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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Order reserved on: 20.08.2026***

Order pronounced on: 16.09.2026

Order uploaded on: 16.09.2026

\# **CNR No. DLHC010491052025**

\+ W.P.(C) 10852/2025 and CM APPL. 44813/2025

RPP INFRA PROJECTS LTD, KARNATAKA .....Petitioner

Through: Mr. Anandaday Misshra, Mr. Mrinal Bharat Ram, Ms. Dhwani Tandon and Ms. Sherodha Tripathi, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Vedansh Anand, SPC with Mr. Shivam Kumar, GP, Ms. Naincy Jain, Jr Standing Counsel for CBIC

\# **CNR No. DLHC010491062025**

\+ W.P.(C) 10853/2025 and CM APPL. 44815/2025

RPP INFRA PROJECTS LTD, TAMILNADU .....Petitioner

Through: Mr. Anandaday Misshra, Mr. Mrinal Bharat Ram, Ms. Dhwani Tandon and Ms. Sherodha Tripathi, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Ms. Naincy Jain, Jr Standing Counsel for CBIC

\# **CNR No. DLHC010491142025**

\+ W.P.(C) 10861/2025 and CM APPL. 44827/2025

RPP INFRA PROJECTS LTD, TELANGANA .....Petitioner

Through: Mr. Anandaday Misshra, Mr.

Mrinal Bharat Ram, Ms. Dhwani Tandon and Ms. Sherodha Tripathi, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Vedansh Anand, SPC with Mr. Shivam Kumar, GP, Mr. Kushagra Kumar (SPC)

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

O R D E R

ANIL KSHETARPAL, J.:

1. Through these connected Writ Petitions, the Petitioners, *inter alia*, seek issuance of writ in the nature of *certiorari* to quash a Common Order dated 04.02.2025 (hereinafter referred to as the 'Impugned Order') passed by the Additional Commissioner, Adjudication, Directorate General of GST Intelligence ('DGGI'), Central GST, Delhi North.

2. The Petitioner in all these Writ Petitions is RPP Infra Projects Ltd. It holds three separate GST registrations, one each in Karnataka, Tamil Nadu and Telangana, and the Impugned Order confirms a separate demand against each of its registration. Since the challenges to these demands raise substantially overlapping questions of fact and law, the petitions are, with the consent of learned counsel for the parties, being disposed of by this common order.

3. The Petitioners acknowledge that the Impugned Order is appealable under Section 107 of the Central Goods and Services Tax

Act, 2017 (hereinafter referred to as 'CGST Act'). They nevertheless seek interference under Article 226 of the Constitution of India on the grounds that their reply was not considered, that the Central authorities lacked jurisdiction, and that Circular No. 171/03/2022-GST dated 06.07.2022 precludes the demand raised against them. The short question is whether these objections justify bypassing the statutory Appeal. For the reasons that follow, they do not.

4. The proceedings arose from an investigation conducted by the Kanpur Regional Unit of the Directorate General of GST Intelligence (hereinafter referred to as 'DGGI') into an alleged chain of invoices issued without corresponding supplies. According to the Department, Input Tax Credit (hereinafter referred to as 'ITC') was passed through M/s Club Axe Clothing, M/s Footprints and M/s Disha Traders to M/s Univista Contractors Ltd. (hereinafter referred to as 'Univista'), which, in turn, passed it on to several recipients, including the Petitioners. The common SCN was issued to 95 noticees.

5. The Petitioners dispute the Department's description of their transactions. Their case is that M/s Sunil Hitech Engineers Ltd. (hereinafter referred to as 'Sunil Hitech') awarded construction work to them, which was subcontracted to Univista on a back-to-back basis. The Petitioners retained a margin of 5%. They claim that Univista actually executed the work and rely upon work orders, invoices, ledgers, bank records and other documents in support of the ITC availed by them.

6. The Impugned Order confirms ITC demands of ₹2,62,74,687/- against the Karnataka registration for September and October 2017, ₹10,57,452/- against the Tamil Nadu registration for September 2017, and ₹2,94,30,991/- against the Telangana registration for September and October 2017. Each demand carries interest under Section 50, a penalty equal to the demand under the provisions specified in operative paragraphs 38 to 40 of the Impugned Order, and a further penalty of ₹50,000/- under Section 122(3)(a) of the CGST Act read with Section 20 of the Integrated Goods and Services Tax Act, 2017.

7. The Petitioners filed a common reply dated 17.04.2024 containing their factual and legal defence and a large compilation of supporting documents. They subsequently filed an additional reply dated 13.01.2025 questioning the allocation of the adjudication to Delhi North and seeking transfer of the proceedings to Rangareddy. Paragraph 4.9 of the Impugned Order records that Ms. Poonam Joshi, Advocate, appeared on their behalf for personal hearing on 14.01.2025 and reiterated the earlier written submissions.

8. When these petitions were taken up on 05.08.2025, the Petitioners relied upon separate proceedings initiated by DGGI, Mumbai, concerning their transactions with Sunil Hitech. This Court had then recorded a *prima facie* observation regarding possible parallel proceedings and protected the Petitioners against coercive action. At the final hearing, however, the contention based on Section 6(2)(b) of the CGST Act was not pressed probably in view of the decision of this Court dated 05.08.2026 in ***Shub Conductors LLP and Ors. v. Joint Commissioner, Central Tax GST, Delhi East and Ors.***,

W.P.(C) 4126/2025. It is, therefore, unnecessary to examine that contention. The earlier *prima facie* observation shall not be treated as a final determination concerning the identity or scope of the two proceedings.

9. Mr. Anandaday Misshra, learned counsel representing the Petitioners has made the following three submissions:

i. The reply dated 17.04.2024 and the documents filed with it were not considered. The Impugned Order, therefore, does not satisfy Sections 74(9) and 75(6) of the CGST Act.

ii. Since the Petitioners' registrations are administratively assigned to the State tax authorities in Karnataka, Tamil Nadu and Telangana, DGGI could neither issue the SCN nor could the Additional Commissioner, CGST Delhi North adjudicate it. In any event, Circular No. 239/33/2024-GST dated 04.12.2024 required the proceedings to be adjudicated at Chennai or Rangareddy.

iii. Even if the Department's allegation that invoices were issued without underlying supplies is assumed to be correct, serial No. 3 of Circular No. 171/03/2022-GST excludes recovery under Section 74 of the CGST Act.

10. *Per contra*, learned counsel representing the Respondents submits that each of these questions can be examined in statutory Appeal. The Respondents in their Counter-Affidavits acknowledge that the Petitioners' reply was inadvertently not incorporated in the Impugned Order, but deny that it was not considered. Reliance is

placed upon paragraphs 4.9 and 5.1 of the Impugned Order, the powers conferred upon DGGI officers, and the notifications and circulars governing allocation of DGGI adjudication.

11. Since the Impugned Order is appealable under Section 107 of the CGST Act, the objections raised by the Petitioners are required to be examined only to determine whether they warrant interference in exercise of writ jurisdiction despite the availability of the statutory remedy.

12. The first objection concerns the Petitioners' reply dated 17.04.2024 and the documents filed along with it. Mere non-reproduction of the reply in the Impugned Order would not establish that it was ignored. What is material is whether the order notices the substance of the defence and discloses the basis on which the claim has been rejected. Conversely, a general recital that the replies have been considered cannot cure an order which otherwise discloses no reasons.

13. In the present case, the filing of the reply and the appearance of the Petitioners' Advocate at the personal hearing are not disputed. The reference in paragraph 4.9 of the Impugned Order to written submissions dated 10.10.2025 is evidently erroneous, since that date falls after both the hearing and the Impugned Order. The error, however, does not negate the personal hearing which admittedly took place. At the same time, the fact that a personal hearing was granted cannot be treated as establishing that every document filed by the Petitioners was considered.

14. The Impugned Order must, therefore, be examined for the reasons which it contains. Paragraphs 5.2, 5.3 and 5.9 hold, in substance, that the invoices were unsupported by actual supplies, that the conditions for availing ITC were not fulfilled, and that the noticees failed to discharge the burden cast upon them under Section 155 of the CGST Act. Though the reasoning is common to the noticees and does not separately analyse the work orders, invoices and ledgers relied upon by the Petitioners, it discloses the basis on which their claim to ITC was rejected.

15. The Petitioners contend that the documents placed by them establish the very facts which the Adjudicating Authority found unproved. Examination of that contention would require the work orders issued by Sunil Hitech to be matched with the corresponding subcontracts, invoices, payments and evidence of execution in each State. This is not a case where the Petitioners were denied notice or personal hearing, or where the Impugned Order discloses no reasons for the decision. Their grievance concerns the adequacy of those reasons and the correctness of the appreciation of a voluminous factual record. Both can be effectively examined in Appeal. In these circumstances, the omission to reproduce the Petitioners' reply does not warrant setting aside the entire adjudication in exercise of writ jurisdiction.

16. The jurisdictional objection has two distinct limbs. The first concerns the authority of DGGI to proceed against taxpayers assigned to the State tax administration. Notification No. 14/2017-Central Tax dated 01.07.2017 appoints the specified DGGI officers as Central tax

officers and confers upon them the powers exercisable by officers of corresponding rank throughout India. Further, the Supreme Court in ***Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate and Anr.***[1], has explained that administrative allocation of taxpayers does not exclude intelligence-based enforcement by the other tax administration. The investigation in the present case arose from intelligence concerning an alleged chain of transactions extending across several States. The Petitioners' registration with State authorities did not, therefore, exclude the jurisdiction of DGGI.

17. The second limb concerns the allocation of adjudication to Delhi North. Notification No. 02/2022-Central Tax dated 11.03.2022 empowered Additional and Joint Commissioners posted in the specified Commissionerates, including Delhi North, to adjudicate DGGI notices throughout India.

18. Circular No. 169/01/2022-GST dated 12.03.2022 provided that common SCN involving noticees in more than one Commissionerate would be adjudicated by reference to the principal place of business of the noticee carrying the highest tax demand. Where that noticee fell within Delhi Zone, the designated Commissionerate was Delhi North. Both instruments were in force when the SCN was issued on 29.04.2022.

19. The Petitioners' additional reply compares only their three registrations and treats the Telangana demand as the highest. Table III

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[1] 2025 SCC OnLine SC 1700

of the SCN, as reproduced in the Impugned Order, shows that the highest tax demand in the common SCN is ₹20,65,43,038/- against Disha Traders, Delhi. The SCN was, accordingly, made answerable to the Additional or Joint Commissioner, CGST Delhi North, including in the clauses pertaining to each of the Petitioners.

20. Notification No. 27/2024-Central Tax dated 25.11.2024 and Circular No. 239/33/2024-GST dated 04.12.2024 do not alter that position. The revised table maps matters in Delhi North Commissionerate and Delhi East Commissionerate to the common adjudicating authority at Delhi North. The registered address of Disha Traders, bearing PIN Code 110053, falls within Delhi East Commissionerate. Thus, even under the revised allocation, Delhi North remained the designated Commissionerate. There was consequently no occasion to redirect the common SCN to Chennai or Rangareddy through a corrigendum. The jurisdictional objection is rejected.

21. The reliance upon Circular No. 171/03/2022-GST raises a different question. The Circular distinguishes between two situations. Where a person avails ITC on an invoice unsupported by an inward supply but uses that credit for tax on a genuine outward supply, serial No. 2 contemplates recovery under Section 74. Where both the inward and outward invoices are unsupported by supplies, serial No. 3 states that recovery under Sections 73 or 74 is not required, though penal action under Section 122 may follow. The Circular also recognises that an actual case may involve a mixture of these situations.

22. The Petitioners' primary case is that both the subcontracted work received from Univista and the outward supply made to Sunil Hitech was genuine. Their reliance upon serial No. 3 is expressly in the alternative and cannot be treated as an admission to the contrary. The Impugned Order declines to apply the Circular on the ground that it was issued after the SCN. Whether that reason is correct, which situation under the Circular applies, and what consequence follows for the demand and penalties depend upon the character of the inward and outward transactions. These matters fall squarely within the scope of appellate examination. The mere invocation of the Circular does not render the SCN or the adjudication without jurisdiction.

23. Section 107(11) of the CGST Act empowers the Appellate Authority, after making such further inquiry as may be necessary, to confirm, modify or annul the decision under appeal. Although it cannot remand the matter to the Adjudicating Authority, it can examine the Petitioners' documents and decide their entitlement itself. The receipt of services, the discharge of the burden under Section 155, the invocation of Section 74, the applicability of Circular No. 171/03/2022-GST, and the legality of the penalties are all matters which can be effectively examined in that jurisdiction. Entertaining these questions in writ jurisdiction would require this Court to undertake the very factual examination which the statutory Appellate Authority is empowered to undertake.

24. In view of the above, this Court does not find it appropriate to interfere with the Impugned Order in exercise of writ jurisdiction. The Petitioners are relegated to the remedy of Appeal under Section 107 of

the CGST Act. The jurisdictional objections considered in paragraphs 16 to 20 above stand decided in terms of this order. The contention under Section 6(2)(b) of the CGST Act, having not been pressed, has not been examined. All other grounds concerning the demands, interest and penalties are left open for consideration in Appeal. Nothing stated in this order shall be construed as affirming the disputed findings against the Petitioners on merits.

25. Since these petitions were entertained, remained pending after notice, and the Petitioners were protected against coercive action, they are permitted to file the statutory Appeals, along with the requisite pre-deposit, within four weeks from today. If filed within that period, the Appeals shall be entertained and decided on merits without being dismissed on the ground of limitation.

26. The interim protection granted on 05.08.2025 shall continue for four weeks to enable the Petitioners to avail the appellate remedy. If the Appeals are filed within that period along with the requisite pre-deposit, the statutory protection under Section 107(7) of the CGST Act shall thereafter operate. If the Appeals are not filed within the stipulated period, the interim protection shall cease to operate.

27. With these observations, the Writ Petitions, along with the pending applications, stand disposed of.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 16, 2026
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