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

%     ***Reserved on: 13th April, 2026***
***Pronounced on: 28th April, 2026***

\+     **W.P.(C) 19358/2025**

**MAHANADI EXPORTTEK PRIVATE LIMITED**
HAVING ITS OFFICE AT:
FLAT NO. 701, 7TH FLOOR,
SAHYOG BUILDING,
NEHRU PLACE MARKET ROAD
NEW DELHI – 110019
Email: mahanandaexporttek@gmail.com

.....**PETITIONER**

Through: Mr. Prakash Shah, Sr. Adv. with Mr. Jay Savla, Sr. Adv., Mr. Mihir Mehta, Mr. Mohit Rawal, Mr. Suyog Bhave, Mr. Jas Sanghavi, Mr. Jasdeep Singh Dhillon, Mr. Rajpal Singh, Mr. Aditya Bajaj, Advs.

versus

1. **UNION OF INDIA**
THROUGH THE REVENUE SECRETARY
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NEW DELHI-110001
Email: uoidhc@gmail.com

.....**RESPONDENT NO.1**

2. COMMISSIONER OF CGST (EAST) DELHI
C.R. BUILDING, I.P. ESTATE,
NEW DELHI – 110002
Email: commr-cexdel2@nic.in

.....**RESPONDENT NO.2**

3. ASSISTANT COMMISSIONER OF
CGST DIVISION – NEHRU PLACE,

DELHI EAST COMMISSIONERATE
14-15, 5TH FLOOR,
FARM BHAVAN, NEHRU PLACE,
NEW DELHI – 110019
Email: gstdelhieast.legal@gmail.com

.....**RESPONDENT NO.3**

4. ADDITIONAL COMMISSIONER
OF CENTRAL TAX, APPEALS – I, DELHI
C.R. BUILDING, I.P. ESTATE,
NEW DELHI – 110002
Email: pcco.legaldelhicgst@gov.in
legal.cgstdelhieast@gov.in

.....**RESPONDENT NO.4**

Through: Ms. Sangita Malhotra, SPC for R-1/UOI.
Mr. Akash Panwar, Adv.

**CORAM:**
**HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE**
**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**JUDGMENT**

**AJAY DIGPAUL, J.**

**1.** The present writ petition assails the impugned order in appeal dated 22.08.2025 passed by Respondent No. 4, dismissing the petitioner's appeals against the two orders in original passed by Respondent No. 3 dated 22.11.2024 and order in original dated 05.12.2024 seeking refund of ₹4,10, 37,815, ₹23,68,800 and ₹12,90,899 respectively.

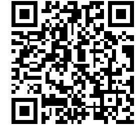
**2.** The petitioner is a company incorporated under the Companies Act, 2013, and is engaged in the business of export of mobile phones, desktops, laptops and other electronic items, and is duly registered with the GST framework as GSTIN 07AARCM3030A1ZV.

**3.** In response to the petitioner's applications for refund under Section 54 of the Central Goods and Services Tax Act, 2017, (hereinafter CGST Act) dated 20.09.2024, 21.09.2024 and 19.10.2024, Respondent No. 3 issued three show cause notices, two on 15.10.2024 and one on 04.11.2024, *inter-alia* proposing rejection of the refund applications on account of failure to submit shipping bills, bank statements, bank realization certificates, reconciliation of GSTR-1, GSTR-2B and GSTR-3B, etc. The petitioner was afforded an opportunity of 10 days to file a reply to the show cause notices, and a further opportunity of personal hearing on the date of choice of the petitioner was given.

**4.** In response thereto, the petitioner submitted three replies; two on 26.10.2024 and one on 21.11.2024 submitting the requisite documents, and further stating that the physical copies of the bills and other documents had been given to the CGST inspector upon his physical examination of the petitioner's office. Furthermore, the petitioner opted to appear through their authorized representative on 28.10.2024 for the physical hearing.

**5.** The petitioner's three applications for refund came to be rejected *vide* two orders in original dated 22.11.2024 and order in original dated 05.12.2024. Respondent no. 3 *inter-alia* noted that there were DGARM Alerts issued against some of the petitioner's suppliers as their GST registration had been cancelled on account of suspicious transactions and lack of verification.

**6.** Aggrieved, the petitioner preferred three appeals under Section 107 of the CGST Act read with Section 109 of the CGST Rules bearing No. 587/2024, 588/2024 and 52/2025 against two orders in original dated 22.11.2024 and one order in original dated 05.12.2024 respectively.

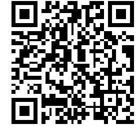


**7.** The petitioner was afforded an opportunity of personal hearing on 07.04.2025, 09.04.2025, 16.04.2025 and 24.04.2025. The petitioner appeared for personal hearing on 24.04.2025 through his Chartered Accountant and stated that in two out of the three cases, there are only 3-4 suppliers, and in the third case, there are approximately 37 suppliers, however, the DGARM alert has been issued against only one supplier.

**8.** The appeals came to be dismissed *vide* the impugned order in appeal dated 22.08.2025 passed by Respondent No. 4, which is presently under challenge before this court. Respondent No. 4 noted that in absence of any cogent evidence supplied by the petitioner, there were credible reasons to doubt the veracity of the transactions of the petitioner.

***Submissions by Petitioner***

**9.** Mr. Shah, learned senior counsel for the Petitioner, has submitted that the Orders-in-Original are vitiated as the rejection of refund is founded on material not disclosed in the show cause notices issued in Form GST RFD-08. It is stated that the notices merely sought documents and reconciliation statements and did not contain any allegation regarding DGARM alerts, Anti-Evasion communications, or the involvement of L1/L2 suppliers with cancelled or suspended registrations. However, the Orders-in-Original and the impugned Order-in-Appeal rely upon such DGARM inputs and Anti-Evasion communications alleging suspicious suppliers and wrongful availment of input tax credit, without furnishing the underlying material to the Petitioner or incorporating these allegations in the show cause notices, thereby rendering the impugned orders beyond the scope of the notices and in violation of the principles of natural justice.



**10.** Mr. Shah has further submitted that the Orders-in-Original have been passed without granting any opportunity of personal hearing to the petitioner, in complete disregard of the proviso to Rule 92(3) of the CGST Rules. It is urged that in response to the show cause notices dated 15.10.2024, the petitioner had specifically requested that a personal hearing be granted on 28.10.2024. Further, in respect of the show cause notice dated 04.11.2024, a personal hearing was designated for 11.11.2024. It is submitted that neither the requested hearing dated 28.10.2024 nor the designated hearing dated 11.11.2024 was granted or conducted by the adjudicating authority. Thus, the impugned Orders-in-Original are in clear breach of the principle of *Audi alteram partem*.

**11.** Mr. Shah has further placed reliance on ***Krishnadatt Awasthy v. State of Madhya Pradesh & Ors.,*** **(2025) 7 SCC 545** and ***Institute of Chartered Accounts of India v L.K Ratna & Ors.*** **(1986) 4 SCC 537,** to contend that the principle of *audi alteram partem* constitutes a fundamental facet of the justice delivery system. Furthermore, a defect arising from failure to grant an opportunity of hearing at the initial stage is not ordinarily curable at the appellate stage. It is further stated that even where the appellate authority is vested with the requisite jurisdiction, the settled position is to relegate the matter to the original authority for fresh adjudication after affording an opportunity of hearing.

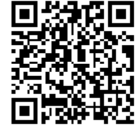
**12.** Mr. Shah has submitted that the statutory remedy under Section 112 of the CGST Act is not efficacious, as the Goods and Services Tax Appellate Tribunal (GSTAT) is not fully functional and there is considerable delay in hearing matters; it is urged that in such circumstances, relegating the petitioner to the appellate forum would cause prejudice. It is further

stated, placing reliance on ***Krishnadatt Awasthy v. State of Madhya Pradesh & Ors.*****, (2025) 7 SCC 545**, in a situation where the GSTAT is not effectively functioning, the matter ought to be remanded to the original authority for fresh adjudication after affording due opportunity of hearing.

**13.** Mr. Shah has also submitted that the impugned order in appeal is vitiated on account of non-consideration of the material placed on record by the petitioner and proceeds on findings which are factually incorrect. It is urged that the petitioner had furnished bank statements, invoice-wise details, e-way bills, shipping bills and reconciliation statements during the course of proceedings.

**14.** In spite of the same, the appellate authority has recorded that the petitioner failed to submit concrete bank statements and transaction-level details, and has reiterated findings relating to mismatch of addresses in e-way bills and deficiencies in transportation documents. It is submitted that the impugned order neither examines the documents placed on record nor records any finding on the explanations furnished by the petitioner, and instead proceeds on assumptions derived from departmental inputs, thereby rendering the order unreasoned and contrary to the principles of natural justice.

**15.** Mr. Shah has further submitted that the present case concerns refund of tax already deposited by the Petitioner, and therefore, no adverse consequence would ensue. It is also urged that the amount in question is not a case of potential tax evasion but of refund entitlement, and the revenue's interests remain adequately safeguarded. In such circumstances, it is submitted that retention of the amount or sustaining the impugned order cannot be justified on considerations of revenue protection alone.



***Submissions of respondent***

**16.** Mr. Panwar, learned counsel appearing for the respondents has, at the outset, submitted that the present writ petition is not maintainable in view of the availability of an alternative and efficacious statutory remedy. It is urged that the Petitioner, being aggrieved by the impugned Order-in-Appeal dated 22.08.2025, has the remedy of preferring a further appeal under Section 112 of the Central Goods and Services Tax Act, 2017 before the learned Goods and Services Tax Appellate Tribunal (GSTAT). In the absence of any exceptional circumstance warranting interference under Article 226 of the Constitution of India, the Petitioner ought to be relegated to the said statutory remedy.

**17.** Mr. Panwar has further submitted that the Petitioner's plea of violation of principles of natural justice on account of absence of personal hearing is misconceived. Show cause notices in Form GST RFD-08 dated 15.10.2024 and 04.11.2024 were issued, calling upon the Petitioner to furnish requisite documents and reconciliation statements. In respect of the notices dated 15.10.2024, the petitioner was given the option to choose a date for personal hearing, while for the notice dated 04.11.2024, the hearing was designated on 11.11.2024. The petitioner, in fact, filed replies dated 26.10.2024 and 21.11.2024 along with supporting documents. It is thus stated that adequate opportunity, both to file replies and avail personal hearing, was afforded and considered, thereby satisfying the requirements of principles of natural justice

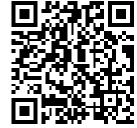
**18.** Mr. Panwar further submitted that the grievance of non-consideration of documents is factually incorrect. It is stated that the Orders-in-Original

dated 22.11.2024 and 05.12.2024, as well as the impugned Order-in-Appeal dated 22.08.2025, record specific findings on the material placed by the Petitioner, including invoices, e-way bills and transactional details. The authorities have also noted deficiencies such as absence of verifiable bank statements, lack of transaction-level details, and inconsistencies in supplier information, which impeded verification of the transactions. It is thus submitted that the impugned orders are reasoned and based on consideration of the material on record, and mere disagreement with the findings cannot be construed as non-consideration or violation of principles of natural justice

***Analysis***

**19.** The Petitioner has assailed the impugned Order-in-Appeal dated 22.08.2025 primarily on the ground of violation of the principles of natural justice, contending that no effective opportunity of personal hearing was granted at the stage of passing of the orders in original. It is further urged that the impugned order, passed against the petitioner's appeals under Section 107 of the CGST Act, 2017, fails to consider the replies and documentary material placed on record by the Petitioner and proceeds on findings which are factually incorrect.

**20.** This Court considers it apposite, at the outset, to examine whether the Orders-in-Original and the impugned Order-in-Appeal suffer from a lack of jurisdiction or merely involve an exercise of jurisdiction alleged to be erroneous. For this purpose, it is necessary to advert to certain decisions of the Hon'ble Supreme Court which delineate the distinction between absence of jurisdiction and errors committed while exercising jurisdiction, and the legal consequences flowing therefrom.



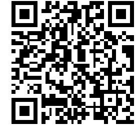

**21.** The Hon'ble Supreme Court in ***Nusli Neville Wadia v Ivory Properties & Ors.*** **(2020) 6 SCC 557** has *inter-alia* noted that –

> "37. There is a difference between the existence of jurisdiction and the exercise of jurisdiction. In case jurisdiction is exercised with material irregularity or with illegality, it would also constitute jurisdictional error. However, if a court has jurisdiction to entertain a suit but in exercise of jurisdiction, a mistake has been committed though it would be a jurisdictional error, but not lack of it. It may be a jurisdictional error open for interference in appellate or revisional jurisdiction." (emphasis supplied)

**22.** Similarly, the Hon'ble Supreme Court in ***Asma Lateef & Anr. v Shabbir Ahmad & Ors.*** **(2024) 4 SCC 696** has stated that –

> "46. The essence really is that a court must not only have the jurisdiction in respect of the subject matter of dispute for the purpose of entertaining and trying the claim but also the jurisdiction to grant relief that is sought for. Once it is conceded that the jurisdiction on both counts is available, it is immaterial if the jurisdiction is exercised erroneously. An erroneous decision cannot be labelled as having been passed "without jurisdiction". It is, therefore, imperative that a distinction between a decision lacking in inherent jurisdiction and a decision which suffers from an error committed in the exercise of jurisdiction is borne in mind." (emphasis supplied)

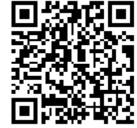
**23.** This Court, upon consideration of the above principles, finds that a clear distinction must be maintained between lack of jurisdiction and errors committed in the exercise of jurisdiction. It is only in cases of inherent lack of jurisdiction that interference under Article 226 is warranted; in all other cases involving improper exercise of jurisdiction, the party should preferably be relegated to the statutory remedy. It is relevant to mention that this Court in a writ jurisdiction is not an appellate court, and presides in a supervisory jurisdiction. Thus, it's interference under Article 226 is warranted only when exceptional or extraordinary circumstances are shown,



and in the present case, no such circumstances have been shown by the petitioner.

**24.** In the present case, it becomes apparent that pursuant to the show cause notices dated 15.10.2024 and 04.11.2024, the Petitioner was not only called upon to furnish replies but was also afforded the opportunity of personal hearing. The notices dated 15.10.2024 provided the Petitioner the option to indicate a convenient date for personal hearing, which was chosen as 28.10.2024, while the notice dated 04.11.2024 designated the date of personal hearing as 11.11.2024. The Petitioner thereafter submitted replies dated 26.10.2024**,** 26.10.2024 and 21.11.2024 along with supporting documents. The Orders-in-Original dated 22.11.2024 and 05.12.2024 reflect that the adjudicating authority has taken note of the replies and the material placed on record and has recorded findings thereon. The sequence of events demonstrates that the Petitioner was put to notice, afforded an opportunity to respond, and its submissions were available for consideration at the stage of adjudication.

**25.** At the appellate stage as well, the impugned order records that the Petitioner was afforded personal hearings on 07.04.2025**,** 09.04.2025**,** 16.04.2025 and 24.04.2025, all of which were attended by its authorised representative. The order further notes the submissions advanced on behalf of the Petitioner, including those made through its Chartered Accountant during the personal hearing dated 24.04.2025, and proceeds to deal with the same while affirming the findings recorded in the Orders-in-Original. The grievance, therefore, is not of absence of opportunity, but of non-acceptance of the submissions.



**26.** Insofar as the reliance placed by the Petitioner on ***Krishnadutt Awasthy v. State of Madhya Pradesh & Ors*., (2025) 7 SCC 545** is concerned, the principle that a defect arising from absence of hearing at the original stage may not be cured at the appellate stage is well settled. However, the applicability of the said principle is premised on a situation where it is demonstrated that no opportunity of hearing was afforded at the stage of adjudication. In the present case, the Petitioner has participated in the proceedings, furnished replies, was afforded opportunity of personal hearing at the original stage, and has also availed the opportunity of personal hearing at the appellate stage. In such circumstances, even assuming that any deficiency is sought to be pointed out in the manner of consideration of the Petitioner's case, it would not be a case of complete absence of opportunity of hearing at the original stage so as to attract the said principle.

**27.** The petitioner's contention that the remedy under Section 112 of the CGST Act is inefficacious due to non-functionality of the GSTAT is without merit. This Court, in its order dated 16.02.2026 in ***Rajesh Khanna v. Office of the Commissioner of Central Tax Appeals–I, Delhi & Ors*., W.P.(C) No. 81/2026**, while permitting recourse to Section 112, took note of the sworn affidavit of the Joint Secretary, Ministry of Finance, recording that requisite IT infrastructure is in place enabling virtual hearings and that the GSTAT has commenced scrutiny of appeals. It is thus a matter of record that the GSTAT is functional and constitutes an efficacious statutory remedy.

**28.** The further submission of the Petitioner that the matter pertains to refund of tax already deposited and, therefore, no prejudice would be caused to the revenue if relief is granted, also does not persuade this Court to exercise writ jurisdiction. The entitlement to refund and the sufficiency of

material in support thereof are matters falling within the domain of statutory adjudication. Such contentions, including those relating to equities, are open to be urged before the appellate forum and cannot be a ground to bypass the statutory remedy.

**29.** In view of the above, this Court is unable to accept the contention that the impugned orders suffer from a jurisdictional infirmity on account of violation of principles of natural justice. The Petitioner has been afforded opportunity at both stages as the challenge essentially pertains to the correctness of the findings recorded. The appropriate remedy, therefore, lies in availing the statutory appeal under Section 112 of the CGST Act before the learned GSTAT. This court makes it clear that it has not appreciated the merits of the case, and all rights and contentions are left open.

**30.** The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

**AJAY DIGPAUL**
**(JUDGE)**

**NITIN WASUDEO SAMBRE**
**(JUDGE)**

**APRIL 28, 2026/***AS/sg*