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

\+ W.P.(C) 15847/2024 & CM APPL. 66541/2024 (STAY)

UNITY TRADERS .....Petitioner

Through: Mr. Aman Kumar Singh and Mr. K. Murali Kumar, Advs.

versus

GOVT OF NCT OF DELHI .....Respondent

Through: Ms. Mehak Nakra, ASC(C) with Ms. Gunjan and Mr. Aditya Goyal, Advs. for GNCTD.

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

O R D E R

% **14.01.2025**

1. The writ petitioner had approached this Court aggrieved by the **Show Cause Notice**[1] dated 25 April 2024 and which had alleged a violation of Rule 21(c) of the **Central Goods and Services Tax Rules, 2017**[2]. In terms of that SCN and in view of further proceedings being taken thereon, the **Goods and Services Tax**[3] registration of the petitioner also came to be suspended with effect from 25 April 2024.

2. The challenge essentially proceeds on the basis of the decision rendered by the Court in **DLF Home Developers Limited vs. Sales Tax Officer Class II Avato Ward 107 Special Zone 12 Delhi & Anr.**[4] on 04 September 2024 and which came to be reiterated in **DLF**

[1] SCN
[2] Rules
[3] GST
[4] W.P.(C) 11052/2024

Home Developers Limited v. Sales Tax Officer Class II[5]. In that decision, we had held that a parallel enquiry cannot be conducted by the State and Central GST authorities. This in light of the mandatory prescriptions which stand enshrined in Section 6(2)(b) of the **Central Goods and Services Tax Act, 2017**[6].

3. While dealing with the ambit of that provision, we had in *DLF Homes* held as follows: -

> "2. The present petition is confined only to the demand in respect of ITC to be reversed on non-business transactions and exempt supplies. The petitioner's challenge to the said demand is premised on the basis that the Directorate General of GST Intelligence (hereafter the DGGI) has also issued a show cause notice dated 02.02.2024 for the tax period 01.07.2017 to 31.03.2021, which also includes the demand proposed on the aforesaid issue. <u>It is the petitioner's case that two authorities cannot proceed simultaneously in respect of the same issue</u>.
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> 3. The impugned order indicates that respondent no.1 is also fully conscious of the same and therefore, it has proceeded to confirm the demand without adjudicating the same. The relevant extract of the impugned order is set out below :-
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> "...........
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> On ITC to be reversed on non-business transactions & exempt supplies: The taxpayer has informed that the proceeding under the subject has already been taken up by DGGI (HQ), New Delhi had referred section 6(2)(b) of CGST Act 2017 and stated that parallel proceeding cannot be started. Deputy Director Investigation (INV-DGGI (HQ) New Delhi vide letter no DGGI/INV/GST/2722-2023/INV/o/o/Pr.OGG(HQ)/2028 dated 20.12.2023DGGI (HQ) has acknowledge the fact. Since the proceeding on the issue at being executed by DGGI (HQ), New Delhi, the demand raised through DRC01 sands as it is."
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> 4. <u>We find merit in the contention that respondent no.1 cannot adjudicate a demand, which is also the subject matter of other proceedings. Since, the period covered under the impugned order is also subsumed in the show cause notice issued by the DGGI, both the proceedings cannot be carried on simultaneously</u>.

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[5] W.P.(C) 11037/2024

[6] Act

> 5. Mr. Rajeev Aggarwal, the learned counsel appearing for respondent no.1 states, on instructions, that the demand, in respect of ITC to be reversed on non-business transactions and exempt supplies, be set aside as the same would be adjudicated by the DGGI.
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> 6. In view of the above, the impugned demand is required to be set aside to the extent as noted above. It is so directed.
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> 7. It is clarified that the concerned Authority shall adjudicate the said issue pursuant to a show cause notice dated 02.02.2024 issued by the DGGI.
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> 8. The present petition is allowed in the aforesaid terms. The pending application is also disposed of."

4. The challenge to the SCN before us proceeds in light of the investigation which has been initiated by the **Directorate General of GST Intelligence**[7] in terms of a SCN dated 01 July 2024 and which stands placed on our record as Annexure P-6. Admittedly, the said SCN proceedings are yet to be concluded.

5. From the counter affidavit which has been handed over by the State GST authorities in these proceedings, it is evident that the pendency of proceedings before the DGGI is conceded. In view of the aforesaid, we find ourselves unable to sustain the validity of the impugned SCN dated 25 April 2024.

6. We, accordingly, allow the instant writ petition and quash the impugned SCN dated 25 April 2024. This order, however, shall be without prejudice to the right of the DGGI to continue and conclude the investigation flowing from the SCN of 01 July 2024.

7. We also accord liberty to the State GST authorities to transmit all material information that may be in their possession and which may be considered as relevant to the inquiry presently being

[7] DGGI

undertaken by the DGGI. All contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

JANUARY 14, 2025/DR