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

\+ **W.P.(C) 7626/2025 & CM APPL. 34021/2025**

DELHI FOILS .....Petitioner

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

versus

ADDITIONAL COMMISSIONER AND ANR .....Respondents

Through: Ms. Monica Benjamini, SSC & Ms. Nancy Jain, Advocates.

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\+ **W.P.(C) 7676/2025 & CM APPL. 34138/2025**

ABINOX 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 Benjamini, SSC & Ms. Nancy Jain, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% **28.05.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 34022/2025(for exemption) in W.P.(C) 7626/2025

CM APPL. 34139/2025 (for exemption) in W.P.(C) 7676/2025

2. Allowed, subject to all just exceptions. Applications are disposed of.

W.P.(C) 7626/2025 & CM APPL. 34021/2025
W.P.(C) 7676/2025 & CM APPL. 34138/2025

3. These two petitions have been filed by the Petitioner concerns challenging the same show cause notice dated 31st August, 2022 *(hereinafter,*

'SCN') and final order dated 3rd February, 2025 *(hereinafter, 'impugned order').*

4. Delhi Foils being one of the Petitioners is a partnership concern of Mr. Alok Bhargava and Ms. Neena Bhargava. On the other hand, Abinox Industries, being the other Petitioner is a proprietorship concern of Mr. Akul Bhargava.

5. It is the case of the Petitioners that the SCN was issued to the Petitioners by the Respondent No. 2- Directorate General Goods & Service Tax 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 Petitioners' premises on 29th December 2020 and the Petitioners' proprietors/ partners were even arrested on 30th December 2020 in this matter.

6. It is further submitted by the Petitioners that the SCN related to the period 2017-18 to 2019-20 and was duly replied to by the Petitioners. The SCN was adjudicated and the impugned order dated 3rd February, 2025 was passed, raising demands upon the Petitioners.

7. A perusal of the Form DRC-07 dated 5th February 2025 specifies the tax period as July, 2017 to March, 2018. 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.

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

9. This Court is of the opinion that since a common SCN was issued upon the Petitioners and 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 shall be permitted to file one consolidated appeal before the Appellate Authority under Section 107 of the Central Goods and Service Tax Act, 2017.

10. Considering the amount that has been demanded from the Petitioners and the pre-deposit that is to be made, the Petitioners are given time till 15th July, 2025 to file the said appeal along with the pre-deposit on the tax amount.

11. If the appeal is filed by 15th July, 2025, the same shall be considered and adjudicated on merits and shall not be dismissed on the ground of limitation.

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

13. Petitions are disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 28, 2025/*da/ss*