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

Date of decision: 9th September, 2025

+ **W.P.(C) 12192/2025**

ASHISH ENTERPRISES THROUGH ITS PROPRIETOR
ASHISH GUPTA

.....Petitioner

Through: Mr. Anurag Rajput and Mr. Dhruv
Bhardwaj, Advs.

versus

ASSISTANT COMMISSIONER DIVISION SHAHDARA EAST
DELHI CGST & ORS.

.....Respondents

Through: Ms. Anushree Narain, SSC, CBIC with
Mr. Naman Choula, 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 challenging the impugned Show Cause Notice dated 2nd August, 2024 and the impugned Order-in-Original dated 22nd January, 2025 issued by the Assistant Commissioner, CGST, Delhi East.
3. *Vide* the impugned order the Adjudicating Authority has disallowed the Input Tax Credit to the tune of Rs. 1,06,93,571/- and imposed a penalty equivalent to the same amount.
4. The brief facts of the case are that the impugned Show Cause Notice was issued by the Directorate General of GST Intelligence, Jaipur Zonal Unit, on the basis of investigation conducted against M/s. Akshat International, New



Delhi in respect of fraudulent availment and passing of Input Tax Credit to various entities. During the course of investigation, it was found that there are 32 fake entities floated by one Mr. Abhishek Gupta who is a chartered accountant, which were being used in the said fraudulent availment of Input Tax Credit. Further, the Petitioner firm was found to be one of the major firms who had availed fake Input Tax Credit from the said entities.

5. On the last date of hearing *i.e.*, 13th August, 2025, considering the fact that the impugned order is an appealable order, the Court had directed the Id. Counsel for the Petitioner to seek instructions.

6. Ld. Counsel for the Petitioner today appears and presses the challenge to the impugned order and impugned show cause notice. The main ground for challenge raised by the Petitioner is that the impugned show cause notice has been issued for multiple financial years in contravention of the provisions of the Central Goods and Services Act, 2017. Further, it is also stated that the Delhi GST Department has already dropped the proceedings in respect of the same subject matter and thus a contrary position cannot be taken by the Central GST Department. Lastly, it is stated that the impugned order has been passed without considering the reply filed by the Petitioner.

7. Heard. The Court has heard the parties and perused the documents placed on record. The challenge to the impugned show cause notice has been raised on the ground that the same has been issued for the multiple financial years. This issue is no longer *res integra* and has been decided by this Court in ***Ambika Traders Through Proprietor Gaurav Gupta V. Additional Commissioner, Adjudication DGGSTI, CGST Delhi North, 2025:DHC:6181-DB*** as under:

“43. Insofar as the issue of consolidated notice for various financial years is concerned, a perusal of



Section 74 of the CGST Act would itself show that at least insofar as fraudulently availed or utilized ITC is concerned, the language used in Section 74(3) of the CGST Act and Section 74(4) of the CGST Act is “for any period” and “for such periods” respectively. This contemplates that a notice can be issued for a period which could be more than one financial year. Similar is the language even in Section 73 of the CGST Act. The relevant provisions read as under:

“73. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.–

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(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

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74. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-



misstatement or suppression of facts.—

xxx

(3) Where a notice has been issued **for any period** under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised **for such periods** other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.”

44. Some of the other provisions of the CGST Act, which are relevant, include Section 2(106) of the CGST Act, which defines “tax period” as under:

“2.[...] (106) “tax period” means the period for which the return is required to be furnished”

45. Thus, Sections 74(3), 74(4), 73(3) and 73(4) of the CGST Act use the term “for any period” and “for such periods”. This would be in contrast with the language used in Sections 73(10) and 74(10) of the CGST Act where the term “financial year” is used. The said provisions read as under:

“73.[...] (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the **financial year** to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or



within three years from the date of erroneous refund”

*“74.[...] 10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the **financial year** to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.”*

The Legislature is thus, conscious of the fact that insofar as wrongfully availed ITC is concerned, the notice can relate to a period and need not to be for a specific financial year.

46. The nature of ITC is such that fraudulent utilization and availment of the same cannot be established on most occasions without connecting transactions over different financial years. The purchase could be shown in one financial year and the supply may be shown in the next financial year. It is only when either are found to be fabricated or the firms are found to be fake that the maze of transactions can be analysed and established as being fraudulent or bogus.

47. A solitary availment or utilization of ITC in one financial year may actually not be capable of by itself establishing the pattern of fraudulent availment or utilization. It is only when the series of transactions are analysed, investigated, and enquired into, and a consistent pattern is established, that the fraudulent availment and utilization of ITC may be revealed. The language in the abovementioned provisions i.e., the word ‘period’ or ‘periods’ as against ‘financial year’ or ‘assessment year’ are therefore, significant.

48. The ITC mechanism is one of the salient features of the GST regime which was introduced to



encourage genuine businesses. In the words of Shri Pranab Mukherjee, the then Hon'ble President of India, who addressed the Nation at the launch of the GST on 1st July, 2017, ITC was highlighted as one of the core features integral to the framework of the GST regime. The relevant extract of the said speech of the Hon'ble President is set out below:

*"I am told that a key feature of the system is that buyers will get credit for tax paid on inputs only when the seller has actually paid taxes to the government. This creates a strong incentive for buyers **to deal with honest and compliant sellers who pay their dues promptly.**"*

49. *It is seen that the said feature of ITC has been misused by large number of unscrupulous dealers, businesses who have in fact utilized or availed of ITC through non-existent supplies/purchases, fake firms and non-existent entities. The ultimate beneficiary of the ITC in the most cases may not even be the persons in whose name the GST registration is obtained. Businesses, individuals, and entities have charged commissions for passing on ITC. In several cases, it has also been noticed that the persons in whose name the GST registration stands are in fact domestic helps, drivers, employees, etc., of businessmen who are engaged on salary and who may not even be aware that their identities are being misused.*

50. *In fact, Parliamentary questions have been raised on such fraudulent availment of ITC. In one such Parliamentary question, it was revealed as under:*

"The press release issued by Ministry of Finance on 07.01.2024 (Annexure 1) brought out that 29,273 bogus firms involved in suspected Input Tax Credit (ITC) evasion of Rs 44,015 crore were detected in a sustained drive against non-existent tax payers by GST formations across the country since May



2023. An amount of Rs. 44,015 Crore (Rs.15240 Crore (State) + Rs. 28775 Crore (Centre)) of fake ITC has been detected.”

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54. The present case appears to be one such case where a substantial amount of ITC is alleged to have been availed/utilized running into more than Rs.83 Crores. The Petitioner is alleged to be one of the main entities/persons involved in the said activity. The transactions are between the years 2017 to 2021. A consolidated notice is, therefore, not merely permissible but, in fact, required in such cases in order to establish the illegal modality adopted by such businesses and entities. The language of the provision itself does not prevent issuance of SCN or order for multiple years in a consolidated manner.

55. Even in the order which has been impugned before this Court, the details of the amounts for each year are set out clearly in the content of the order itself and is, therefore, clearly decipherable. Thus, it cannot be held that the issuance of consolidated notice or order violates the language of the provisions. Especially, in the case of fraudulent availment of ITC or utilization of ITC such consolidated notice and order would not just be in fact, be required to show the wilful misstatement or suppression or the fraudulent availment/utilization.”

8. In view of the above, in the opinion of the Court the Petitioner ought to avail of its appellate remedy. The Petitioner is permitted to file an appeal in respect of the impugned order and the summary in DRC-07 before the Appellate Authority by 31st October, 2025 along with requisite pre-deposit. If the same is filed by 31st October, 2025, it shall not be dismissed being barred by limitation and shall be adjudicated on merits. All contentions are left open.



2025:DHC:7896-DB



9. The petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 9, 2025/*dk/msh*