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

+ **W.P.(C) 5175/2025 & CM APPL. 23515/2025**

GENIUS ELECTRICALS AND ELECTRONICS PVT LTD

.....Petitioner

Through: Mr. Ruchir Bhatia, Advocate (Mob. 9810371417).

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST & ANR.

.....Respondents

Through: Mr. Aakarsh Srivastava, Senior Standing Counsel (Mob. 9871094948).

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

23.04.2025

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1. This hearing has been done through hybrid mode.
2. The present writ petition has been filed by the Petitioner under Articles 226 and 227 of the Constitution of India challenging, *inter alia*, the impugned order dated 05th February, 2025 passed by the Additional Commissioner, Central Goods and Services Tax, Delhi West.
3. The brief facts of the case are that an investigation was commenced against various noticees *qua* Show Cause Notice dated 17th July, 2020 in respect of wrongful availment of Input Tax Credit (hereinafter “ITC”) and non-payment of Goods and Services Tax (hereinafter “GST”). The investigation was primarily against one M/s Sri Ram Industries and M/s

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MICA Industries Ltd. wherein it was found that a network had been created by two individuals *i.e.*, Mr. Vinay Gupta and Mr. Vikas Goel to generate fake ITC without supply of any underlying goods. As part of this investigation, the Petitioner was also issued a notice on the ground that the Petitioner was one of the companies which is alleged to have received invoices to enhance the benefit of ITC. On the basis of the said allegations, tax demand to the tune of Rs. 2.8 crores and penalty of equivalent amount has been imposed upon the Petitioner.

4. It is submitted by Mr. Ruchir Bhatia, Id. Counsel appearing for the Petitioner that the Petitioner Company had sent a detailed reply which has not been considered by the Adjudicating Authority. In addition, the personal hearing notices were also either dispatched after the date of personal hearing or received after the date of said hearing. Hence, the Petitioner could not even attend the personal hearing.

5. The main stand of the Petitioner is that *vide* letter dated 06th August, 2020, the Petitioner had informed the department that it had no connection with one M/s Grimus Export Pvt. in respect of which the majority of the demand has been raised *i.e.*, Rs. 2.51 crores out of the total demand of Rs.2.80 crores. Under these circumstances, it is submitted that the Petitioner may be given an opportunity of hearing before the adjudicating authority.

6. Mr. Srivastava, Id. Counsel appearing for the Department submits that there has been a mistake by the Petitioner in sending the replies to the wrong authority in Gurgaon and thereafter in CGST North. In fact, the matter was being considered by the Adjudicating Authority in the CGST West to whom the proper reply has not been sent by the Petitioner.

7. In so far as the delivery of personal hearing notice is concerned, a

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perusal of the hearing notices and the dispatch dates, would show that the same was dispatched after the hearing was held by the Adjudicatory Authority, CGST West. The Petitioner's replies which have been placed on record show that the Petitioner has raised grounds to dispute the demand and the liability.

8. In these circumstances, the Petitioner deserves to be heard before the Adjudicating authority. Accordingly, the demand and the penalty *qua* the Petitioner are set aside.

9. Let the Petitioner appear before the adjudicating authority along with its replies and all other material which it wishes to rely upon. The Adjudicating Authority shall hear the Petitioner and pass the order in accordance with law within a period of three months.

10. The writ petition is allowed and disposed of in above terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

APRIL 23, 2025/MR/msh

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