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

Date of decision: 29th July, 2025

+ **W.P.(C) 11092/2025& CM APPL. 45640/2025**

LAXMI HARI COLLECTION - THROUGH ITS PROPRIETOR
SH. MAHESH KUMAR SHARMAPetitioner

Through: Dr. Sudhir Sangal, Adv.
versus

THE ADDITIONAL COMMISSIONER DELHI - WEST,
CENTRAL GOODS AND SERVICES TAX
DEPARTMENT & ANR.Respondents

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

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed on behalf of the Petitioner - Laxmi Hari Collection under Article 226 of the Constitution of India, *inter alia*, assailing the Order-in-Original dated 30th January, 2025 (*hereinafter, the 'impugned order'*) passed by the Office of the Commissioner, Central Tax (Delhi West).
3. *Vide* the impugned order, penalty has been imposed on the Petitioner in the following terms:

"36. I impose penalty of Rs.1,45,38,901 (IGST Rs.8,53,307/- + CGST Rs.68,42,797/- + SGST Rs.68,42,797/-) (Rupees one Crore Forty Five Lakh Thirty Eight Thousand Nine Hundred & One only), on



M/s Laxmi Hari Collection, in terms of Section 122(1)(ii) of the CGST Act, 2017, read with similar provisions of the Delhi GST Act, 2017 and or under Section 20 of the IGST Act, 2017, as they passed the said credit fraudulently.

36.1 I impose penalty of Rs.1,48,34,886/- (IGST Rs.8,53,562/- + CGST Rs.71,42,162/- + SGST Rs.68,39,162/-) (Rupees One Crore Forty Eight Lakh Thirty Four Thousand Eight Hundred & Eighty Six only), M/s Laxmi Hari Collection (07BDGPS9274J2ZS), in terms of Section 122(1)(vii) of the CGST Act, 2017, read with similar provisions of the Delhi GST Act, 2017, and/or under Section 20 of the IGST Act, 2017, as they availed the said credit fraudulently;”

36.2 I refrain from imposing penalty on M/s Laxmi Hari Collection (07BDGPS9274J2ZS), under Section 122(1)(x), (xii), (xvi) and (xvii) of the CGST Act, 2017, read with similar provisions of the Delhi GST Act, 2017, and/or under Section 20 of the IGST Act, 2017;”

4. It is stated that upon migration of the Petitioner’s business from the Value Added Tax regime into the Goods and Services Tax (‘GST’) regime, the Petitioner was allotted two GST numbers, which are set out below:

07BDGPS9274J1ZT

07BDGPS9274J2ZS

It is the case of the Petitioner that the registration being **GSTIN 07BDGPS9274J2ZS** has never been utilized by the Petitioner and on the said account, a demand was received by the Petitioner on 20th September 2019 vide a notice issued by the Department of Trade and Taxes, Delhi. Further, in paragraph 15 of the writ petition, it is stated that the second GST registration,



being **GSTIN: 07BDGPS9274J2ZS**, was misused by some individual who may have committed a fraud which becomes evident from the fact that unknown to the Defendant, after logging into this account, a different email and phone number has been used. Thus, the claim of the Petitioner is that he did not apply for the second GST registration. Thereafter, the Petitioner is stated to have filed an FIR, in P.S. Kotwali, Chandni Chowk on 30th September 2019. This was followed up by a communication on 1st October, 2019 to the GST Department to block the said GSTIN number.

5. On 3rd March, 2023 two summons under Section 70 of the CGST Act, 2017 were received by the Petitioner with regard to investigation of sales made to one entity being, M/s YS Enterprises by Laxmi Hari using **GSTIN 07BDGPS9274J2ZS**. The Petitioner herein, then participated in the proceedings including in the investigation and filed a reply on 21st March, 2023. However, a demand cum Show Cause Notice was issued on 30th April 2023 in the following terms:

“23.5 Now, therefore, M/s Laxmi Hari Collection (07BDGPS9274J2ZS), 1967, Second Floor, Chandini Chowk, Opp. Bank of India, Delhi - 110006 (through its Proprietor), are required to Show Cause to the Joint/Additional Commissioner, Central GST Commissionerate, Office of Principal Commissioner, Delhi North Commissionerate, CR Building, IP Estate, New Delhi -110002, as to why:

i. Penalty amounting to Rs.1,45,38,901 (IGST Rs. 8,53,307/- + CGST Rs.68,42,797/- + SGST Rs. 68,42,797/-) (Rupees One Crore Forty Five Thousand Thirty Eight Thousand Nine Hundred & One only), should not be imposed upon them in terms of Section 122(1)(ii) of the CGST Act, 2017, read with similar provisions of the Delhi GST Act, 2017, and/or under Section 20 of the IGST Act,



2017, as detailed in Para 16.10;

ii. Penalty amounting to Rs.1,45,31,886/- [IGST Rs.8,53,562/- + CGST Rs.71,42,162/- + SGST Rs.68,39,162/-] (Rupees One Crore Forty Five Lakh Thirty One Thousand Eight Hundred & Eighty Six only), should not be imposed upon them in terms of Section 122(1)(vii) of the CGST Act, 2017, read with similar provisions of the Delhi GST Act, 2017, as detailed in Para 16.10;

iii. Penalty in terms of Section 122(1)(x), (xii), (xvi) and (xvii) of the CGST Act, 2017, read with similar provisions of the Delhi GST Act, 2017, and/or under Section 20 of the IGST Act, 2017, should not be imposed upon them on the amount mentioned in sl.no. (i) & (ii) above.”

6. Further, on 24th January, 2025 a notice of personal hearing dated 8th January, 2025 was given to the Petitioner and the Petitioner attended the said hearing. However, the impugned Order-in-Original dated 30th January, 2025 was passed.

7. The submissions by Mr. Sangal is that the second GSTIN number, being, **GSTIN 07BDGPS9274J2ZS** has never been utilized by the Petitioner and upon receiving the intimation of the first demand notice, steps were taken by the Petitioner, such as, lodging an FIR, as also the cancellation of the said GSTIN Number. It is his further submission that the Petitioner is an illiterate person and does not have proper understanding of the manner in which the GSTIN system functions. His account was being managed by an accountant.

8. It is further argued by the Id. Counsel that, since the FIR has already been registered and in the impugned Order-in-Original, the authority itself acknowledges the fact that Mr. Mahesh Kumar Sharma, the proprietor of the Petitioner, did not have any knowledge of the second firm, the petition *qua*



the demand against the Petitioner deserves to be quashed.

9. Ms. Benjamin, on the other hand, submits that the e-mails received at the time when the GSTIN numbers were allotted to the Petitioner, dated 5th July, 2017, and 6th July, 2017 would in fact show that both the e-mails have been received on the registered number/e-mail address of the Petitioner itself. Thus, the Petitioner was well aware of the fact that two GST numbers have been generated.

10. In response, Mr. Sangal, Id. Counsel for the Petitioner points out that the *Aadhaar* authentication has been done with respect to the e-mail ID, being digitalindias2018@gmail.com with a different mobile number than that of the Petitioner.

11. Heard. Obviously, there is a possibility that the Petitioner's identity has been used by someone who was closely aware of the Petitioner's e-mail address, mobile number, etc. The record does not reveal any FIR having been registered. However, it is noticed that there is a complaint by the Petitioner to the police dated 30th September, 2019, which has been placed on record. In the said complaint, the Petitioner himself has admitted to have **mistakenly applied for two GST registrations**. For ease of reference, the said letter is extracted below:



though it had applied for two GST registrations, it has been using only one of them and the other Registration, being **GSTIN: 07BDGPS9274J2ZS**, has been misused by some unknown entity. Whereas, on the other hand by alleging the *Aadhaar* authentication to have been made from a different mobile number, the Petitioner tries to dispute the fact that it had filed for the second application.

13. The Court also notices, with some concern, that after the initial complaint was filed in 2019, no follow-up has been initiated by the Petitioner into the investigation in the said matter. This shows that Petitioner was not seriously pursuing its complaint and had therefore filed it only half-heartedly. Hence, it cannot assail the second GST registration, at this stage, under writ jurisdiction as it may need a factual inquiry. Further, the limitation for challenging the Order-in-Original has also expired in terms of Section 107 of the CGST Act, 2017.

14. In the overall circumstances, in the opinion of this Court, the Petitioner has been quite casual in not challenging the impugned Order-in-Original in time and has not taken any steps to ensure as to whether the allegations of fake GST and generation are correct or that the actual culprits are brought to light. The responsibility lies upon the Petitioner to ensure that his identity is not misused by anyone.

15. Under these circumstances, this Court is of the opinion that the impugned order does not warrant interference of this Court under writ jurisdiction. Accordingly, the Petitioner is free to avail its remedies u/s 107 of the CGST Act, 2017 by filing an appeal on or before 31st August 2025, along with the requisite pre-deposit.

16. In view thereof, the present writ petition is dismissed, relegating the



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Petitioner to the Appellate Remedy. Pending applications, if any, are also disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

JULY 29, 2025/pd/rks/Ar.