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

\+ **W.P.(C) 4277/2025 & CM APPL. 19793/2025**

M/S BHARTIYA PLASTIC UDYOG PRIVATE LIMITED .....Petitioner

Through: Mr. Mohit Gupta, Advocate.

versus

PRINCIPAL CHIEF COMMISSIONER CGST AND CX DELHI & ORS. .....Respondents

Through: Ms. Sushila Narang, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE MANOJ JAIN

O R D E R

% **04.04.2025**

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- M/s Bhartiya Plastic Udyog Private Limited under Article 226 of the Constitution of India, 1950 read with Central Goods and Services Tax Act, 2017 (hereinafter, 'CGST Act'), *inter alia*, assailing the impugned Order-in-Original bearing no. 86/2024-25 dated 03rd February, 2025.

3. A show cause notice (hereinafter, '*SCN*') was issued to the Petitioner dated 04th August, 2024. Reply to the same was also filed on 12th August, 2024. Personal hearing has also been given to the Petitioner. *Vide* the said impugned Order-in-Original, various demands in respect of incorrect availment of Input Tax Credit (hereinafter, '*ITC*') have been confirmed against the Petitioner.

4. There were several noticees in this particular SCN who were all connected to each other and in so far as the Petitioner is concerned, he is noticee no. 12. The discussion in respect of the Petitioner is in paragraph no. 10 of the said impugned Order-in-Original passed by the Central GST Department. In the impugned Order-in-Original, it is, *inter alia*, held that the Petitioner was merely issuing goods-less invoices to facilitate the passing on of fake ITC to its recipients. These recipients, in turn, allegedly passed on the ineligible ITC amounting to Rs.1,15,26,943/- to 17 firms across various Commissionerates and also availed ineligible ITC amounting to Rs.23,34,496/- by issuing such goods-less invoices.

5. It is submitted by the ld. Counsel appearing on behalf of the Petitioner that the reply filed by the Petitioner to the SCN has not been properly considered while passing the impugned Order-in-Original.

6. A perusal of the impugned Order-in-Original would show that the reply filed by the Petitioner has been considered and the submissions made by the Petitioner during the oral hearing was also summarised in the impugned Order-in-Original. Further, the fact that certain data which has not been submitted by the Petitioner has also been taken into consideration.

7. Finally the Department has come to the conclusion that there was evasion of taxes by passing fraudulent ITC and suppression of facts.

8. Thus, a penalty of Rs.1,15,26,943/- and Rs.23,34,496/- has been imposed under Section 122 of the CGST Act. This is clearly an appealable order under Section 107 of the CGST Act. There are several facts that need to be looked into which would be beyond the scope of a writ petition. Moreover, there is no jurisdictional error or perversity so as to entertain a writ petition.

9. The Petitioner is accordingly permitted to approach the Appellate

Authority.

10. Needless to add, this Court has not considered the merits and contentions of either of the parties.

11. The petition is disposed of in these terms along with all pending application (s), with liberty as aforesaid.

PRATHIBA M. SINGH, J.

MANOJ JAIN, J.

APRIL 4, 2025/*MR/ck*