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

Date of decision: 7th July, 2025

+ **W.P.(C) 9139/2025 & CM APPL. 38812/2025**

SAMYAK JAIN

.....Petitioner

Through: Mr. Pulkit Verma, Mr. Peyush Pruthi
& Mr. Himanshu Yadav, Adv. along
with the Petitioner in person (through
video conferencing)

versus

**SUPERINTENDENT (ADJUDICATION), CENTRAL GST DELHI
& ORS.**

.....Respondents

Through: Mr. Atul Tripathi, SSC, CBIC with
Mr. Gaurav Mani Tripathi & Mr.
Shubham Mishra, Advs.
Ms. Urvi Mohan, Adv. for GNCTD
(7718992441)
Mr. Rakesh Kumar, CGSC with Mr.
Sunil, Adv. for R-4/ Delhi Police
(9811549455)

**CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA**

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 38813/2025

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

W.P.(C) 9139/2025 & CM APPL. 38812/2025

3. The present petition has been filed challenging the impugned order



dated 31st January, 2025 by which a demand has been raised on the Petitioner for a sum of over Rs. 48 crores.

4. The case of the Petitioner is that the Petitioner was registered under the VAT regime under the trading style ‘M/s Samyak International’.

5. Upon the introduction of GST, a provisional registration was allotted to ‘M/s Samyak International’ which according to the Petitioner was not sought by him. It is his case that he closed his business operation from 28th July, 2017 and had sought a new registration number under the name of ‘M/s Samyak Fashion (India)’.

6. Further, he is stated to have received intimation from the GST Department some time in 2018-19 that there was a misuse of his provisional GST Number and he is stated to have co-operated with the GST Department as well in this regard. Under the name ‘M/s Samyak International’, a substantial amount of ITC has not only been passed on but has also been availed of which the Petitioner seeks to disown on the ground that his provisional GST Number has been misused.

7. Mr. Verma, Id. Counsel submits that the Petitioner is not aware of any of the transactions which have been conducted under the name ‘M/s Samyak International’. A list of various transactions for which the demands have been raised illustratively have been set out in the order and the same is set out below:-

“8.5. In view Para 8.1 to 8.4, it appeared that M/s Samyak International was a Fake firm and availed ineligible ITC from its suppliers and passed on ineligible ITC to its recipients. Further, on analysis of the GSTR-1M, following recipients of M/s Samyak International falls under GST Delhi East



Commissionerate:
Table-5

<i>S. No</i>	<i>GSTIN/UIN of RECIPIENT</i>	<i>TRADE NAME</i>	<i>ADDRESS</i>	<i>TOTAL TAX</i>
1	07BGBPA3065R129	Jain Sons Enterprises	G/F, 25/A/84, Vishwash Nagar, Vishwash Nagar, Shahdra, Shahdara, Delhi, 110032	8867406
2	07BDIPS1163GIZI	M. R. Enterprises	Second Floor, 86a, Gautam Nagar, New Delhi, South Delhi, Delhi, 110049	5678370
3	07BHKPKO337E1ZM	Pocketspace Enterprise	X-3072. GALI NO.-4, RAGHUBAR PURA NO.-2, GANDHI NAGAR, East Delhi, Delhi, 110031	3176644
4	07AQTPP343EIZM	Mahindra Traders	House No-283, Mashjid Moth, New Delhi, South Delhi, Delhi, 110049	1989060
5	07AABFS2557D12F	Singh	735/4, Ashok	1336964



		<i>Garments</i>	<i>Gall, Gandhi Nagar, East Delhi, Delhi, 110031</i>	
<i>6</i>	<i>07BCIPG3961KIZD</i>	<i>Aarohí Enterprises</i>	<i>9, Cinema Plot, Krishna Nagar, East Delhi, Delhi, 110051</i>	<i>1039275</i>
<i>7</i>	<i>07BAIPJ4946F1ZM</i>	<i>Mahalaxmi Agency</i>	<i>Ground, X/7172, Gurunanak Gali, Gandhi Nagar, Delhi, East Delhi, Delhi, 110031</i>	<i>713210</i>
<i>8</i>	<i>07AIWPG3240NIZT</i>	<i>Chem India</i>	<i>E-4/30,, Krishna Nagar,, Krishna Nagar,, East Delhi, Delhi, 110051</i>	<i>440189</i>
<i>9</i>	<i>07AZEPS8301HIZA</i>	<i>Sk Traders</i>	<i>9/4928 A/C 11, Gali No. 3, East Old Seelampur, East Delhi, Delhi 110031</i>	<i>307431</i>
<i>10</i>	<i>07AAAPA2172M2ZY</i>	<i>Nandini Adya</i>	<i>G/F. R-15. F/F, Between R-9 To R-15 Block Ndse li, Near Jain Mandir, New Delhi, Delhi,</i>	<i>237483</i>



			110049	
11	07AKYPP7678R1ZG	Basanti Enterprises	4609, Ground Floor, Gali No-4, Ajit Nagar Gandhi Nagar, East Delhi, Delhi, 110031	95829
<i>Total Tax</i>				23881861

8. The stand of the Petitioner continues to be that he was in no way involved in these transactions. Upon a query from this Court as to what steps were taken by the Petitioner to find out as to who was misusing the GST Registration Number, it is submitted by him that he has lodged a complaint at the police station and a FIR has been registered in pursuance to such complaint. He has also given all the necessary details to the GST Department and it is up to the Department to take action.

9. This Court is of the opinion that in case of large scale availment and passing off of fraudulent Input Tax Credit (ITC), there are various factual issues that could be involved and would have to be looked into by the concerned Authorities. Such facts cannot be gone into in a writ petition.

10. In the impugned order, details have been given as to the manner in which ITC has been availed of and passed on to almost 63 entities who are listed in the impugned order. The case is thus, a serious matter and anyone, whose name, number or identity is misused, would not take the matter so lightly, especially when the demands raised are so high.

11. An appeal before the appellate authority is a continuation of the



proceedings before the adjudicating authority itself. A full-fledged remedy for filing an appeal has already been provided under Section 107 of the Central Goods and Service Tax Act, 2017.

12. The contentions that the Petitioner wishes to raise can always be raised in appeal, in as much as this Court has already taken a view in *W.P.(C) 5737/2025* titled *Mukesh Kumar Garg vs. Union of India & Ors.*

13. This Court, while deciding the above stated matter, has already taken a view in this regard 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, though not barred, ought to be exercised sparingly and in exceptional 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.”

14. In such circumstances, this Court is of the opinion the Petitioner ought to avail of its remedy in accordance with law by filing an appeal against the impugned order under Section 107 of the Central Goods and Service Tax Act, 2017. Though the limitation for filing such appeal has already lapsed, however, in the facts of this case, the Petitioner is given one month time to file the appeal along with the requisite pre-deposit.

15 In order to, however, ensure that the investigation is properly done, let the Economic Offences Wing of the Delhi Police file a status report before this Court, which shall be perused and further orders shall be passed in this regard. It is, however, made clear that on the merits of the case, the Petitioner has to avail of his appellate remedy. If the appeal is filed within one month, the same shall not be dismissed on the ground of being barred by limitation and shall be adjudicated on merits.



2025:DHC:5346-DB



16. List on 25th August, 2025.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

JULY 7, 2025
kk/ss