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

\+ **W.P.(C) 5103/2025 & CM APPL. 23346/2025**

DEEPAK SALES CORPORATION & ANR. .....Petitioners

Through: Mr. Kishore Kunal, Ms. Runjhun Pare & Mr. Jayesh Sitlani, Advs.

versus

ADDITIONAL COMMISSIONER GST DELHI NORTH &ANR. .....Respondents

Through: Mr. Aditya Singla, SSC, CBIC with Ms. Shreya Lamba & Mr. Arya Suresh, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 15.07.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed challenging the impugned order-in-original dated 4th February, 2025 passed by the Respondent No. 1 - Additional Commissioner, GST Delhi North raising demand against the Petitioners for involvement in fraudulent availment of Input Tax Credit (hereinafter "*ITC*").

3. The Petitioner No. 1 - Deepak Sales Corporation (hereinafter "*Petitioner Firm*") is a proprietary concern of the Petitioner No. 2 - Mr. Deepak Dhall, who is engaged in the wholesale distribution of tobacco products.

4. The case of the Petitioners is that the Petitioner Firm had supplied tobacco products to various suppliers including three customers namely M/s

Om Traders, M/s Joles Trado Private Limited and M/s A.R. Traders (hereinafter collectively "*customers*"), who are registered under the Delhi Goods and Services Tax Act (hereinafter "*DGST*"). According to the Petitioners, proper invoices were issued and GST/ IGST liability was also discharged.

5. An investigation was conducted by the GST Department in respect of various firms including five exporters namely M/s S R Impex, Rewari, Haryana, M/s S R International, Rewari, Haryana, M/s R K Enterprises, Faridabad, Haryana, M/s Vikas Impex, Faridabad, Haryana & M/s S K Trader, Delhi, (hereinafter collectively "*the firms*") as also the Petitioner Firm. According to the GST Department, the firms were indulging in GST fraud in respect of transactions with various other firms.

6. A Show Cause Notice (hereinafter "*the SCN*") was issued to the customers of the Petitioner Firm alleging wrongful availment of Input Tax Credit (hereinafter "*ITC*"). However, it is stated that the same was not served upon the Petitioners, so no reply was filed by the Petitioners and the impugned order-in-original has been passed raising demands against the Petitioner.

7. The exact role of the Petitioners is discussed in paragraph no. 6.5 of the impugned order-in-original where it is alleged that the Petitioner Firm has provided goods to its customers who have been found to be non-existent firms. On the basis of the invoices of the Petitioner Firm, the customers had availed benefits of ITC including cess.

8. The operative portion of the demand raised against the Petitioners is extracted below:-

> *“__In case of M/s Deepak Sales Corporation,__*
> *(i) I confirm the demand of TAX OF IGST of Rs.3,05,11,547/-,& Cess of Rs.10,46,22,220/- on goods cleared clandestinely and order to recover the same from them under proviso to Section 74(1) along with interest payable thereon under Section 50 of the CGST Act, 2017 read with relevant provisions of the IGST Act, 2017, the Haryana State GST Act, 2017 & Section 11 of the GST (Compensation to States Act).*
> *(ii)Penalty equivalent to the tax specified in (i) above be not imposed upon them under Section 74 and Section 122 (1) of the CGST Act, 2017 read with relevant provisions of the IGST Act, 2017, the Haryana SGST Act, 2017 & Section 11 of the GST(Compensation to States Act).*
> *(iii)Sh. Deepak Dhall, Proprietor of M/s Deepak Sales Corporation under Section 74, 122(1) and 122(3) of the CGST/ SGST Act, 2017 read with relevant provisions of the IGST Act, 2017, the Haryana SGST Act, 2017 & Section 11 of the GST(Compensation to States Act) 2017.”*

9. The grievance of the Petitioners is that the SCN was not served upon them. Hence, no reply could be filed to the same.

10. Yesterday *i.e.*, 14th July, 2025, when the matter was listed, Mr. Singla, ld. SCC was requested to accept notice and seek instructions in the matter as to whether the SCN was served upon the Petitioners.

11. Today, Mr. Singla, ld. SSC submits that the GST Department is unable to ascertain if the personal hearing notice was issued to the Petitioners.

12. Ld. Counsel for the Petitioner has also presented before the Court, the printouts of the portal of Petitioner Firm’s GST account which shows that the SCN has not been uploaded on the said portal. In addition, no hearing has been granted. The said printouts are taken on record.

13. Non-service of SCN and non-affording of personal hearing would be a clear breach of the principles of natural justice. In view of the same, the impugned order-in-original *qua* the Petitioners would not sustain. Accordingly, only the demands raised in respect of the Petitioners under the impugned order-in-original are set aside.

14. The Petitioner shall be given an opportunity to file a reply within 30 days.

15. Let the access to the GST portal be given to the Petitioners to enable them to file a reply. Notice of personal hearing shall be given to the Petitioners on the following email address and mobile no:

Email: jcpl.haryana@yahoo.com
Mobile No.: 9215020095

16. After considering the reply and the submissions of the Petitioners, the SCN *qua* the Petitioners shall be adjudicated afresh by the Adjudicating Authority.

17. The writ petition is disposed of in the aforesaid terms. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

JULY 15, 2025
kk/msh