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

\+ **W.P.(C) 5320/2025 & CM APPL. 24237/2025**

M/S V K ENTERPRISES .....Petitioner

Through: Mr. Parmeet Singh and Ms. Tanya, Advs.

versus

THE ADDITIONAL COMMISSIONER CGST DELHI WEST .....Respondent

Through: Mr. Aakarsh Srivastava, SSC. (M: 9717892348)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 09.07.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- M/s V K Enterprises under Article 226 of the Constitution of India, *inter alia*, assailing the Order-in-Original (hereinafter, '*impugned order*') dated 2nd February, 2025 passed by the Respondent.

3. *Vide* the impugned order, a demand has been raised against the Petitioner to the tune of Rs.3,07,444/- on a taxable value of Rs.17,08,020/-. The allegation, initially, in the Show Cause Notice dated 2nd August 2024 (hereinafter, '*SCN*') which was issued was that one M/s Nirvan Enterprises was a non-existent firm which had fraudulently passed on ineligible Input Tax Credit (hereinafter, '*ITC*') to the Petitioner.

4. The said SCN was replied to by the Petitioner on 23rd October, 2024. A notice for hearing was given to the Petitioner, however, it is the case of the

Petitioner that the reply has not been considered by the Adjudicating Authority and the hearing notice was received by the Petitioner post the date of hearing.

5. Ld. Counsel for the Petitioner also points out that in the impugned order, there is no recording of the fact that the reply of the Petitioner has been considered by the GST Department before passing of the said impugned order.

6. Ld. Counsel for the Respondent submits that there were three dates of hearing which were afforded to the Petitioner but the Petitioner did not appear and argue the matter before the Adjudicating Authority.

7. The Court has considered the matter. This is yet another matter involving fraudulent availment of ITC being passed on by non-existent firms. The Court has also perused the reply. In the reply the details of M/s Nirvan Enterprises with which the Petitioner is stated to have conducted the business is absent. There is no averment in the reply that Nirvana existed, who were its promoters, what are its contact details etc., These are basic facts that ought to be put in a reply, especially when the allegation is that of fraudulent availment of ITC through a non-existent firm.

8. In any case, the impugned order is an appealable order. The Petitioner is, therefore, relegated to avail of its appellate remedy under Section 107 of the Central Goods and Service Tax Act, 2017. If the Petitioner files the said appeal within a period of one month, it shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

9. If the Petitioner wishes to file any additional affidavit giving details of M/s Nirvan Enterprises, it is permitted to do so.

10. The said appeal shall be filed along with the requisite pre-deposit.

11. The petition is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

JULY 9, 2025
dj/ck