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

Date of Decision: 6th November 2025

+ **W.P.(C) 16820/2025 & CM APPL. 69120/2025**

DEVENDER SINGH

.....Petitioner

Through: Mr. Akhil Krishan Maggu, Mr. Vikas Sareen, Ms. Oshin Maggu, Mr. Aryan Nagpal, Ms. Mehak Sharma, Advs. (9650046568)

versus

ADDITIONAL COMMISSIONER, CENTRAL GOODS AND SERVICES TAX, DELHI WEST

.....Respondent

Through: Ms. Anushree Narain, SSC with Mr. Naman Choula & Mr. Yamit Jetley, Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

CM APPL. 69121/2025

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

W.P.(C) 16820/2025 & CM APPL. 69120/2025

3. The present petition has been filed by the Petitioner- Mr. Devender Singh under Articles 226 and 227 of the Constitution of India, *inter alia*, challenging the Order-in-Original dated 28th July 2025 (hereinafter, '*impugned order*') passed by the Additional Commissioner, CGST Delhi West Commissionerate. *Vide* the impugned order, demands have been raised against the Petitioner in the following terms:



Para No. Of The Impugned Order		Penalty Under Section	Penalty (INR) Amount
10.1	(i)	122(1)(ii)	41,38,811/-
	(ii)	122(1)(vii)	41,39,138/-
10.2	(i)	122(1)(ii)	16,09,944/-
	(ii)	122(1)(vii)	64,46,762/-
	(iii)	122(1)(xvii) And 122(3)(d)	25,000/-
10.3	(i)	122(1)(ii)	1,45,35,988/-
	(ii)	122(1)(vii)	1,61,14,344/-
	(iii)	122(1)(xvii) And 122(3)(d)	25,000/-
10.4	(i)	122(1)(vii)	60,62,822/-
10.5	(i)	122(1)(ii)	5,02,19,039/-
	(ii)	122(1)(vii)	5,02,15,522/-
10.6	(i)	122(1)(ii)	2,01,74,842/-
	(ii)	122(1)(vii)	4,75,23,398/-
10.7	(i)	122(1)(ii)	88,38,291/-
	(ii)	122(1)(vii)	88,23,784/-
10.8	(i)	122(1)(ii)	88,18,288/-
	(ii)	122(1)(vii)	1,43,03,922/-
10.9	(i)	122(1)(ii)	4,99,74,434/-
10.10	(i)	122(1)(ii)	4,03,68,511/-
	(ii)	122(1)(vii)	3,41,60,120/-
10.11	(i)	122(1)(ii)	4,70,27,996/-
	(ii)	122(1)(vii)	4,78,92,034/-
Total			48,14,37,990/-

4. This is the second round of challenge by the Petitioner. A Show Cause Notice (hereinafter, 'SCN') dated 17th August, 2023 was issued to the Petitioner wherein the allegations were that there were 41 firms which were fraudulently availing Input Tax Credit (hereinafter, 'ITC') without actual receipt of goods. Upon a search and investigation being conducted, it was revealed that the Petitioner along with one of his co-noticees *i.e.*, Mr. Pawandeep Sachdeva, who is the son of Petitioner were operating several non-existing and bogus firms in the following names:



- (i) M/s Kanishk Exports;
- (ii) M/s Krishna International;
- (iii) M/s Arshad Trade Impex;
- (iv) M/s Himani Enterprises;
- (v) M/s Manish Trading Co.;
- (vi) M/s Sai Nath Trading Co.;
- (vii) M/s Jai Mata Trading Co.;
- (viii) M/s Anuj Corporation;
- (ix) M/s Surrender Enterprises;
- (x) M/s Kuldeep Enterprises;
- (xi) M/s Piyush Enterprises; and
- (xii) M/s B.R. & Co.

5. It was further revealed during the course of investigation that the Petitioner had also created other fake firms in order to indulge in fraudulent circular trading and had been involved in operating various bank accounts, mobile phones under different names and also GST Nos., which were generated in the names of these firms.

6. The crux of this investigation is alleged to have revealed that apart from the 41 exporting firms, there were 116 fake firms which had common mobile nos., email IDs, IP addresses and overlapping directors. These firms were traced to the same IP address or to the same devices operating in the same location namely Azadpur and Civil Lines. The circular transactions were carried out only in order to enable creation of invoices without any actual supply of goods and services, in order to claim ITC. The two important members who had implemented this fraudulent network and maze of



transactions were Mr. Pawandeep Sachdeva and Mr. Devender Singh *i.e.*, the Petitioner herein as per the SCN.

7. The statements of several persons who had been involved including Mr. Tinku Yadav and Mr. Govind Sharma were recorded and thereafter, the SCN was issued. A detailed Order-in-Original dated 31st January, 2025 was passed by the Additional Commissioner, CGST Delhi West Commissionerate against several firms and co-noticees running into 132 in number.

8. The said Order-in-Original dated 31st January, 2025 was challenged by the Petitioner before this Court by way of a writ petition being ***W.P.(C) 1958/2025*** titled ***Devender Singh v. Additional Commissioner, Central Goods and Service Tax, Delhi West Commissionerate***. In the said writ petition, the allegation raised was that no notice of hearing was served upon Mr. Devender Singh *i.e.*, the Petitioner herein and Mr. Pawandeep Sachdeva, who is the son of Petitioner. The said writ petition was disposed of in the following terms:

“2. It is in the aforesaid context that we had requested Mr. Singla, learned counsel representing the respondent, to obtain instructions. Mr. Singla today apprises the Court that no e-mail communications were sent and that the Speed Post notices do not appear to have been served upon the writ petitioners within time. In view of the above and on instructions, it was contended that the ends of justice may warrant the matter being remitted for consideration afresh.

3. Accordingly, we allow the present writ petitions and quash the Orders-in-Original dated 31 January 2025. The Respondents may, as a consequence of the above, draw proceedings afresh and from the stage of issuance of the Show Cause Notice. They shall ensure that an opportunity of hearing is provided to the writ



Petitioners.

4. *The writ Petitioners shall also provide to the Respondents the correct e-mail particulars to facilitate communication of the dates that may now be fixed.*

5. *All rights and contentions of respective parties on merits are kept open.*

6. *The writ petitions shall stand disposed of on the aforesaid terms.”*

9. As can be seen from the above order, the Order-in-Original dated 31st January, 2025 was set aside and an opportunity of hearing was given to the Petitioner. Thereafter, the present impugned order has been passed on 28th July, 2025 raising the above demands.

10. The contentions of Mr. Akhil Krishan Maggu, Id. Counsel for the Petitioner are as under:

- (i) Under Section 121 of the Central Goods and Service Tax Act, 2017 (hereinafter, ‘CGST Act’), penalty can be imposed only upon a ‘taxable person’. Since the Petitioner is only a director or a partner of the firms, he would not be a ‘taxable person’ and hence, no penalty can be imposed upon the Petitioner under Section 122(1) of the CGST Act.
- (ii) That the Petitioner had sought an opportunity for cross examination of the other co-noticees which has not been granted and has been rejected *vide* the impugned order.
- (iii) That in terms of the Circular being **Circular No. 254/11/2025 – GST** dated 27th October 2025, no ‘proper officer’ was assigned under the CGST Act and Rules under Section 122 of the CGST Act and it is for the first time *vide* the circular dated 27th October 2025 that the following officers have been designated as proper officers:



- Additional or Joint Commissioner of Central Tax;
- Deputy or Assistant Commissioner of Central Tax; and
- Superintendent of Central Tax

11. On these three grounds it is submitted by the Id. Counsel for the Petitioner that the SCN itself deserves to be quashed and in any event, the impugned order deserves to be quashed. It is his submission that the CGST Department alleges that the Petitioner is the mastermind. However, the contention of the Id. Counsel for the Petitioner is that the Petitioner cannot be treated as a ‘taxable person’,

12. On the other hand, Ms. Anushree Narain, Id. SSC for the Respondent submits that in the first round of litigation when the SCN was issued, the Petitioner did not raise any allegations in respect of cross examination. In fact, all the statements which were recorded by the CGST Department, were mentioned clearly in the first Order-in-Original dated 31st January, 2025. According to the Id. SSC, the SCN and the first Order-in-Original captured all the statements.

13. The first writ petition *i.e.*, **W.P.(C) 1958/2025** which was filed by the Petitioner was disposed of with the direction that the Petitioner would only be given a hearing and no further directions were given. Thus, it is the submission of the Id. SSC that in this round, the Petitioner cannot raise fresh grounds against the SCN itself.

14. The Court has heard Id. Counsel for the parties.

15. The allegations which have been placed on record against the Petitioner in terms of the impugned order are recorded as under:

“9.1 The discussion and findings are restricted to only in compliance of Hon'ble Delhi High Court order dated



05.03.2025 passed in the matter of Sh. Pawandeep Sachdeva and Sh. Devender Singh who filed the Writ Petition No. W.P.(C) 1957/2025 and W.P.(C) 1958/2025 respectively.

9.1 I have carefully gone through the facts on record, the allegations as per the SCN. Hon'ble Delhi High Court order dated 05.03.2025, written submissions made by the noticees. records of personal hearing and the relevant legal provisions.

9.2 Now I proceed to decide the SCN in respect of Sh. Pawandeep Sachdeva and Sh Devender Singh:

9.2.1 At the outset, I note that the present case finds its genesis when an investigation by the DGGI, Ghaziabad Regional Unit, revealed a GST fraud network operating through numerous non-existent firms across Delhi. The investigation focused on firms availing fake Input Tax Credit (ITC), issuing bogus invoices, and exporting goods fraudulently to claim undue tax refunds. One such entity under scrutiny was M/s Heritage International (GSTIN 07AHWPG8867AIZW), a non-operational entity having its Principal Place of Business at 4031, First Floor, Main Road, Naya Bazar, Delhi. During the search, it was found that the premises was never rented to Sh. Sanjay Kumar Gaur (proprietor). Statement from the property caretaker i.e. Shri Alok Gupta confirmed the fraudulent GST registration based on fabricated tenancy documents. Sh. Sanjay Kumar Gaur, admitted that his identity documents were misused by individuals named Sh. Tinku Yadav and Sh. Govind Sharma. In lieu of a monthly payment of Rs 10,000-20,000, he provided them with his Aadhar, PAN, and signed cheques. The firm M/s Heritage International was created without his involvement in its actual operations, and he had no interaction with any suppliers or buyers. Further investigation revealed that numerous fake GST registrations were obtained using forged or stolen identity documents, and these bogus entities were engaged in issuing invoices without actual supply of goods



or services, thereby facilitating fraudulent availment and encashment of ITC. The investigation revealed the operation of 116 fake firms, many of which were found to have declared fictitious or non-traceable business premises. The search and seizure operations were conducted at multiple locations including 227 & 347, Vardhinan Fortune Mall, Azadpur, Delhi and SC, Bhama Shah Marg, Civil Lines, Delhi. These premises were used for running the backend operations of the fake entities.

9.2.2 During the investigation, 116 fake firms were identified to be linked directly or indirectly through common mobile numbers, email IDs, IP addresses, and overlapping directors or proprietors. Multiple firms were registered from the same IP address or from devices traced to the same geolocation primarily Azadpur and Civil Lines premises. Bank accounts were found opened in the name of fake firms using forged documents and were used only for credit and immediate withdrawal, indicating circular transactions. M/s Heritage International (GSTN: 07AHWPG8867AIZW), found non-existent at the declared address and was involved in bogus export and refund claims. Some of the supplier firms linked to the fake firms were also found non-traceable or deregistered, thus breaking the supply chain and confirming fraudulent ITC availment. Statements of several individuals whose documents were misused confirmed that they were unaware of the GST registrations obtained in their names.

9.2.3 Statements of Sh. Tinku Yadav, Sh. Govind Sharma, Sh. Varun Gupta and Sh. Satish Jain confirmed that they all along with Shri Yogesh Mittal, Shri Saurabh Mittal, Shri Satish Yadav, Sh. Pawandeep Sachdeva and Sh. Devender Singh were involved in creating & operating fraudulent firms, contacting bank officials to facilitate issuance of cheque books, and helping open bank accounts of fake firms, issuing bogus GST invoices, manipulating billing & GST filings, availing ineligible



ITC and claiming undue ITC refunds. All of them have specific roles i.e. collecting identity and KYC documents such as PAN, Aadhaar, rem agreements, and electricity bills, billing and purchases of such firms, which never dealt with actual goods or services, managing cash flow, claiming fake GST refunds in this fraud. **Crucially, these operatives identified Sh. Pawandeep Sachdeva and Sh. Devender Singh Sachdeva as significant member of this fraud.**

9.2.4 Further. Shri Rakesh Kumar Dogra alias Raku, son of Late Shri Devi Ram Dogra. Customs House Agent tendered his statements on 29.10.2021 and 21.07.2022 during the investigation under the CGST Act. **He disclosed that his primary clients included Shri Devender Sachdeva and Shri Pawandeep Sachdeva, who resided at KF-55, Kavi Nagar Ghaziabad, and operated a godown/factory at P6, Bulandshahar Industrial Area, Ghaziabad. along with other individuals. He clarified that although both Pawandeep Sachdeva and Devender Singh were not listed as proprietors or partners in any of the exporting firms for which he facilitated customs clearance at ICD. TKD/PPG, they were instrumental in getting him the clearance work. Specifically, he stated that the customs clearance jobs related to exporting firms such as M/s Arshad Trade Impex and M/s Himani Enterprises came to him through them. His statement suggested that Sh. Devender Singh and Sh Pawandeep Nachdeva played a key role behind the scenes in arranging and managing export-related clearances for various firms, raising suspicions about their indirect involvement in the functioning and operations of the entities under scrutiny for GST-related irregularities.**

9.2.5 Also, Shri Rinku Sharma, CHA stated that he has been engaged in the business of customs clearance for export and import consignments for the post 20 years, primarily in collaboration with his friend Shri Rakesh Dogra alias Raku In his statement, Shri Rinku Sharma



specifically named two firms-M/s Arshad Trade Impex and M/s Himani Enterprises that were used for export purposes by Shri Devender Singh. He confirmed that it was Devender Singh who contacted him for managing the export shipments of these firms. Shri Devender Singh would personally provide him with necessary documentation, including export invoices, packing lists, and other related papers required for customs clearance. Further, 3 phones resumed from the residence of Shri Devender Singh were forensically analysed which resulted in recovery of some documents related to export firms mentioned by Shri Rakesh Dogra and Shri Rinku Sharma. Further, statements of some of the transporters whose bilties were found during the searches confirmed that Sh. Devender Singh and Sh. Pawandeep Sachdeva used to contact them for the issuance of fake bilties for the transportation of the goods which were actually never supplied.

9.2.6 I find that Shri Devender Singh, who claimed to have run business of his partnership firm M/s Kanishk Esports, Ghaziabad, was also associated with Sh. Tinku Yadav and Sh Govind Sharma, as confirmed by Shri Tinku Yadav vide his statement dated 30.08 2022 Tinku Yadav not only created fake firm in his name is M/s Krishna International but also created other fake firms for Sh. Devender Singh such as M/s Sai Nath Trading Co. M/s Ja Mata Trading Co., M/s Anuj Corporation, M/s Surender Enterprises. M/s Kuldeep Enterprises M/s Piyush Enterprises, M/s B.R.& Co, and M/s Arshad Trade Impex, which were created by him through Govind Sharma and thereafter such firms were given by him to Shri Devender Sachdeva and Shri Pawandeep Sachdeva, residents of Kavi Nagar, Ghaziabad. As per statement of Sh. Tinku Yadav, Shri Devender Singh and Shri Pawandeep Sachdeva used such firms for issuance of fake bills to the exporting firms such as M/s Arshad Trade Impex, M/s Manish Trading and M/s Honani Enterprises and other firms and in such firms, no actual business was undertaken, only fake bills were issued



from such firms. Further, some documents related to business activities of M/s Arshad Triade Impex, M/s Manish Trading Co. and M/s Himani Enterprises were found in mobile phone of Devender Singh resumed on 26.10.2021 and on being asked about such documents, Shri Devender Singh could not submit any satisfactory clarification. Besides above, some sheets relevant for September, 2021 in respect of M/s Arshad Trade Impex, M/s Manish Trading and M/s Himani Enterprises showing location of relevant garments goods at business premises of Shri Devender Singh and such details were found matched with the items mentioned in export invoices of Manish Trading Co. (MTC) Arshad Trade Impex (ATI) and Himani Enterprises (HE) relevant for the month of September, 2021. As well, his firm M/s Kanishk Exports claimed purchases from M/s Krishna International, which was found in be a bogus firm created by Tinku Yadav and as per statement tendered by the transporter Ravi Carriers Service, goods shown as transported from business place of M/s Krishna International in Uttam Nagar, Delhi to various parties at ICD, TKD/PPG were actually lifted from P6 Bulandshahr Road Industrial Area, Ghaziabad, which was business premises related to Shri Devender Singh. **Thus, it can be construed that Shri Devendr Singh was actively instrumental in operating bogus firms namely M/s Krishna international as well as other bogus firms created in the name of M/s Sai Nath Trading Co. M/s Jai Mata Trading Co. M/s Anuj Corporation, M/s Surender Enterprises, M/s Kuldeep Enterprises. As well as other bogus firms created in the name of M/s Sai Nath Trading Co., M/s Jai Mata Trading Co. M/s Anuj Corporation, M/s Surender Enterprises, M/s Kuldeep Enterprises. M/s Piyush Enterprises, M/s B.R. & Co. M/s Arshad Trade Impex, M/s Hernani Enterprises and Mis Manish Trading Co. Therefore, Devender Singh appears to be liable for penal action not only under Section 122(1A), but also under Sections 122(1)(ii) and 122(1)(vii) of the CGST Act, 2017 and SGST Act, 2017**



for availment of fraudulent: ITC in such non-existent firms without actually receiving the goods and passing the fraudulent: ITC without actually supply of the concomitant goods from such non-existent firms to their claimed buyers, jointly & severally with above said registered non-existent firms as well as creators of such firms.

9.2.7 As per provision of Section 155 of the CGST Act, 2017, where any person claims that he is eligible for ITC under this Act, the burden of proving such claim shall lie on such person. In the instant case, none of the 17 non-existent/bogus firms could come forward to prove their eligibility towards availment of ITC in question during the course of the investigation. Thus, it appeared that all such 17 firms/buyer firms were also bogus firms and had never been involved in any actual business transactions and were involved in availment of fraudulent ITC and to pass on fraudulent ITC to their buyers without involving any actual supply of the goods or to take refund against such ITC either used in claimed export for taking refund of the same from Customs or accumulated as unutilized ITC to take refund against such accumulated ITC from jurisdictional COST or SGST departments. Therefore, all such non-existent/bogus firms appear to be liable not only for penalties under Sections 122(1)(ii) and 122(1)(vii) of the CGST Act, 2017 and SGST Act, 2017 read with Section 20 of the IGST Act, 2017 for availment of fraudulent ITC without actually receiving the goods and passing the fraudulent ITC without actually supply of the concomitant goods to their claimed buyers, but also liable for penalties under Section 122(1)(xvii) and 122(3)(d) of the CGST Act, 2017 and/or SGST Act, 2017 read with Section 20 of the IGST Act, 2017 as the case may be.”

16. A perusal of the above would show that the allegations against the Petitioner are extremely serious and revolve around creation of fake firms and entities. Both the Petitioner and his son are alleged to have got several firms



created through individuals and associates by paying some consideration around Rs. 10,000/- to Rs. 20,000/-. The statements of the said two associates were contained in the SCN itself as also the first Order-in-Original. In paragraph no.9.2.2 of the impugned order, the investigation has revealed that the devices and the IP address to which these firms were linked were the same. The Petitioner and his son are alleged to have created and operated the transactions on behalf of the fraudulent firms, pursued with bank officials to facilitate issuance of cheque books and opening of bank accounts of the said fake firms. Bogus GST invoices are also alleged to have been issued by the Petitioner and manipulation of the GST filings on behalf of both firms. All this was done to enable availment of ineligible ITC and undue ITC refunds.

17. Mr. Rakesh Dogra, Mr. Rinku Sharma, Mr. Tinku Yadav, Mr. Govind Sharma and Mr. Satish Jain have all explained the role of the Petitioner very clearly. These statements were available with the Petitioner when the SCN was issued. However, the Petitioner did not file any reply to the SCN and raised a plea that no hearing was given, to challenge the first Order-in-Original dated 31st January, 2025. The said plea was accepted in the earlier writ petition and a hearing was directed to be given at that stage. There was no reason as to why the Petitioner could not have sought the cross examination at that stage.

18. In any event, when the expression '*taxable person*' has to be interpreted, the '*taxable person*', so long as it is an identified real person/entity it would be the said person/entity itself. However, in the case of fake, non-existent and fraudulent firms, who do not have any real persons as partners or proprietors or even any incorporation, the '*taxable person*' would be the person who has got such firms created and used the same for availment of



ITC. If the submissions of the Id. Counsel is accepted, then in the case of fake firms or non-existent firms, there would be no liability cast upon anybody despite fraudulently cheating the Exchequer of crores of rupees as is the position in the present case.

19. The submission that under Section 122 of the CGST Act, it is only the '*taxable person*' against whom a penalty can be raised, would not give benefit to the Petitioner who is clearly alleged to be the mastermind of the entire maze of transactions resulting in fraudulent availment of crore of rupees of ITC.

20. From the evidence on record, it is clear that the associates of the Petitioner were involved and their services were utilised by the Petitioner and his son for creation of the fake firms.

21. A perusal of the SCN would also reveal that the role of the Petitioner and his son has been discussed in detail in paragraph No.10.2 onwards of the SCN. The Petitioner in his statement recorded during the course of the investigation has clearly stated as under:

उत्तर :- मैं पिछले 10 वर्षों से गारमेंट्स मैन्युफैक्चरिंग और ट्रेडिंग के व्यवसाय से जुड़ा हुआ हूँ। मेरी कंपनियों और फर्मों का विवरण निम्नलिखित है :-

S. No.	Name of company/ firm	Related business
01.	A B K S TRADING PRIVATE LIMITED, DELHI	Trading/export of garments
02.	MOHTA PLYWOOD INDUSTRIES PRIVATE LIMITED, DELHI & GHAZIABAD (now closed)	Manufacturing/export of Plywood
03.	SHYAM VENEER PRIVATE LIMITED, GHAZIABAD	Manufacturing/trading of garments
04.	GLOW TECHNOLOGIES PRIVATE LIMITED, GHAZIABAD	Trading of garments
05.	NAVRANG THEATRES PRIVATE LIMITED, GHAZIABAD (now closed)	Running of Navrang Theatre at Ghaziabad
06.	GHAZIABAD WOOD SEASONING PRIVATE LIMITED, GHAZIABAD (now closed)	Manufacturing of Plywood



07.	JAY DEE GARMENTS LIMITED, DELHI (Now closed and not registered in GST)	No business could be started
08.	NAVRANG EXIMS LIMITED, DELHI (now closed)	Trading of various items
09.	NAVRANG IMPEX, GHAZIABAD	Trading/export of garments
10.	KANISHK EXPORT, GHAZIABAD	Trading/export of garments
11.	NEELU FILM ENTERPRISES, DELHI (Now closed)	Distribution of films
12.	PRAKASH INDUSTRIES, LUCKNOW (Now closed)	Manufacturing of Plywood
13.	PRAN IMPORT PRIVATE LIMITED, DELHI	No business could be started

प्रश्न - कृपया बताएं कि क्या उक्त कंपनियों या फर्मों के अतिरिक्त आपके परिवार के सदस्यों के द्वारा कोई अन्य कंपनी या फर्म चलायी जा रही है, यदि हाँ तो उन कंपनियों/फर्मों का विवरण उपलब्ध कराएं.

उत्तर - मेरे अलावा मेरे परिवार में मेरा पुत्र पवनदीप सचदेवा और पत्नी जसवीर कौर भी उपरोक्त लिखित कुछ कंपनियों/फर्मों में डायरेक्टर या पार्टनर हैं. इसके अतिरिक्त मेरा पुत्र पवनदीप सचदेवा Jay Dee Enterprises नामक एक फर्म का प्रोपराइटर है और यह फर्म भी गारमेंट्स की ट्रेडिंग और एक्सपोर्ट करती थी और यह फर्म वर्ष 2018 से बंद है.

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प्रश्न - कृपया बताएं कि क्या उक्त कंपनियों या फर्मों के अतिरिक्त आपके परिवार के सदस्यों के द्वारा कोई अन्य कंपनी या फर्म चलायी जा रही है, यदि हाँ तो उन कंपनियों/फर्मों का विवरण उपलब्ध कराएं.

उत्तर - मेरे अलावा मेरे परिवार में मेरा पुत्र पवनदीप सचदेवा और पत्नी जसवीर कौर भी उपरोक्त लिखित कुछ कंपनियों/फर्मों में डायरेक्टर या पार्टनर हैं. इसके अतिरिक्त मेरा पुत्र पवनदीप सचदेवा Jay Dee Enterprises नामक एक फर्म का प्रोपराइटर है और यह फर्म भी गारमेंट्स की ट्रेडिंग और एक्सपोर्ट करती थी और यह फर्म वर्ष 2018 से बंद है.

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प्रश्न - आपके उक्त मोबाइल से कुछ sheets प्राप्त हुई हैं, जिनमें MTC, ATI, HE, M, CE के सन्दर्भ में कुछ इनवॉइस का विवरण दिया गया है. इन शीट्स में दी गयी डिटेल्स को examine करने पर पता चला कि MTC, ATI, HE के सन्दर्भ में दी गयी डिटेल्स वास्तव में मनीष ट्रेडिंग कंपनी (MTC), अरखद ट्रेड इम्पेक्स (ATI) और हिमानी इंटरप्राइजेज (HE) के सितम्बर, 2021 में किये गए से सम्बंधित एक्सपोर्ट इनवॉइस में दी गयी आइटम डिटेल्स से match करती हैं, और इन शीट्स में दिखाए गए गारमेंट्स goods की लोकेशन मुख्यतः P6, S13, DG दिखाई गयी है. आपने बताया है कि P6, बुलंद शहर रोड इंडस्ट्रियल एरिया, गांधीबाबाद और S13, साउथ साइड डा रोड इंडस्ट्रियल एरिया, गांधीबाबाद के पते पर स्थित व्यावसायिक परिसर आपके हैं. तो कृपया बतायें कि ऐसा क्यों ना माना जाए कि आपके व्यावसायिक परिसरों से ही मनीष ट्रेडिंग कंपनी (MTC), अरखद ट्रेड इम्पेक्स (ATI) और हिमानी इंटरप्राइजेज (HE) को एक्सपोर्ट हेतु गारमेंट्स की सप्लाई की गयी थी. कृपया DG के नाम से दिखाई गयी लोकेशन के बारे में भी बताएं.

उत्तर :- आपके द्वारा मुझे दिखाए गए उपरोक्त शीट्स के पेट अकउंट में मेने देले और उते देखकर मेने इन शीट्स पर अपने हस्ताक्षर कर दिए हैं. इस सन्दर्भ में मुझे यह कहना है कि P6 और S13 के नाम पर इन शीट्स में दिखाई गई लोकेशन मेरे व्यावसायिक परिसर P6, बुलंद शहर रोड इंडस्ट्रियल एरिया, गांधीबाबाद और S13, साउथ साइड डा रोड इंडस्ट्रियल एरिया, गांधीबाबाद के पते से सम्बंधित हैं. हो सकता है कि DG का मतलब Direct Goods हो, लेकिन बाहर की फर्मों से डायरेक्ट खरीदा गया हो. बाकी मैं इन शीट्स के बारे में अभी और कुछ भी कहने में असमर्थ हूँ, लेकिन मैं इन शीट्स के बारे में आपको 05-06 दिनों के अन्दर पूर्ण विवरण उपलब्ध करावा दूंगा.

22. Under such circumstances, when the Petitioner himself was controlling the bank accounts of these firms as also the conduct of his own associates, it cannot be held that there was any impingement of principles of natural justice if opportunity of cross examination was not given to the Petitioner. Moreover, the Petitioner has had adequate opportunities even in the first round of litigation before this Court to seek cross examination. Further, the impugned order has dealt with the issue of cross examination in detail and the Adjudicating Authority has held as under:



“8.2 Further, Personal hearing in the matter was held on 21.07.2025 through virtual mode, Sh. Akhil Krishan Maggu and Sh. Vikas Sareen attended the personal hearing on behalf of the notices. They reiterated the written submission dated 09.06.2025 made by them and requested for the cross-examination of few persons in terms of CBIC Circular No. 1053/02/2017-CX dated 10.03.2017 and pertains to pre-GST era. Further, the right to cross-examination during adjudication proceedings under the CGST Act, 2017 is limited compared to the Customs Act, 1962 and Finance Act, 1994. Section 138B of the Customs Act explicitly allows cross-examination in quasi-judicial proceedings, a provision not mirrored in Section 136 of the CGST Act, which only applies to court proceedings. thereby excluding cross-examination in GST adjudication. This omission is significant, and the statutory framework under the CGST Act does not grant the Noticee a right to cross-examine witnesses during adjudication.

In the case of **Kanungo & Co. v. CC** the Supreme Court emphasized that cross-examination could be denied if the evidence provided is in documentary form or if personal cross-examination is unnecessary to establish facts. **Paramjit Kaur v. State of Punjab** (2021 SCC Online P&H 1395): The Punjab and Haryana High Court observed that the GST authorities could deny cross-examination if the request is made to delay proceedings or when sufficient evidence is on record.

Also, Judicial rulings, including **Malik Traders vs. State of U.P.** (2023) and **Annai Poly Packs vs. Deputy Director** (2024), confirm that cross-examination is unnecessary when statements are corroborated by independent evidence.

It may also be noted that cross-examination could be denied if the case is based on solid documentary evidence and the noticee fails to demonstrate why cross-examination would be crucial to their defence. As adjudicating proceedings are Quasi-Judicial in nature. It



has been clarified in various judgements that while principles of natural justice apply, cross-examination is not an absolute right in quasi-judicial proceedings. The adjudicating authority must decide on its necessity, especially when sufficient documentary evidence supports the case without requiring witness examination. The SCN's allegations stand strong, and the Noticees request for cross-examination is therefore rejected, both as a matter of law and on merits and the same was conveyed vide email dated 22.07.2025 and it was acknowledged by the noticees. It was also requested to submit the final reply within three days if the noticees want to make any further submissions. Since, no further submissions were made by the noticees, their written submission dated 09.06.2025 has been considered as their final submission.”

23. The right of cross-examination is not an unfettered right as held by this Court in the decision of ‘*M/s Vallabh Textiles v. Additional Commissioner Central Tax GST, Delhi East & Ors.*’, (2025: DHC: 2559-DB) wherein the Court observed as under:

“15. While cross-examination can be granted in certain proceedings, if it is deemed appropriate, the right to cross-examine cannot be an unfettered right. This has been so held recently by this Court in *Sushil Aggarwal v. Principal Commissioner Of Customs* (2025:DHC:698-DB). The relevant portion of the decision reads as under:

“15. Accordingly, this Court is of the opinion that in order to ensure that there is compliance of Section 138(B) of the Act, **though the same cannot be claimed as an unfettered right in all cases, in the facts of the present case**, both Mr. Sushil Aggarwal and Mr. Aidasani are afforded an opportunity to cross examine Mr. Bhalla.”

16. The rationale behind setting aside an order/judgment on the grounds of non-provision of the right to cross-examine is to safeguard the affected party



from being prejudiced due to non-providing of cross examination. Therefore, such reasoning presumes/implies the existence of prejudice. In other words, if the alleging party fails to prove any substantial prejudice caused to it due to such non-provision, it shall not have the inherent right to set aside such an order/judgment. This view has been upheld by the Supreme Court in various judgments including **M/s. Telestar Travels Pvt. Ltd. v Special Director Of Enforcement 2013(9) SCC 549**. The relevant portion of the said judgment reads as under:

“23. That brings us to the third limb of the attack mounted by the appellants against the impugned orders. It was argued by Mr Divan that while holding that Bountiful Ltd. was a paper company and was being controlled and operated from India by the appellants through Shri Sirish Shah, the adjudicating authority had relied upon the statements of Miss Anita Chotrani and Mr Deepak Raut, and a communication received from the Indian High Commission in London. These statements and the report were, according to Mr Divan, inadmissible in evidence as the appellant’s request for an opportunity to cross-examine these witnesses had been unfairly declined, thereby violating the principles of natural justice that must be complied with no matter the strict rules of the Evidence Act had been excluded from its application. ...

24. Mr Malhotra, on the other hand, argued that the right of cross-examination was available to a party under the Evidence Act which had no application to the adjudication proceedings under FERA.He also placed reliance upon a decision of this Court in *Surjeet Singh Chhabra v. Union of India*(1997(1) SCC 508 1997 SCC (Cri) 272) to argue that cross-examination was unnecessary in certain circumstances such as the one at hand where all material facts were admitted by the appellants in their



statements before the authority concerned.

25. There is, in our opinion, no merit even in that submission of the learned counsel. It is evident from Rule 3 of the Adjudication Rules framed under Section 79 of FERA that the rules of procedure do not apply to adjudication proceedings. That does not, however, mean that in a given situation, cross-examination may not be permitted to test the veracity of a deposition sought to be issued against a party against whom action is proposed to be taken. It is only when a deposition goes through the fire of cross-examination that a court or statutory authority may be able to determine and assess its probative value. Using a deposition that is not so tested, may therefore amount to using evidence, which the party concerned has had no opportunity to question. Such refusal may in turn amount to violation of the rule of a fair hearing and opportunity implicit in any adjudicatory process, affecting the right of the citizen. **The question, however, is whether failure to permit the party to cross-examine has resulted in any prejudice so as to call for reversal of the orders and a de novo enquiry into the matter. The answer to that question would depend upon the facts and circumstances of each case."**

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18. A perusal of the above decisions reveals that while cross-examination would be required in certain cases, it need not be given as a matter of right in all cases. The provision of the opportunity to cross-examine depends on the facts and circumstances of each case and is warranted only when the party seeking such an opportunity is able to demonstrate that prejudice would be caused in the absence thereof.

19. The Court is of the considered view that parties cannot, by praying for cross-examination, cannot convert Show-cause Notice proceedings into mini-trials. Persons seeking cross-examination ought to give specific reasons why



*cross-examination is needed in a particular situation and that too of specific witnesses. **A blanket request to cross-examine all persons whose statements have been recorded by the Department, many of whom are typically employees, sellers, purchasers, or other persons connected to the entity under investigation, cannot be sustained.** If a prayer for cross-examination is made, the Authority has to consider the same fairly and if the need is so felt in respect of a particular person, the same ought to be permitted. If not, the Authority can record the reasons and proceed in the case. Moreover, cross examination need not also be of all persons whose statements are recorded. It could be permitted by the Authority in case of some persons and not all.*

20. In the present case, the mere rejection of the Petitioner's request for cross-examination cannot, in and of itself, be treated as a sufficient ground to bypass the statutorily prescribed appellate remedy and invoke the writ jurisdiction of this Court."

24. Moreover, this Court has consistently taken the view that in cases involving fraudulent avilment of ITC, ordinarily, the Court would not be inclined to exercise its writ jurisdiction. It is routinely seen in such cases that there are complex transactions involved which require factual analysis and consideration of voluminous evidence, as also the detailed orders passed after investigation by the Department. In such cases, it would be necessary to consider the burden on the exchequer as also the nature of impact on the GST regime, and balance the same against the interest of the Petitioners, which is secured by availing the right to statutory appeal.

25. It would be apposite to refer to some of the cases which have been decided by the Supreme Court as also by this Court on these aspects. The Supreme Court in the context of CGST Act, has, in ***Civil Appeal No.***



5121/2021 dated 3rd September, 2021 titled '*The Assistant Commissioner of State Tax & Ors. v. M/s Commercial Steel Limited*', has held as under:

"11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is: (i) a breach of fundamental rights; (ii) a violation of the principles of natural justice; (iii) an excess of jurisdiction; or (iv) a challenge to the vires of the statute or delegated legislation.

12. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent.

13. For the above reasons, we allow the appeal and set aside the impugned order of the High Court. The writ petition filed by the respondent shall stand dismissed. However, this shall not preclude the respondent from taking recourse to appropriate remedies which are available in terms of Section 107 of the CGST Act to pursue the grievance in regard to the action which has been adopted by the state in the present case"

26. Thereafter, this Court in *W.P.(C) 5737/2025* titled *Mukesh Kumar*



Garg v. Union of India & Ors. dealing with a similar case involving fraudulent availment of ITC had held as under:

“11. The Court has considered the matter under Article 226 of the Constitution of India, which is an exercise of extraordinary writ jurisdiction. The allegations against the Petitioner in the impugned order are extremely serious in nature. They reveal the complex maze of transactions, which are alleged to have been carried out between various non-existent firms for the sake of enabling fraudulent availment of the ITC.

12. The entire concept of Input Tax Credit, as recognized under Section 16 of the CGST Act is for enabling businesses to get input tax on the goods and services which are manufactured/supplied by them in the chain of business transactions. The same is meant as an incentive for businesses who need not pay taxes on the inputs, which have already been taxed at the source itself. The said facility, which was introduced under Section 16 of the CGST Act is a major feature of the GST regime, which is business friendly and is meant to enable ease of doing business.

13. It is observed by this Court in a large number of writ petitions that this facility under Section 16 of the CGST Act has been misused by various individuals, firms, entities and companies to avail of ITC even when the output tax is not deposited or when the entities or individuals who had to deposit the output tax are themselves found to be not existent. Such misuse, if permitted to continue, would create an enormous dent in the GST regime itself.

14. As is seen in the present case, the Petitioner and his other family members are alleged to have incorporated or floated various firms and businesses only for the purposes of availing ITC without there being any supply of goods or services. The impugned order in question dated 30th January, 2025, which is under challenge, is a detailed order which consists of various facts as per the



Department, which resulted in the imposition of demands and penalties. The demands and penalties have been imposed on a large number of firms and individuals, who were connected in the entire maze and not just the Petitioner.

15. The impugned order is an appealable order under Section 107 of the CGST Act. One of the co-noticees, who is also the son of the Petitioner i.e. Mr. Anuj Garg, has already appealed before the Appellate Authority. 16. Insofar as exercise of writ jurisdiction itself is concerned, it is the settled position that this jurisdiction ought not be exercised by the Court to support the unscrupulous litigants.

17. Moreover, when such transactions are entered into, a factual analysis would be required to be undertaken and the same cannot be decided in writ jurisdiction. The Court, in exercise of its writ jurisdiction, cannot adjudicate upon or ascertain the factual aspects pertaining to what was the role played by the Petitioner, whether the penalty imposed is justified or not, whether the same requires to be reduced proportionately in terms of the invoices raised by the Petitioner under his firm or whether penalty is liable to be imposed under Section 122(1) and Section 122(3) of the CGST Act.

18. The persons, who are involved in such transactions, cannot be allowed to try different remedies before different forums, inasmuch as the same would also result in multiplicity of litigation and could also lead to contradictory findings of different Forums, Tribunals and Courts.”

27. This position was also followed in ***M/s Sheetal and Sons & Ors. v. Union of India &Anr., 2025: DHC: 4057-DB***. The relevant portion of the said decision read as under:

“15. The Supreme Court in the decision in Civil Appeal No 5121 of 2021 titled ‘The Assistant Commissioner of



State Tax & Ors. v. M/s Commercial Steel Limited’ discussed the maintainability of a writ petition under Article 226. **In the said decision, the Supreme Court reiterated the position that existence of an alternative remedy is not absolute bar to the maintainability of a writ petition, however, a writ petition under Article 226 can only be filed under exceptional circumstances....**

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16. In view of the fact that the impugned order is an appealable order and the principles laid down in the abovementioned decision i.e. **The Assistant Commissioner of State Tax & Ors. (Supra)**, the Petitioners are relegated to avail of the appellate remedy.”

28. Recently, this Court in **W.P.(C) 5815/2025** titled **M/s MHJ Metal Techs v. Central Goods and Services Tax Delhi South** held as under:

“16. This Court, while deciding the above stated matter, has held that where cases involving fraudulent availment of ITC are concerned, considering the burden on the exchequer and the nature of impact on the GST regime, writ jurisdiction ought not to be exercised in such cases. The relevant portions of the said judgment are set out below:

“11. The Court has considered the matter under Article 226 of the Constitution of India, which is an exercise of extraordinary writ jurisdiction. The allegations against the Petitioner in the impugned order are extremely serious in nature. They reveal the complex maze of transactions, which are alleged to have been carried out between various non-existent firms for the sake of enabling fraudulent availment of the ITC.

12. The entire concept of Input Tax Credit, as recognized under Section 16 of the CGST Act is for enabling businesses to get input tax on the goods and services which are manufactured/supplied by them in the chain of business transactions. The



same is meant as an incentive for businesses who need not pay taxes on the inputs, which have already been taxed at the source itself. The said facility, which was introduced under Section 16 of the CGST Act is a major feature of the GST regime, which is business friendly and is meant to enable ease of doing business.

13. It is observed by this Court in a large number of writ petitions that this facility under Section 16 of the CGST Act has been misused by various individuals, firms, entities and companies to avail of ITC even when the output tax is not deposited or when the entities or individuals who had to deposit the output tax are themselves found to be not existent. Such misuse, if permitted to continue, would create an enormous dent in the GST regime itself.

14. As is seen in the present case, the Petitioner and his other family members are alleged to have incorporated or floated various firms and businesses only for the purposes of availing ITC without there being any supply of goods or services. The impugned order in question dated 30th January, 2025, which is under challenge, is a detailed order which consists of various facts as per the Department, which resulted in the imposition of demands and penalties. The demands and penalties have been imposed on a large number of firms and individuals, who were connected in the entire maze and not just the Petitioner.

15. The impugned order is an appealable order under Section 107 of the CGST Act. One of the co-noticees, who is also the son of the Petitioner i.e. Mr. Anuj Garg, has already appealed before the Appellate Authority.

16. Insofar as exercise of writ jurisdiction itself is concerned, it is the settled position that this jurisdiction ought not be exercised by the Court to



support the unscrupulous litigants.

17. Moreover, when such transactions are entered into, a factual analysis would be required to be undertaken and the same cannot be decided in writ jurisdiction. The Court, in exercise of its writ jurisdiction, cannot adjudicate upon or ascertain the factual aspects pertaining to what was the role played by the Petitioner, whether the penalty imposed is justified or not, whether the same requires to be reduced proportionately in terms of the invoices raised by the Petitioner under his firm or whether penalty is liable to be imposed under Section 122(1) and Section 122(3) of the CGST Act.

18. The persons, who are involved in such transactions, cannot be allowed to try different remedies before different forums, inasmuch as the same would also result in multiplicity of litigation and could also lead to contradictory findings of different Forums, Tribunals and Courts.”

17. Under these circumstances, this Court is not inclined to entertain the present writ petition. However, the Petitioners are granted the liberty to file an appeal.

18. Accordingly, the Petitioners are permitted to avail of the appellate remedy under Section 107 of the CGST Act, by 15th July, 2025, along with the necessary pre-deposit mandated, in which case the appeal shall be adjudicated on merits and shall not be dismissed on the ground of limitation.

19. Needless to add, any observations made by this Court would not have any impact on the final adjudication by the appellate authority.”

29. The decision in ***Metal Techs (Supra)*** was challenged before the Supreme Court in ***SLP(C) 27411/2025*** titled ***M/S Metal Techs v. Central Goods and Services Tax Delhi South***. In the said SLP, the Supreme Court



vide order dated 22nd September, 2025 has merely extended the time for filing the appeal.

30. Finally, insofar as the circular being ***Circular No. 254/11/2025 – GST*** dated 27th October 2025 appointing the ‘*proper officer*’ is concerned, the SCN has been issued by the Additional Commissioner, who cannot be held to be not a ‘*proper officer*’ as the said Additional Commissioner is duly empowered under the CGST Act to issue notices under Section 122 of the CGST Act.

31. In view of the fraudulent nature of the Petitioner’s conduct this Court is of the opinion that the present writ petition challenging the impugned order under such circumstances, does not warrant interference under writ jurisdiction.

The impugned order is an appealable order under Section 107 of the CGST Act.

32. At this stage, Id. Counsel for the Petitioner has been queried as to whether the Petitioner wishes to go in appeal under Section 107 of the CGST Act, to which the submission is that the Petitioner would not be able to pay the pre-deposit.

33. Under these circumstances, the writ petition is dismissed. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

NOVEMBER 6, 2025
prg/kk/ck