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

\+ **W.P.(C) 5337/2025**

M/S SHANTI SWAROOP NIKHIL KUMAR .....Petitioner

Through: Mr. Abhimanyu Jhamba, Ms. Thonpinao Thangal and Ms. Ayushi Srivastava, Advocates.

versus

ADDITIONAL COMMISSIONER CGST NORTH .....Respondent

Through: Mr. Vijay Joshi, Sr. Standing Council CBIC with Mr. Hemant Goyal, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 25.04.2025

1. This hearing has been done through hybrid mode.

CM APPL. 24323/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 5337/2025 & CM APPL. 24322/2025 (for interim relief)

3. The present petition has been filed by the Petitioner – M/s Shanti Swaroop Nikhil Kumar under Article 226 and 227 of the Constitution of India, *inter alia*, assailing the impugned order dated 27th January, 2025 issued by Respondent-Additional Commissioner CGST, North.

4. The impugned order dated 27th January, 2025 has been passed against the Petitioner raising a demand of Rs. 16,91,800/-. The allegations against the Petitioner is in respect of availment of fraudulent Input Tax Credit (hereinafter, '*ITC*') *qua* six firms, who are noticee Nos.1 to 6 in the show cause notice dated 11th July 2024 , which are as under :

Noticee No.	Trade Name	GSTIN	Demand of Tax/ Cess u/s 74(1) (in Rs.)	Interest u/s 50	Penalty u/s 74(1) (in Rs.)	Penalty u/s 122(1) (II) for amount of ITC Passed-on (in Rs.)	Penalty u/s 122(1) (VII), (x), (xvi) and 122(2)(b) for tax evaded/ ITC taken and utilised and other contraventions (in Rs.)	Amount of tax/interest/ penalty (if any) deposited and liable to be appropriated (in Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	KESHAV INTERNATIONAL	07 ALEPP4474 A1Z9	-	-	-	176163280	-	-
2	SHIV KRIPA INTERNATIONAL	07CBBPK0922Rl ZG	-	-	-	175811987	-	-
3	PANCHWATI ENTERPRISES	07BDTPJ7207DlZH	-	-	-	103293153	-	-
4	LAXMI ENTERPRISES	07CSMPK6500KIZI	-	-	-	169445121	-	-
5	SHIVAAY INTERNATIONAL	07APIPM7165H2ZJ	-	-	-	140794723	-	-
6	PANCHAM TRADING CO.	07 AMGPD8433QlZL	-	-	-	103293153	-	-

5. The submissions on behalf of the Petitioner is that insofar as Pancham Trading Co. is concerned, the Petitioner already had received a show cause notice from the Delhi GST, for the same very period *i.e.*, July 17 to March 18 and the Petitioner cannot be subjected to a demand *qua* the same amount twice over. This would be violative of Section 6(2)(b) of the Central Goods and Service Tax Act, 2017 (hereinafter, '*CGST Act*').

6. Mr. Joshi, ld. Sr. Standing Counsel for the Respondent submits that the demand against the Petitioner is under Section 74 of the CGST Act. The show

cause notice dated 11th July 2024 is in respect of two entities *i.e.*, Keshav International and Pancham Trading Co. Even if the demand raised against Keshav International has been adjudicated by the Delhi Goods and Service Tax Department, in respect of the other entity, the Petitioner ought to proceed in appeal against the impugned order.

7. The order dated 14th December 2023 passed by the State GST has been placed on record, which shows that it is for the same period *i.e.*, July 17 to March 18 and a demand of Rs.22,03,320/- has been raised.

8. Since the issue is of duplication, the Petitioner is permitted to file an appeal against the impugned order dated 27th January, 2025 and the pre-deposit would be made only in respect of the amount relating to Keshav International.

9. The Petitioner is permitted to approach the Appellate Authority under Section 107 of the CGST Act within thirty days and would make a pre-deposit of 10% *qua* the amount demanded against Keshav International only and not for Pancham Trading Co.

10. If the said pre-deposit is made by the Petitioner, the appeal shall be entertained on merits and shall not be rejected for want of pre-deposit *qua* Pancham Trading Co. or on the issue of limitation.

11. The Appellate Authority shall adjudicate the appeal on merits.

12. The petition is disposed of. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

APRIL 25, 2025/*nd/ck*