Mukesh for the office expenses; that on the basis of these documents, he has made rent agreements and opened proprietorship and partnership firms;

v. on being asked about the names and details of the suppliers of goods exported by the said firms, he stated that in some of the cases, no goods have been purchased by these firms; that all the work related to the above firms is being looked after by Shri Mukesh Kumar and he can explain the things in detail; that whereas in others, purchases have been made without any invoices or on the invoices of fake firms; that in the case where purchases are shown from the fake firms, the goods are procured from the grey market in cash;

vi. on being asked to submit details of the CHAs who did export related work of the above firms, he stated that Shri Samsheswar Sharma from M/s Abex Services Pvt. Ltd. and Shri Lalit Gupta from Harjeet Singh Johar, CHA used to come to him for export clearance;

vii. on being asked about the details of the goods exported by the above firms, he stated that as per his knowledge, these firms were dealing in export of wall paper, USB cables and Polyester Vinyl etc.;

viii. on being asked whether he has ever visited the offices/premises of the above firms, he stated in negative that he has never visited the premises of the above said firms as they are not at all in existence as explained above;

ix. on being asked whether Mukesh Kumar was working with him on salary basis or on commission basis, he informed that as explained above, Shri Mukesh was paid Rs. 10,000/- to Rs. 15,000/- per month by him for each person whose IDs and other documents were being arranged by him to create fake firms; that in addition and Rs. 20,000/- per month was paid to Shri Mukesh for meeting the office expenses;

x. on being asked to inform what happened to the refund amount after it gets credited into the accounts of the above said firms, he stated that as he has already explained above, Shri Mukesh Kumar was looking after day to day activities of the above stated firms as per his, Sh. Sanjeev Maggu and Sh. Akhil Krishan Maggu's directions; that as soon as the amount of refund was credited into the accounts of any of the above said firms, he himself or sometimes his direction through Whatsapp Calling or Whatsapp Message transfers that refund amounts into the accounts of some other firms either through RTGS through Cheque; that at the time, he was not able to recollect names of the all those firms where the refund amount have been transferred but few which he on or was able to recollect are M/s Bhagwati Trading Co. and M/s Babaji Enterprises; that Shri Puneet, Shri Tarachand & Shri Ram Prakash are related to these firms; that on his directions these persons withdraw the money in cash and handed over the same to person on their directions or transfer the money to the account of the other firms;

xi. On being asked to inform about his knowledge about the four cases filed by M/s Monal Enterprises, M/s Air Con Overseas, M/s Ganeshi Inc. and M/s Micra Overseas in the Hon'ble High Court of Delhi, he stated that the aforementioned four cases have been filed in the Hon'ble High Court of Delhi by the proprietor of these firms, on directions and insistence of himself, Shri Sanjeev Maggu and Shri Akhil Krishan Maggu as they are the controllers/operators of these firms; that the legal assistance in all the cases was also provided by Shri Akhil Krishan Maggu;

xii. On being shown the picture of Shri Mukesh Kumar, and on being asked to identify the person and whether he know him or otherwise, he stated that looking at the above picture as shown to him, this is Mr. Mukesh Kumar, who arranges all the IDs for opening of the fake firms controlled by himself, Sh. Sanjeev Maggu and Akhil Krishan Maggu and used for availing fraudulent IGST refund; that it is the said Mr. Mukesh Kumar only;

xiii. On being asked to inform whether he know the address details of Shri Sanjeev Maggu and Shri Akhil Krishan Maggu and their contact numbers, he informed that he know their address; that Shri Sanjeev Maggu and Shri Akhil Krishan Maggu reside at B-773, Sushant Lok, Gurugram, Haryana;

xiv. that he, Shri Sanjeev Maggu and Shri Akhil Krishan Maggu are joint partners controlling all the aforementioned 14 firms;

xv. that he has been seen the statement of Shri Mukesh Kumar dated 15.08.2019 and agrees with the contents of the same.

**11.c.** Arrest of Sh. Ramesh Wadhera: Whereas, based on the facts of the case and the statement of Shri Ramesh Wadhera, it was clear that Shri Ramesh Wadhera one of the main persons, who gave instructions for formation and operations of all the said fake firms, and that according to the investigations conducted, the fake firms was formed and managed by Shri Mukesh Kumar on the directions of Shri Ramesh Wadhera availed fraudulent Input Tax Credit amounting to around 75 Crores. It apprehended that Shri Ramesh Wadhera, in collusion with others, may try to influence, intimidate and manipulate the witnesses and tamper with the evidences so as to scuttle the investigation. Therefore, Shri Ramesh Wadhera, having violated provisions of Section 132(l)(b), (c), and Section 132 (5) of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and clause (i) of Subsection (1) of Section 132 was of the CGST Act, 2017, was arrested on 16.08.2019 under Section 69 of the CGST Act, 2017 (**RUD-405**), after the approval of the competent authority and produced before the duty Metropolitan Magistrate, Patiala House Court, New Delhi, who remanded him to judicial custody for 05 days.

**11.d.** Whereas, on the basis of search authorization dated 16.08.2019 under Section 67(2) of the COST Act, 2017, the officers of this office search the office premises of Shri Ramesh Wadhera, located at E-513, Gupta Plaza, Near Ramphal Chowk, Sector 7, Dwarka, New Delhi. The officers, upon reaching the office premises, found it to be locked. The officers contacted one Smt. Gurmeet Kaur at her mobile number, an employee working in the said premises. She informed that she is out of Delhi, however, she would send somebody to open the said premises. However, no one appeared at the premises to unlock the same. Further, Smt. Gurmeet Kaur was contacted many times, however, she could not be contacted. Therefore, search could not be conducted at the premises. Proceedings were recorded in panchnama dated 16.08.2019 (**RUD-22**).

**11.e.** Whereas, Shri Ramesh Wadhera, on 16.08.2019 (**RUD-23**), submitted an unsigned letter before the Patiala House Court, retracting his statement dated 15.08.2019, which was taken on record by Duty MM. Despite that, on 20.08.2019 and on 03.09.2019, the court accepted DGGFs application for judicial remand of Sh Ramesh Wadhera for further 14 days. However, when he was granted bail on 14.09.2019, despite one of the bail condition to cooperate with the

> investigation, he never appeared in response to summons issued to him. It is pertinent to mention here that Shri Ramesh Wadhera had made changes in his aforementioned statement dated 15.08.2019 in his own handwriting. Therefore, it is wrong on his part to contend that the statement was typed by the officers and he was coerced to sign the said statement. Further, the statement was further corroborated by the evidences found in the mobile phone of Shri Ramesh Wadhera, as detailed in the subsequent Therefore, the retraction of Shri Ramesh Wadhera was only an attempt to derail the investigation and mislead the Hon'ble Court for getting bail."

6. Bearing in mind the aforesaid, and the seriousness of the allegations which stand levelled, we find no ground to interdict the SCN proceedings.

7. The writ petition fails and shall stand dismissed.

**YASHWANT VARMA, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**

**JANUARY 29, 2025/**RW