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

\+ **SERTA 38/2025 & CM APPL. 80170/2025**

COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX ROHTAK .....Appellant

Through: Mr. Atul Tripathi, SSC, CBIC with Mr.Shubham Mishra, Mr. Gaurav Mani Tripathi & Mr.Akshay Sagar, Advs.

versus

M/S DELHI METRO RAIL CORPORATION LTD .....Respondent

Through: Mr. Tarun Johri & Mr. Vishwajeet Tyagi, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 18.12.2025

1. This hearing has been done through hybrid mode.

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

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3. The present appeal under Section 35G of the Central Excise Act, 1944 *inter alia* challenges the impugned final order dated 2nd July, 2025 passed by the Customs, Excise & Service Tax Appellate Tribunal *(hereinafter, 'CESTAT')* by which the penalty imposed on the Delhi Metro Rail Corporation *(hereinafter,* '*DMRC*') has been set aside by CESTAT, while upholding the demand of service tax and interest on the one-time upfront fee.

4. Mr. Johri, ld. Counsel for the Respondent submits that the DMRC has

already challenged the same very final order dated 2nd July, 2025 before the Supreme Court vide Petition Diary No.50038/2025. On 15th December, 2025, notice was issued in the said matter and the appeal has already been admitted. The order of the Supreme Court has been placed before the Court.

5. In order to avoid multiplicity of proceedings, in view of the fact that the final order dated 2nd July, 2025 is pending challenge before the Supreme Court, the Department may also challenge the same before Supreme Court, for seeking setting aside of penalty as well.

6. The appeal is, accordingly, disposed of with liberty as aforesaid.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

DECEMBER 18, 2025

kk/ss