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

\+ **W.P.(C) 6397/2025 & CM APPL. 29202/2025, CM APPL. 29203/2025**

METALAX INDUSTRIES .....Petitioner

Through: Ms. Vibhooti Malhotra, Mr. Bhuvnesh Satija, Mr. Udit Sharma & Mr. Aniket Khanduri, Advs.

versus

ADDITIONAL COMMISSIONER AND ANR. .....Respondents

Through: Ms. Monica Benjamin, SSC with Ms. Nancy Jain, Adv.
Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Subham Kumar & Ms. Garima Kumar, Advs. for R-2.
Mr. Aditya Singla, SSC, CBIC with Ms. Shreya Lamba, Mr. Umang & Ms. Arya, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 14.05.2025

1. This hearing has been done through hybrid mode.

CM APPL. 29203/2025 (for exemption)

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

W.P.(C) 6397/2025 & CM APPL. 29202/2025

3. The present petition has been filed by the Petitioner- Metalax Industries under Article 226 of the Constitution of India, *inter alia*, assailing the Order-in-Original bearing no. 10/CGST/ADC(SKJ)/2024-2025 dated 3rd February, 2025 (hereinafter, '*impugned order*') and impugned Form being DRC-07

dated 5th February, 2025 passed by the Respondent No.1- Additional Commissioner (Adjudication Authority), Central Tax (Goods & Service Tax), Delhi West Commissionerate.

4. A Show Cause Notice (hereinafter, '*SCN*') was issued to the Petitioner by Respondent No. 2- Directorate General Goods & ServiceTax Intelligence, Gurugram Zonal Unit on 31st August, 2022 in respect of the wrongful availment of Input Tax Credit (hereinafter, '*ITC*') through issuance of good-less invoices. In fact, the same was a result of the search which was conducted at the Petitioner's premises on 29th December 2020 and the Petitioner's proprietor was even arrested on 30th December 2020 in this matter.

5. The SCN related to the period 2017-18 to 2019-20 and was duly replied to by the Petitioner. The SCN was adjudicated and the impugned order dated 3rd February, 2025 was passed. As per the impugned order, a demand to the tune of Rs.6,35,39,210/- has been raised against the Petitioner. The Form DRC-07 dated 5th February 2025 specifies the tax period as July, 2017 to March, 2018.

6. However, ld. Counsel for the Department submits that said Form DRC-07 relates to all three financial years *i.e.* 2017-18 to 2019-20 and the earliest year has been mentioned only to reflect the fact that the same is being passed within the limitation period.

7. Ms. Vibhooti Malhotra, ld. Counsel for the Petitioner submits that the SCN was issued in respect of three financial years and hence the Petitioner shall be compelled to file three different appeals *qua* the impugned order.

8. Considering the fact that it was a common SCN, a common impugned order has been passed and only Financial Year 2017-18 is mentioned in respect of the impugned order 3rd February, 2025, the Petitioner is permitted

to file one consolidated appeal before the Appellate Authority under Section 107 of the Central Goods and Service Tax Act, 2017.

9. Considering the amount that has been demanded from the Petitioner and the pre-deposit that is to be made, the Petitioner is given time till 10th July, 2025 to file the said appeal along with the pre-deposit on the tax amount.

10. If the appeal is filed by 10th July, 2025, the same shall be considered and adjudicated on merits and shall not be dismissed on the ground of limitation.

11. The ground in respect of Form GST DRC-07 having been improperly issued, may also be raised before the Appellate Authority by the Petitioner.

12. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MAY 14, 2025

Rahul/ck