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

Date of Decision: 9th September, 2025

+ **W.P.(C) 13792/2025&CM APPL. 56600/2025**

MANOJ KUMAR AKHRIA PROPRIETOR OF
M/S SHUBHAM ENTERPRISES

.....Petitioner

Through: Mr. Vineet Bhatia, Ms.
Aamnaya Jagannath Mishra, Mr.,
Abhinav Sharde, Ms. Anu Aggarwal &
Mr. Keshav Garg, Adv.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Sumit K. Batra, Adv.
Mr. Prakash Singh Negi, Mr. Prakash
Sharma & Mohd. Naved, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Articles under 226 and 227 of the Constitution of India, *inter alia*, challenging the impugned order dated 18th February, 2025 (hereinafter, '*impugned order*') passed by the Office of Sales Tax Officer Class II/AVATO for the Financial Year 2020-21 raising a demand of Rs.1,51,53,659.00/-.
3. The case of the Petitioner is that a certain part of the demand relates to Input Tax Credit (hereinafter, '*ITC*') claimed from cancelled dealers and therefore, there is a challenge to Section 16(2)(c) of the Central Goods and Service Tax Act, 2017 (hereinafter, '*CGST Act*') as well.



4. Ld. Counsel for the Petitioner submits that this matter may be clubbed with *W.P. (C) 6293/2019* titled '*Bharti Telemedia Ltd. Vs. Union of India and Ors.*', where a similar challenge has been raised.

5. Mr. Batra, Id. Counsel points out that out of the entire demand, the demand in respect of Section 16(2)(c) of the CGST Act would be only Rs. 7,07,060/- in respect of ITC claimed from cancelled dealers, return defaulters and tax non-payers. Ld. Counsel submits that the substantial portion of the demand does not relate to Section 16(2)(c) of the CGST Act.

6. Heard the Id. Counsels for the parties. The demand which has been raised in this matter *qua* the Petitioner falls under the following sub-heads:

I. Under declaration of output tax;

- **Reconciliation of E-way bill turnover with GSTR-01**

II. Excess claim of ITC

- **Scrutiny of ITC availed**
- **ITC claimed from cancelled dealers, return defaulters & tax non-payers:**

The summary of the demand raised *qua* the Petitioner under the abovementioned sub-heads as per the impugned order are as under-

S.No	Category	SGST CGST	IGST CESS	Total
1	2	3	4	5
1	Total Tax liability	2231618 2231618	3762649 0	8225885
2	Interest	1656289 1656289	2792607 0	6105185
3	Penalty	223162 223162	376265 0	822589
	Grand Total	4111069 4111069	6931521 0	15153659

7. It is correct that, insofar as demand under Section 16(2)(c) of the CGST Act is concerned, the same is only Rs.7,07,060/- out of the entire demand.



8. The impugned order dated 18th February, 2025 passed by the Office of Sales Tax Officer Class II/AVATO , is an appealable order and the Petitioner ought to avail of its appellate remedy under Section 107 of the CGST Act.

9. Insofar as the demand relating to the cancelled dealers is concerned, any judgment passed in *W.P. (C) 6293/2019* titled '*Bharti Telemedia Ltd. Vs. Union of India and Ors.*' shall bind the decision *qua* the said demand. It is made clear that all the demands shall be adjudicated by the Appellate Authority subject to the above condition.

10. Accordingly, let the said appeal be filed by 31st October, 2025 along with the requisite pre-deposit. If the same is filed by 31st October, 2025, then the appeal shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

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

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

SEPTEMBER 9, 2025/pd/ck