$~68 & 79-82

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

\+ **W.P.(C) 15418/2025**

ROHIT NEGI .....Petitioner

Through: Mr. Sunil Dalal, Sr. Adv. with Mr. Tarun Chawla, Mr. Pravesh Bhaguna, Mr. Aniruddh Singh, Mr. Jatin Singh, Mr. Ankit Rana, Ms. Shipra Bali, Mr. Bharat Khurana and Mr. Sarthak Malhotra, Advs.

versus

COMMISSIONER OF CENTRAL TAX GST DELHI EAST .....Respondent

Through: Mr. Pranay Mohan Govil, SSC.

79 WITH

\+ **W.P.(C) 12681/2023**

ANUJ GUPTA .....Petitioner

Through: Mr. Sunil Dalal, Sr. Adv. with Mr. Tarun Chawla, Mr. Pravesh Bhaguna, Mr. Aniruddh Singh, Mr. Jatin Singh, Mr. Ankit Rana, Ms. Shipra Bali, Mr. Bharat Khurana and Mr. Sarthak Malhotra, Advs.

versus

COMMISSIONER OF CENTRAL TAX GST DELHI EAST .....Respondent

Through: Mr. Akash Verma, SSC, CBIC.

80 WITH

\+ **W.P.(C) 15362/2025**

ANUJ GUPTA .....Petitioner

Through: Mr. Sunil Dalal, Sr. Adv. with Mr. Tarun Chawla, Mr. Pravesh Bhaguna, Mr. Aniruddh Singh, Mr. Jatin Singh, Mr. Ankit Rana, Ms. Shipra Bali, Mr. Bharat Khurana and Mr. Sarthak

Malhotra, Advs.

versus

COMMISSIONER OF CENTRAL TAX GST DELHI EAST .....Respondent

Through: Mr. Akash Verma, SSC, CBIC.

81 WITH

+ **W.P.(C) 15364/2025**

ROHIT NEGI .....Petitioner

Through: Mr. Sunil Dalal, Sr. Adv. with Mr. Tarun Chawla, Mr. Pravesh Bhaguna, Mr. Aniruddh Singh, Mr. Jatin Singh, Mr. Ankit Rana, Ms. Shipra Bali, Mr. Bharat Khurana and Mr. Sarthak Malhotra, Advs.

versus

COMMISSIONER OF CENTRAL TAX GST DELHI EAST .....Respondent

Through: Mr. Pranay Mohan Govil, SSC.

82 AND

+ **W.P.(C) 15367/2025**

INDU GUPTA .....Petitioner

Through: Mr. Sunil Dalal, Sr. Adv. with Mr. Tarun Chawla, Mr. Pravesh Bhaguna, Mr. Aniruddh Singh, Mr. Jatin Singh, Mr. Ankit Rana, Ms. Shipra Bali, Mr. Bharat Khurana and Mr. Sarthak Malhotra, Advs.

versus

COMMISSIONER OF CENTRAL TAX GST DELHI EAST .....Respondent

Through: Mr. Vishal Chadha, SSC with Mr. Chandan Kumar, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% **09.10.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 63140/2025 in W.P.(C) 15418/2025

2. Allowed subject to all just exceptions. Accordingly, the application is disposed of.

W.P.(C) 15418/2025
W.P.(C) 12681/2023
W.P.(C) 15362/2025
W.P.(C) 15364/2025
W.P.(C) 15367/2025

3. The present five petitions have been filed by the Petitioners challenging the following Orders-in-Original:

Sl no	Diary No	Filling date	WP(No)	Name	OIO	Penalty (In Rs)	Matter listed at Sl No
1	1773770/2023	23.09.2023	15367/2025	INDU GUPTA	OIO No 02 dated 22.06.23 (Fine Line)	7500000	82
2	1773774/2023	23.09.2023	15364/2025	ROHIT NEGI	OIO No 02 dated 22.06.23 (Fine Line)	15000000	81
3	1773768/2023	23.08.2023	12681/2023	ANUJ GUPTA	OIO No 02 dated 22.06.23 (Fine Line)	15000000	79
4	1773764/2023	23.09.2023	15362/2025	ANUJ GUPTA	OIO No 01 dated 22.06.23 (Elan)	2900000	80

5	1773772/2023	23.09.2023	15418/2025	ROHIT NEGI	OIO No 01 dated 22.06.23 (Elan)	2900000	68

4. The background of these cases is that Central Excise Tax demands were raised against M/s Fine Retailers Pvt. Ltd. and M/s. Elan Retails Pvt. Ltd. in respect of alleged goods which were being manufactured by them. A search was conducted on 17th April, 2017 and 18th April, 2017. Mr. Rohit Negi and Mr. Anuj Negi are Directors of M/s. Elan Retails Pvt. Ltd. Ms. Indu Gupta along with Mr. Rohit Negi and Mr. Anuj Negi are Directors of M/s Fine Retailers Pvt. Ltd.

5. Show Cause Notices (hereinafter, *'SCNs'*) were issued on 9th October, 2017, 6th December, 2018 and 27th December, 2018 to the Petitioners. However, it appears that the Petitioners had not filed replies to the SCNs and neither had they appeared in the personal hearings. Thereafter, order dated 2nd May, 2023 was passed by a Co-ordinate Bench of this Court in petitions which were filed by the Petitioners before this Court being ***W.P. (C) Nos. 3820/2023, 3838/2023, 3841/2023, 4330/2023 and 4353/2023.*** The Co-ordinate Bench of this Court had considered the matter and on the ground that service may not have been properly effected upon the Petitioners of the SCNs, the orders impugned therein were set aside and the matters were restored back before the Adjudicating Authority. The relevant portion of the said order dated 2nd May 2023, is set out below:

> *"10. It is an admitted case that the notices in the present case could not be served on the petitioners since no one was found in the premises. Mr. Anuj Gupta, admittedly, had informed the authorities that the company has been taken over by a new management and the data can be*

procured from www.mca.gov.in. 11. No attempts were made by the respondents to find out the registered address of the company. The said email was admittedly received by the respondents on 25.08.2022. The department, however, hurriedly proceeded to pass the impugned orders on 14.09.2022, even though, the Show Cause Notice was issued way back in the year 2017 and 2018. 12. This Court is conscious of the fact that the impugned orders are appealable orders. The impugned orders can be challenged by filing an appeal in terms of Section 35B of the Act. However, since the impugned orders have been passed without complying with the principles of natural justice and that the petitioners have approached this Court immediately on becoming aware of the impugned order, this Court considers it apposite that one opportunity is granted to the petitioners to present their case by filing an appropriate reply before the Adjudicating Authority.

13. In view of the above, the impugned orders are set aside and the matter is restored before the Adjudicating Authority. The petitioners are directed to file their replies alongwith supporting documents within a period of four weeks from today. 14. The matter is now placed before the Adjudicating Authority on 12.05.2023 at 2:00 p.m. The petitioners are directed not to take unwarranted adjournments and shall cooperate with the adjudication process. The Adjudicating Authority shall endeavour to pass a final order not later than four weeks from the filing of the reply by the petitioners. In case the date fixed is not convenient to the Adjudicating Authority, a fresh date for personal hearing shall be communicated to the petitioners at least one week in advance. 15. The Petitions are allowed in the aforesaid terms."

6. Upon remand, the present two impugned orders have come to be passed on 22nd June, 2023 in respect of both the companies. The Petitioners have

sought to challenge these impugned orders by filing writ petitions on 23rd September, 2023. However, these writ petitions were returned under objections and for some reason, the Counsels did not file the same in a timely manner and have chosen to re-file them almost two years later, *i.e.*, on 7th July, 2025.

7. Mr. Sunil Dalal, ld. Senior Counsel seeks to argue on facts that both the companies were, in fact, not engaged in manufacturing, therefore, the SCNs itself are not tenable.

8. A perusal of the impugned orders and the SCNs would show that during the search, the premises of the Petitioners was inspected and various final products and raw materials were seized. Moreover, the question as to whether there was actual manufacturing taking place or not would be a factual issue which cannot be ascertained in a writ jurisdiction. The correct remedy for the Petitioners was to file the appeals in terms of Section 35B of the Central Excise Act, 1944.

9. At this stage, ld. Counsel for the Department have taken vehement objection to the refiling delay of almost two years in these matters and submit that the Petitioners do not deserve to be relegated even to the Appellate remedy as they are conscious and aware of the demands that have been raised and ought to have challenged the same diligently.

10. In response thereto, Mr. Sunil Dalal, ld. Senior Counsel submits that the Petitioners' Counsels who had filed the matter initially had a shifting of office and in that process, the matter skipped the attention of the Counsels.

11. Heard the ld. Counsel for the Parties.

12. Even if the submission of the Petitioners is accepted to the effect that the Counsel was in some difficulty and it had skipped its attention, there can

be no justification for the client not to have been diligent in following the matters with their Counsels. However, the delay is primarily in the refiling of the petitions and these are writs where though there is an expectation that the same ought to be filed within a reasonable time, no specific limitation is provided in law. It is deemed appropriate to condone the delay in the refiling subject to deposit of Rs.10,000/- as costs in each of the petitions. The same shall be deposited with the Delhi High Court Legal Service Committee. The bank details of the Delhi High Court Legal Service Committee are as under:

- ***Name: Delhi High Court Legal Services Committee***
- ***Bank: UCO Bank, Delhi High Court.***
- ***A/c No.: 15530110008386***
- ***IFSC Code: UCBA0001553***

13. The present petitions are disposed of with liberty being given to the Petitioners to file appeals before the concerned Appellate Authority challenging the impugned orders on or before 30th November, 2025 with the requisite pre-deposit.

14. Proof of deposit of costs shall also be filed with the appeals. If the deposits are done as directed above, the appeals shall be heard on merits and shall not be dismissed on the ground of limitation.

15. All rights and remedies of the parties are left open.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

OCTOBER 9, 2025/kp/ck