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

\+ **W.P.(C) 7047/2025 & CM APPL. 31821/2025**

SATENDER KUMAR MISHRA PROPRIETOR LAXMI ENTERPRISES .....Petitioner

Through: Mr. Rajesh Mahna, Mr. Ramanand Roy, Mr. Mukesh Yadav, Mr. Surya, Mr. Tripathi and Mr. Mayank kotus, Advocates.

versus

COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX DELHI NORTH COMMISSIONERATE & ANR. .....Respondents

Through: Ms. Ekta Choudhary SPC along with Mr. Ayush Kumar, Mr. Anand Krishna and Ms. Rushali Sikand, Advocates for R-1.

Ms. Arunima Dwivedi with Ms. Swati Jhunjhunwala, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% 23.05.2025

1. This hearing has been done through hybrid mode.

2. The present writ petition has been filed by the Petitioner – Satender Kumar Mishra, Proprietor Laxmi Enterprises under Article 226 of the Constitution of India, *inter alia*, assailing the Order-in-Original dated 29th January, 2025 (hereinafter, '*impugned order*') passed by Office of Principal Commissioner of CGST, Delhi North. *Vide* the impugned order, penalty under Section 122 of the Central Goods and Service Tax Act, 2017 (hereinafter, '*CGST Act*') has been imposed against the Petitioner.

3. The submission of Mr. Rajesh Mahna, ld. Counsel for Petitioner is that the Petitioner is one of the sellers who in fact, sold the goods and has also paid the requisite Goods and Service Tax. Therefore, no penalty could be imposed on the Petitioner.

4. Heard. The impugned order is an order dealing with various facts in respect of 495 dealers and large-scale utilization and availment of fake Input Tax Credit through fake firms and goods-less invoices. The submissions of Mr. Rajesh Mahna, ld. Counsel for the Petitioner would require the Court in writ jurisdiction to examine facts which is beyond the scope of the writ petition.

5. At this stage, Mr. Rajesh Mahna, ld. Counsel for the Petitioner submits that he wishes to file an appeal under Section 107 of the CGST Act before the Appellate Authority assailing the impugned order. Accordingly, the Petitioner wishes to withdraw the present petition.

6. The petition is dismissed as withdrawn with liberty to file the appeal by 15th July, 2025, upon which the appeal shall not be dismissed on the ground of limitation. The said appeal shall be filed along with the pre-deposit in terms of Section 107 of the CGST Act, as it exists on the date of impugned order.

7. Accordingly, the petition is disposed of. Pending application, if any, stands disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 23, 2025/*da/ck*