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

\# **CNR No. DLHC010776292025**

\+ W.P.(C) 15610/2025, CM APPL. 63895/2025 & CM APPL. 20885/2026

SHREE RAM METAL INDUSTRIES .....Petitioner

Through: Ms. Tabbassum Firdause and Mr. M A Ansari, Advs.

versus

THE PRINCIPAL COMMISISONER OF CENTRAL TAX & ORS. .....Respondents

Through: Mr. Akash Verma, Sr. Standing Counsel, CBIC with Ms. Aanchal Uppal,Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

O R D E R

% 07.10.2026

1. Learned counsel representing the parties are *ad idem* that this Writ Petition can be disposed of in terms of Order passed on 18.11.2025 in *W.P.(C)15646/2025* titled ***Delhi Sales Corporation v. The Principal Commissioner of Central Tax & Ors.*** The same was disposed of with the following directions:

> *"1. This hearing has been done through hybrid mode.*
> *2. The Petitioner has filed the present writ petition under Article 226 of the Constitution of India, inter alia, challenging the Order-in-Original dated 21st January, 2025 (hereinafter, 'the impugned order') passed by the Office of the Principal Commissioner of Central GST, Delhi*

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North. The Petitioner further challenges the Form DRC-07 dated 23rd February, 2025 by which a demand has been raised against the Petitioner for a sum of Rs. 1,32,467/-.

3. The stand of the Petitioner is that prior to the issuance of the show cause notice dated 7th June, 2024, (hereinafter, 'SCN'), the entire demand was paid by the Petitioner in the month of August, 2022 itself. This is evidenced by a letter dated 31st August, 2022 issued by the Delhi Sales Corporation which is placed at Annexure P-3 in the present petition. Thus, it is the stand of the Petitioner that though the impugned order relates to 1155 buyers/recipients and 79 fake non-existent firms, insofar as the Petitioner is concerned, if the entire amount has been paid, the impugned order would be unsustainable to the extent of the demands raised against the Petitioner.

4. A perusal of the impugned order would show that the said payment made by the Petitioner is also acknowledged in the impugned order itself at page no.12. On the said page, where noticee no. 631 is the Petitioner, under the head 'appropriation' a sum of Rs.2,07,868/- is duly acknowledged to have been received by the Department.

5. Today, Mr. Verma, ld. Counsel for the Department confirms that the tax amount of Rs. 2,07,868/- has been deposited by the Petitioner. It is his submission that there were a large number of buyers and recipients of 79 fake, non-existent firms and hence a penalty was imposed upon the Petitioner.

6. Ld. Counsel for the Petitioner submits that in this case, the summary of the SCN i.e. FORM GST DRC-01 was issued on 27th September, 2024. However, the amount was deposited by the Petitioner in August, 2022 itself. Reliance is also placed by the Petitioner upon Section 74(8) of the Central Goods and Service Tax Act, 2017.

7. Ld. Counsel for the Petitioner also submits that in terms of Section 74(5) of the Central Goods and Service Tax Act, 2017 (hereinafter, 'the Act'), even prior to issuance of SCN, a person chargeable with tax can pay the same. Hence, it is the case of the Petitioner that no further penalty can be imposed on them.

8. Heard. A perusal of Section 74 of the Act would show that there is a fundamental difference in the wording of Section 74(5) and Section 74(8) of the Act. The said provisions contemplate issuance of initially a notice under Section 74(1) of the Act, as to why the taxable amount along with interest ought not to be recovered. Upon such notice being issued along with a statement-cum-demand under Section 74(3) of the Act, the person chargeable with tax has the option to pay the tax along with 15% of the penalty on his own. If the same is done, then no further notice would be served upon such a person.

9. On the other hand, if the amount is not paid and a show cause notice is actually served and thereafter, within 30 days, the tax along with interest and penalty equivalent to 25% is paid, then the proceedings

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emanating from the show cause notice are deemed to be concluded. The relevant provisions of the Act are extracted hereinbelow:

> ***74. Determination of tax pertaining to the period up to Financial Year 2023-24, not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilfulmisstatement or suppression of facts.—***
>
> *(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax**, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.***
>
> *xxxx*
>
> *(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.*
>
> *xxxx*
>
> ***(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment**.*
>
> *(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.*
>
> *(7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.*
>
> ***(8) Where any person chargeable with tax under subsection (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded."***

10. In the present case, summons were issued to the Petitioner on 6th July, 2022. In response to the summons issued on 6th July, 2022, the Petitioner paid the tax amount along with interest in terms of a letter dated 31st August, 2022 under Section 73(5) of the Act.

11. Subsequently, the demand-cum-SCN was issued under Section 74(1) of the Act on 7th June, 2024. In terms of the provisions, even if

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the entire amount and penalty is taken into consideration, the penalty only comes to Rs.19,000/-. Under such circumstances, relegating the Petitioner to the appellate remedy would unnecessarily delay the matter.

12. Accordingly, if the Petitioner deposits 15% of the penalty amount, the SCN would be deemed to be closed in terms of Section 74(5) of the CGST Act.

13. The Petitioner is willing to deposit the same. Let the Petitioner deposit 15% of the penalty amount within a period of four weeks, subject to which, the impugned order, only qua the Petitioner shall be quashed. It is made clear that this order would not apply to any of the other noticees.

14. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

2. The Writ Petition, along with pending applications, is disposed of in the aforesaid terms.

ANIL KSHETARPAL, J

BHARAT PARASHAR, J

OCTOBER 7, 2026/JYH/KT

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