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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10918/2025 & CM APPL. 45016/2025, CM APPL. 45017/2025**

BHARAT FABREX

.....Petitioner

Through: Mr. Puneet Rai & Ms. Srishti Sharma,
Adv.

versus

**ADDITIONAL COMMISSIONER, CGST DELHI NORTH
& ORS.**

.....Respondents

Through: Mr. Vijay Joshi, SSC, CBIC with Mr.
Shubham Chaturvedi, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

ORDER

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28.07.2025

1. This hearing has been done through hybrid mode.

CM APPL. 45016/2025 (for exemption)

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

W.P.(C) 10918/2025 & CM APPL.45017/2025

3. The present petition has been filed under Articles 226 and 227 of the Constitution of India challenging, *inter alia*, the impugned order dated 4th February, 2025 by which a demand of approximately Rs.6.5 lakhs has been raised against the Petitioner.

4. The case set up in the present petition is that a show cause notice was issued to M/s M.R. Mould Plastic Industries, DSIDC, Bawana Delhi and another 61 entities, including the Petitioner, who were involved in wrongful availment of Input Tax Credit (*hereinafter, ITC*), in respect of goods-less invoices raised by five firms, namely, City Overseas, Delhi Trading, Global Enterprises, Royal International and Yamuna International.



5. The total inadmissible ITC, which is alleged to have been availed in this case is stated to be to the tune of approximately Rs.12.90 crores. Some entities, in fact, deposited the amounts, including the Petitioner who has deposited a sum of Rs.6,50,860/-. The relevant paragraph of the Order-in-Original dated 4th February, 2025 is set out below:

“8. The investigation conducted indicates that Noticee No. 1 to 161 within the jurisdiction of CGST North have availed inadmissible Input Tax Credits (ITC), collectively amounting to Rs.12,90,11,861/- (Table-7, Para 4.2, refers). This was facilitated through goods less invoices issued by the Five (05), non-existent Supplier Firms, as mentioned in Table-1 in Para 2 above, which were not accompanied by actual receipt of goods. The validity of these findings is further substantiated by the fact that Forty-Seven (47) Recipient firms/ companies, entities, as mentioned in Table-9 of Para 5 above, have subsequently deposited a sum representing inadmissible ITC amounting to Rs. 2,43,58,109/- and made voluntarily towards the reversal the Input Tax Credits, they had initially claimed along with, interest and penalty.”

6. The submission of Mr. Rai, Id. Counsel for the Petitioner is that the said amount was deposited under protest and no personal hearing was granted to the Petitioner in this matter.

7. The Court has noted that in Order-in-Original dated 4th February, 2025, paragraph 22.1 records that personal hearings were held on 8th November, 2024, 6th December, 2024 and 9th December, 2024. Several firms have, in fact, appeared for personal hearing and had made their submissions before the Adjudicating Authority. However, many noticees, including the Petitioner, failed to avail of the said opportunity.



8. In view thereof, it cannot be said that there was any violation of principles of natural justice. In addition, since the Petitioner has already paid the amount, *albeit* under protest, this would be a fit case to relegate the Petitioner to the Appellate remedy under Section 107 of the Central Goods and Service Act, 2017.

9. If the said appeal is filed by the Petitioner by 31st August, 2025 before the Appellate Authority, the same shall be adjudicated on merits and shall not be dismissed on limitation.

10. Mr. Rai, Id. Counsel has also raised a submission that the order was passed beyond the limitation period i.e., though it is dated 4th February, 2025 it was uploaded only on 12th February, 2025. This issue may also be raised in the appeal.

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

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

JULY 28, 2025

Rahul/ss