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

\+ W.P.(C) 15598/2023

VIPIN BANSAL .....Petitioner

Through: Mr. Vineet Bhatia, Mr. Aamnaya Jagannath Mishra, Mr. Keshav Garg and Mr. Abhinav Sharde, Advs.

versus

DEPUTY DIRECTOR, DGGI .....Respondent

Through: Mr. Harpreet Singh, SSC with Mr. Jai Ahuja, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% **04.02.2025**

1. Having heard learned counsels for parties, we note that the impugned Show Cause Notice [‘**SCN**’] laid the following allegations insofar as the writ petitioner is concerned:-

> “ **Role played by Sh. Vipin Bansal (PAN No. AVDPK5048K)**:-
>
> **Shri Aakash Gupta** and **Shri Vipin Bansal** are the only persons sharing the user id and other credentials required to login to the dealer portal of Delhi VAT in respect of **M/s Amit Aakash Enterprises**. Further, as per the process of DVAT user guide, a dealer login was required for the purpose of migration to GST. This dealer login could have been done either through **Shri Aakash Gupta** or by **Shri Vipin Bansal**. It appears that without their logging into the VAT portal, the migration of **M/s Amit Aakash Enterprises** from VAT to GST would not have been possible. **Sh. Vipin Bansal** in his statement dated 18-10-2021 confirmed that user id was commonly being shared between him and **Sh**. **Aakash Gupta** and as when they were required to file VAT return Sh. Amit Aakash Gupta used to convey the OTP sent

by the VAT department on his registered mobile Number. **Shri Vipin Bansal** failed to reasonably justify their statement of having no knowledge about the migration of **M/s Amit Aakash Enterprises** from VAT to GST. In his statements, **Shri Vipin Bansal** have agreed to the fact that he was received the authentication OTP's from the VAT department but have failed to prove that he was not responsible for the migration of **M/s Amit Aakash Enterprises** from VAT to GST which otherwise would not have been possible without the user credentials and OTP as discussed in the VAT user guide for GST migration.

The whole act of managing, operating and generating fake input tax credit to defraud the Government exchequer for the benefit of earning commission by passing such fraudulent input tax credit to various recipients without any actual supply of goods/services by way of committed the offence covered under Section 122(1) (ii) of the CGST Act.2017 in the name of **M/s Amit Aakash Enterprises** rendered by **Sh. Vipin Bansal** and hence liable to be penalized under Section 122(1A) of the CGST Act, 2017 read with Section 122 (1)(ii) CGST Act, 2017."

2. As is manifest from the aforesaid, the challenge which stands raised is based solely on various factual issues which are sought to be canvassed.

3. We take note of our order passed in **Aakash Gupta vs. Commissioner of Delhi Goods and Services Tax & Ors.** [W.P.(C) 12694/2023 dated 10 December 2024] and where while dealing with an identical challenge instituted by a co-noticee, we had disposed of the writ petition in the following terms:-

"1. This writ petition has been preferred impugning the validity of a **Show Cause Notice** dated 27 February 2023. In addition, the petitioner also seeks the issuance of an appropriate writ commanding the respondents to return his seized electronic devices.

2. From the disclosures which are made in the writ petition, we find that the petitioner had set up a sole proprietorship firm under the name and style of M/s Amit Aakash Enterprises on 08 June 2015. He alleges that this proprietorship firm was closed on 01 April 2017 and whereafter he also surrendered the **Value Added Tax** registration by filing an appropriate application on 14 April 2017.

3. The SCN, however, lays allegations of passing on fraudulent and bogus **Input Tax Credit** without any corresponding supply of goods. The aforesaid SCN is based on an investigation which the

respondents appear to have undertaken covering the period from July 2017 to April 2018.

4. It is alleged by the writ petitioner that his credentials have been misused on the **Goods and Services Tax** portal since he had never even applied for GST registration and that in relation thereto, he has made various complaints to the respondents as well as the police authorities. It is on the aforesaid basis that he alleges that the SCN pertaining to a period post the closure of the firm was liable to be quashed.

5. As is manifest from the disclosures which are made in paragraphs 25, 26, 27, 29 and 30 of the writ petition, we find that these allegations have been addressed to the competent authorities of the respondents and are being duly inquired into. Similar details are set forth in paragraph 40 of the writ petition.

6. However, and in our considered opinion, the question of whether the credentials of the petitioner were misused and is a case of identity theft clearly gives rise to disputed questions of fact and would be liable to be duly inquired into by the competent authorities and which investigation cannot be undertaken by this Court.

7. In view of the aforesaid, we find ourselves unable to evaluate the challenge which stands raised in the writ petition. Accordingly, and while we dispose of the same, we only provide that it would be open for the petitioner to furnish all material in support of his allegation for the consideration of the respondents who may duly examine the same while finalizing the SCN proceedings.

8. All rights and contentions of respective parties on merits are otherwise kept open."

4. We, consequently, dispose of the instant writ petition on identical terms.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

FEBRUARY 04, 2025/RW