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

Date of Decision: 22nd May, 2025

+ **W.P.(C) 5771/2025**

M/S MHJ METALTECHS PRIVATE LIMITED THROUGH ITS
DIRECTOR SH. MANISH KUMAR SINGHPetitioner

Through: Mr. Anurag Ahluwalia, Sr. Advocate
along with assistant counsel
(appearance not given)

versus

CENTRAL GOODS AND SERVICES TAX DELHI SOUTH

.....Respondent

Through: Mr. Atul Tripathi, SSC, CBIC with
Mr. Gaurav Mani Tripathi and Mr.
Shubham Mishra, Advocates.

+ **W.P.(C) 5815/2025**

M/S METAL TECHS (THROUGH ITS KARTA SH. MOHIT JAIN)

.....Petitioner

Through: Mr. Anurag Ahluwalia, Sr. Advocate
along with assistant counsel
(appearance not given).

versus

CENTRAL GOODS AND SERVICES TAX DELHI SOUTH

.....Respondent

Through: Mr. Atul Tripathi, SSC, CBIC with
Mr. Gaurav Mani Tripathi and Mr.
Shubham Mishra, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPLs. 26345/2025 & 26547/2025 (exemption)

2. Allowed, subject to all just exceptions. The applications stand disposed



of.

W.P.(C) 5771/2025 & CM APPLs. 26344/2025 & 26546/2025

3. The present petitions have been filed by the Petitioners under Article 226 of the Constitution of India challenging, *inter alia*, the impugned order dated 03rd February, 2025 (*hereinafter*, 'the impugned order') wherein a demand has been raised against the Petitioners on the ground of availment of fraudulent Input Tax Credit (*hereinafter*, 'ITC').

4. As per the show cause notice dated 01st August, 2024 (*hereinafter*, 'SCN') and impugned order dated 03rd February, 2025, one individual Sh. Mohit Jain is alleged to have orchestrated a network of various suppliers and got generated goods less invoices in order to fraudulently avail ITC. Searches were conducted at various premises and goods were detained, including stationery, stamps etc.

5. It is seen from the record that the firms which were passed on the ITC by Sh. Mohit Jain using the alleged goods less invoices include the following firms: M/s Ferrite Alloys Inc, M/s BM Metalloys, M/s Trump Iron, and M/s SSR Impex LLP, M/s Metal Tech and M/s MHJ Metal Tech Pvt.

6. The total allegation of Goods and Service Tax (*hereinafter*, 'GST') involved was more than Rs.155 crores and the ITC which was stated to have been passed on was to the tune of Rs.7.08 crores.

7. The SCN was issued to the Petitioners on 01st August, 2024, and a reply to the said SCN was filed by the Petitioners. Subsequently, the Petitioners also attended the personal hearing on 03rd January, 2025.

8. The allegation of Mr. Anurag Ahluwalia, Id. Senior Counsel, is that the impugned order records that three hearings were granted to the Petitioners, however only one hearing was granted on 03rd January, 2025. It is further his



submission that the relied upon documents (*hereinafter, 'RUDs'*) which were given were not clear and they were illegible and hence there has been a violation of the principles of natural justice.

9. The Court has considered the matter. A perusal of the reply filed by the Petitioners on 06th January, 2025 would show that apart from raising various technical objections, there is hardly any plea raised by the Petitioners in the reply on the main issue i.e. that the goods were in fact supplied and ITC was rightly availed.

10. Further, in so far as the RUDs are concerned, this Court is of the opinion that RUDs are collected by the Department from various firms under investigation and whatever documents are available with the Department is what is collected from these firms and therefore, the Department cannot be expected to supply re-typed copies of the RUDs, considering that this could be extremely bulky in nature.

11. Coming to the issue of personal hearings being accorded to the Petitioner, the impugned order records as under:

“10 Personal Hearing:

10.1 The Noticees as detailed in Table A,B,C and Table-D above were accorded opportunity of being heard in person on 05.11.2024, 18.12.2024 and 03.01.2025. These letters were sent to the noticees through post and were also sent through e-mail to their respective registered e-mail i.d.s. However, amongst all the noticees, the noticees as shown in Table-E below neither appeared for personal hearing nor submitted a reply to the show cause notice referred above on the given dates.

10.2 I find that sufficient opportunities for being heard in person had already been granted to these Noticees, however as stated above the mentioned Noticees didn't turnup to attend personal hearing. Therefore, I have been left with no option but to adjudicate the case ex-parte on the basis of available records



and evidences.”

12. A mere plea by the Petitioners that the opportunity for three hearings were not given cannot be accepted by the Court when admittedly one of the hearings was in fact attended by the Petitioners on 03rd January, 2025. Moreover, it is a usual practice that whenever the SCN is issued by the Department, three dates of hearing are mentioned at the end of the show cause notice itself.

13. A perusal of Section 75(5) of the Central Goods and Service Tax Act, 2017 (*hereinafter*, ‘CGST Act’), would show that it merely provides that no more than three adjournments can be granted for personal hearing. Thus, so long as a proper hearing has been granted by the Department, there cannot be any allegation of violation of the principles of natural justice.

14. Moreover, in the present case, it is seen that the total number of entities who have been investigated and to whom notices have been issued are 146 in number. Hearings may in fact have been granted by the Department on different dates to various entities. In the impugned order itself, it is recorded clearly that almost none of the firms filed any reply to the SCN.

15. The impugned order is an appealable order under Section 107 of the CGST Act. The contentions that the Petitioners wish to raise can always be raised in appeal, in as much as this Court has already taken a view in *W.P.(C) 5737/2025* titled *Mukesh Kumar Garg vs. Union of India & Ors.*

16. This Court, while deciding the above stated matter, has held that where cases involving fraudulent availment of ITC are concerned, considering the burden on the exchequer and the nature of impact on the GST regime, writ jurisdiction ought not to be exercised in such cases. The relevant portions of



the said judgment are set out below:

“11. The Court has considered the matter under Article 226 of the Constitution of India, which is an exercise of extraordinary writ jurisdiction. The allegations against the Petitioner in the impugned order are extremely serious in nature. They reveal the complex maze of transactions, which are alleged to have been carried out between various non-existent firms for the sake of enabling fraudulent availment of the ITC.

12. The entire concept of Input Tax Credit, as recognized under Section 16 of the CGST Act is for enabling businesses to get input tax on the goods and services which are manufactured/supplied by them in the chain of business transactions. The same is meant as an incentive for businesses who need not pay taxes on the inputs, which have already been taxed at the source itself. The said facility, which was introduced under Section 16 of the CGST Act is a major feature of the GST regime, which is business friendly and is meant to enable ease of doing business.

13. It is observed by this Court in a large number of writ petitions that this facility under Section 16 of the CGST Act has been misused by various individuals, firms, entities and companies to avail of ITC even when the output tax is not deposited or when the entities or individuals who had to deposit the output tax are themselves found to be not existent. Such misuse, if permitted to continue, would create an enormous dent in the GST regime itself.

14. As is seen in the present case, the Petitioner and his other family members are alleged to have incorporated or floated various firms and businesses only for the purposes of availing ITC without there being any supply of goods or services.



The impugned order in question dated 30th January, 2025, which is under challenge, is a detailed order which consists of various facts as per the Department, which resulted in the imposition of demands and penalties. The demands and penalties have been imposed on a large number of firms and individuals, who were connected in the entire maze and not just the Petitioner.

15. The impugned order is an appealable order under Section 107 of the CGST Act. One of the co-noticees, who is also the son of the Petitioner i.e. Mr. Anuj Garg, has already appealed before the Appellate Authority.

16. Insofar as exercise of writ jurisdiction itself is concerned, it is the settled position that this jurisdiction ought not be exercised by the Court to support the unscrupulous litigants.

17. Moreover, when such transactions are entered into, a factual analysis would be required to be undertaken and the same cannot be decided in writ jurisdiction. The Court, in exercise of its writ jurisdiction, cannot adjudicate upon or ascertain the factual aspects pertaining to what was the role played by the Petitioner, whether the penalty imposed is justified or not, whether the same requires to be reduced proportionately in terms of the invoices raised by the Petitioner under his firm or whether penalty is liable to be imposed under Section 122(1) and Section 122(3) of the CGST Act.

18. The persons, who are involved in such transactions, cannot be allowed to try different remedies before different forums, inasmuch as the same would also result in multiplicity of litigation and could also lead to contradictory findings of different Forums, Tribunals and Courts.”

17. Under these circumstances, this Court is not inclined to entertain the



present writ petition. However, the Petitioners are granted the liberty to file an appeal.

18. Accordingly, the Petitioners are permitted to avail of the appellate remedy under Section 107 of the CGST Act, by 15th July, 2025, along with the necessary pre-deposit mandated, in which case the appeal shall be adjudicated on merits and shall not be dismissed on the ground of limitation.

19. Needless to add, any observations made by this Court would not have any impact on the final adjudication by the appellate authority.

20. The petitions are disposed of in said terms. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 22, 2025

v/ss