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

\+ **W.P.(C) 7741/2025& CM APPL. 34321/2025**

M/S CL PRODUCTS (INDIA) LTD ORS & ORS. .....Petitioner

Through: Mr Ramakant Gaur, Ms Sneha Arya, Ms Harshi Gaur, Ms Meenakshi Sahu, Ms RoopiniNandam, Ms Sobiya Manzoor, Advs.

versus

ASSISTANT COMMISSIONER CGST ROHINI DIVISION DELHI WEST COMMISSIONERATE .....Respondent

Through: Mr. Shlok Chandra, SSC with Mr. Parikshit Singh, Adv. For CBIC.

3 WITH

\+ **W.P.(C) 7743/2025& CM APPL. 34327/2025**

M/S PURAV INTERNATIONAL & ANR. .....Petitioner

Through: Ms. Sneha Arya, Adv.

versus

ADDITIONAL COMMISSIONER CGST (DELHI WEST) COMMISSIONERATE .....Respondent

Through: Ms. Monica Benjamin. SSC with Ms. Nancy Jain, Adv.

4 WITH

\+ **W.P.(C) 7746/2025& CM APPL. 34332/2025**

M/S C L PRODUCTS (INDIA) LTD .....Petitioner

Through: Ms. Sneha Arya, Adv.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE .....Respondent

Through: Ms. Monica Benjamin. SSC with Ms. Nancy Jain, Adv.

5 AND

\+ **W.P.(C) 7747/2025& CM APPL. 34339/2025**

M/S CL INTERNATIONAL & ANR. .....Petitioner

Through: Ms. Sneha Arya, Adv.

versus

ADDITIONAL COMMISSIONER CGST (DELHI WEST) COMMISSIONERATE .....Respondent

Through: Ms. Samiksha Godiyal, SSC with Mr. Tenzing N Bhutia and Mr. B.D. Rao Kundan, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

ORDER

% 05.12.2025

1. This hearing has been done through hybrid mode.

2. The present petitions have been filed by the Petitioner under Articles 226 and 227 of the Constitution of India, *inter alia*, challenging the following Orders-in-Original and Show Cause Notices:

Writ Petition	***Show Cause Notice***	***Order-in-Original***
W.P. (C) 7741/2025	2nd August, 2024	17th January, 2025
W.P. (C) 7743/2025	3rd August, 2024	22nd January, 2025
W.P. (C) 7746/2025	3rd August, 2024	22nd January, 2025
W.P. (C) 7747/2025	3rd August, 2024	22nd January, 2025

In W.P. (C) 7741/2025

3. The impugned order and Show Cause Notice (hereinafter, '*SCN*') relate to intelligence which was gathered by the Directorate General of Goods and Services Tax Intelligence (hereinafter, '*DGGI*'), in respect of Input Tax Credit (hereinafter, '*ITC*') availed through bogus transactions and fake invoicing without actual supply of goods.

4. The only submission urged by Mr Ramakant Gaur, ld. Counsel for the Petitioner is that the reply has not been considered and no personal hearing was granted.

5. The Court has perused paragraph 9.1 and 9.2 of the impugned order, which is set out below:

> *"9. 1. The Noticee did not submit any explanation in writing to the said SCN even though vide the said SCN, it was specifically asked to explain within 30 days of the SCN. Further, it is also noted that the none of the Noticee sought any adjournment so much so that there was no communication from them at all.*
> *9.2 Further, keeping in view the principle of natural justice and principle of adjudication, fair opportunities of personal hearing were provided to all the Noticee to appear for personal hearing on 04.11.2024. 18. 11 .2024 and 03.12.2024, however, neither the said Noticee nor their Authorized representatives appeared for personal hearing on the scheduled dates and timings."*

6. The further case of Mr Ramakant Gaur, ld. Counsel for the Petitioner is that an interim reply was filed by the Petitioner on 20th November, 2024 but the same has not been considered by the Adjudicating Authority.

7. The allegations in the impugned order would show that there were various connected entities namely C.L. Products India Private Limited along

with M/s Gauri Global Exports & Trading and M/s Modern Bazar, etc. Moreover, a scrutiny of the registration details of these entities and the returns which were filed had revealed to the Department that the entire ITC was not admissible as they were non-existing, non-functional and bogus firms.

8. The Court has also perused the interim reply which was filed by the Petitioner. The reply, primarily, only seeks RUDs and legible copies of the RUDs connecting the Petitioner with those entities and no reply on merits appears to have been filed.

<u>In W.P. (C) 7743/2025, W.P. (C) 7746/2025 & W.P. (C) 7747/2025</u>

9. The impugned orders and SCNs in these petitions relate to an audit wherein it was observed that various exporters and suppliers exist on the same address and the invoices of both the parties have been signed by the same person.

10. Acting on the information gathered by the officers of Anti Evasion Branch of CGST, Delhi (West), searches were also conducted at the various premises.

11. It is recorded in the impugned orders that on scrutiny of the seized documents, it was found that the key person Mr. Abhishek Gupta who had been director in the Petitioner company *i.e.,* M/s CL International till 2019 and at present is the proprietor in M/s Purav International is operating his business of issuing invoices in the name of various family run businesses or in the name of employees for creating goods-less invoices issued to traders and exporters who used to claim GST refund from GST and customs authorities by using such fake ITC invoices enabling them avail fraudulent ITC on such invoices.

12. Mr. Ramakant Gaur, ld. Counsel for the Petitioner submits that no reply was filed to the SCNs in these petitions, however, the personal hearing notices were received by the Petitioner. Moreover, ld. Counsel for the Petitioner submits that there is no specific allegation against the Petitioner and the SCNs are summary in nature.

Analysis and Findings

13. The question in all these 4 cases is that there needs to be a factual consideration of various entities, their promoters, directors, addresses and themanner in which they are connected to each other. This is beyond the scope of writ jurisdiction.

14. Moreover, the maze of transactions also is such that the same cannot be gone into in a writ petition. The investigation which was conducted would show that the premises were also searched. Thus, the Petitioner was fully aware of the proceedings going on against him, but took no steps whatsoever to file a reply or even attend the personal hearing.

15. There is no reason to disbelieve the personal hearing notices which were issued to the Petitioner. At this stage, Mr. Ramakant Gaur submits that these were not available on the portal.

16. This Court has consistently taken the view that in cases involving fraudulent availment of ITC, ordinarily, the Court would not be inclined to exercise its writ jurisdiction. It is routinely seen in such cases that there are complex transactions involved which require factual analysis and consideration of voluminous evidence, as also the detailed orders passed after investigation by the Department. In such cases, it would be necessary to consider the burden on the exchequer as also the nature of impact on the GST regime, and balance the same against the interest of the Petitioners,

which is secured by availing the right to statutory appeal.

17. It would be apposite to refer to some of the cases which have been decided by the Supreme Court as also by this Court on these aspects. The Supreme Court in the context of CGST Act, has, in ***Civil Appeal No. 5121/2021*** dated 3rd September, 2021 titled ***'The Assistant Commissioner of State Tax &Ors. v. M/s Commercial Steel Limited'***, has held as under:

> *"11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution.* ***<u>But a writ petition can be entertained in exceptional circumstances where there is: (i) a breach of fundamental rights; (ii) a violation of the principles of natural justice; (iii) an excess of jurisdiction; or (iv) a challenge to the vires of the statute or delegated legislation.</u>***
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> *12. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent.*

13. For the above reasons, we allow the appeal and set aside the impugned order of the High Court. The writ petition filed by the respondent shall stand dismissed. However, this shall not preclude the respondent from taking recourse to appropriate remedies which are available in terms of Section 107 of the CGST Act to pursue the grievance in regard to the action which has been adopted by the state in the present case"

18. Thereafter, this Court in ***W.P.(C) 5737/2025*** titled ***Mukesh Kumar Garg v. Union of India &Ors.*** dealing with a similar case involving fraudulent availment of ITC had held as under:

"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."

19. This position was also followed in ***M/s Sheetal and Sons &Ors. v. Union of India &Anr., 2025: DHC: 4057-DB.*** The relevant portion of the said decision read as under:

"15. The Supreme Court in the decision in Civil Appeal No 5121 of 2021 titled 'The Assistant Commissioner of State Tax &Ors. v. M/s Commercial Steel Limited' discussed the maintainability of a writ petition under Article226. ***In the said decision, the Supreme Court reiterated the position that existence of an alternative remedy is not absolute bar to the maintainability of a writ petition, however, a writ petition under Article 226 can only be filed under exceptional circumstances****....*

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16. In view of the fact that the impugned order is an appealable order and the principles laid down in the abovementioned decision i.e. ***The Assistant Commissioner of State Tax &Ors. (Supra)****, the*

Petitioners are relegated to avail of the appellate remedy."

20. Recently, this Court in ***W.P.(C) 5815/2025***titled ***M/s MHJ Metal Techs v. Central Goods and Services Tax Delhi South*** held as under:

> *"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:*
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> > *"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.*
> > ***<u>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</u>***

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."

21. The decision in ***Metal Techs (Supra)*** has also been challenged before

the Supreme Court in ***SLP(C) 27411/2025*** titled ***M/S Metal Techs v. Central Goods and Services Tax Delhi South***. In the said *SLP*, the Supreme Court *vide* order dated 22nd September, 2025 has merely extended the time for filing the appeal.

22. Under such circumstances, the Petitioner is free to take all the contentions which it wishes to raise before the Appellate Authority. The time for filing the appeal assailing the impugned orders has already lapsed but since there is a doubt as to whether the reply was even considered by the Adjudicating Authority though, filed by the Petitioner, the Court is inclined to give an opportunity to the Petitioner to avail of its appellate remedies.

23. If the Appeal is filed along with the requisite pre-deposit by 1st February, 2026, the same shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

24. All rights and remedies of the parties are left open. This Court has not rendered any opinion on the merits of the matter.

25. Accordingly, ***W.P.(C) 7741/2025, W.P.(C) 7743/2025, W.P.(C), 7746/2025 and W.P.(C) 7747/2025*** are disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

DECEMBER 5, 2025*/tg/ck*