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

Date of decision: 11th August, 2025

+ **W.P.(C) 9371/2025 & CM APPL. 39636/2025**

RADHEY TRADERS THROUGH ITS PROPRIETOR

SOPAL SINGH

.....Petitioner

Through: Mr. Ankit Majumder & Mr. Puneet
Kapoor, Advs.

versus

ASSISTANT COMMISSIONER LAXMI NAGAR DIVISION

CGST DELHI EAST COMMISSIONERATE &

ORS.

....Respondents

Through: Mr. Arun Khatri, SSC with Ms.
Anoushka Bhalla, Mr. Sahil
Khurana and Mr. Akshay, Advs.
Ms Arunima Dwivedi CGSC with
Mr. Sainyam Bhardwaj, Ms.
Himanshi Singh & Ms. Monalisha
Pradhan, Advs.

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AND

+ **W.P.(C) 9572/2025 & CM APPL. 40312/2025**

M/S RADHEY TRADERS THROUGH ITS PROPRIETOR

SOPAL SINGH

.....Petitioner

Through: Mr. Ankit Majumder & Mr. Puneet
Kapoor, Advs.

versus

ADDITIONAL COMMISSIONER, ADJUDICATION, CENTRAL

TAX, GST DELHI EAST & ORS

.....Respondents

Through: Mr. Arun Khatri, SSC with Ms.
Anoushka Bhalla, Mr. Sahil
Khurana and Mr. Akshay, Advs.

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 petitions have been filed by the Petitioner- M/s Radhey Traders through its Proprietor Sopal Singh under Articles 226 and 227, of the Constitution of India, *inter alia*, assailing the Order-in-Original dated 5th April 2024 passed by Assistant Commissioner, CGST Delhi East Commissionerate, confirming the demand of wrongly availed ineligible ITC of Rs.1,14,49,600/- on the Petitioner along with imposition of interest and penalty. In addition challenge is also to the Order-in-Original dated 27th August, 2024 confirming demand of Rs. 8,19,60,228/- on the Petitioner due to difference in tax liability as per GSTR-1 and GST-3B and further demand of ineligible ITC of Rs. 19,55,588/- from inward suppliers whose GSTINs have been cancelled retrospectively along-with imposition of interest and penalty (*hereinafter, 'the impugned orders'*).
3. The case of the Petitioner herein is that he obtained the Goods and Services Tax (*hereinafter 'GST'*) Registration on 23rd November, 2018. Thereafter, a Show Cause Notice was issued to the Petitioner on 15th December, 2023 (*hereinafter 'SCN'*), raising various allegations of wrongful availment of Input Tax Credit (*hereinafter, 'ITC'*) after the due date of furnishing the returns.
4. According to the Petitioner, this SCN was never served upon him. The Petitioner is stated to have obtained the GST registration and not conducted any business with the said registration thereafter.
5. However, it was only around some time in March 2024, when a notice under Section 148A of the Income Tax Act, 1961 was issued by the Income Tax Department (*hereinafter 'IT Department'*) to the Petitioner,



when the Petitioner came to know that his GST registration number has been misused for sales of over Rs.50 Crores for the Financial Year 2019-2020.

6. According to the Petitioner, he has filed various complaints, both before the Kavi Nagar Police Station, Ghaziabad as also with the GST Department. An FIR has also been registered being **FIR No.0281/2024**, P.S. Special Cell (Delhi).

7. It is thus the case of the Petitioner that all along, he was not aware of the SCN as also the impugned orders, which have now been passed against him. Hence, the present petition.

8. Ld. Counsel for the Respondents submitted on the last date of hearing that the GST registration number of the Petitioner has been misused for all the alleged transactions, without his knowledge.

9. On the last date of hearing, a status report was called for from the Delhi Police and the said status report dated 8th August, 2025 has now been filed. The report reveals as under:

“2. The complainant had alleged that on 23/11/2018, he got registered a firm namely "Radhey Traders" with GST No 07BGIPS5434H1Z4 for doing business but he could not start his business. After registration of firm, as he did not do any business transactions, hence neither he made/issued any bill in the name of Radhey Traders nor any GST return was filed by him. In the year of 2019 the complainant visited the GST Office for surrendering his firm GST number as he was informed that in case of non-filing of GST return, he had to pay penalty to GST department. Therefore, he Visited GST office wherein he was informed that in case of non-operation, his GST number will be deactivated automatically. Thereafter, he shared this information



with one person namely Tara Chand Sagar who told the complainant to deactivate his GST number and asked for OTP from the complainant to process the same. On the directions of Tara Chand, complainant shared OTP with him to deactivate his GST number.

3. On 22.03.2024, complainant got a notice from Income tax under clause (b) of section 148A of the Income Tax Act, 1961 wherein it was informed that bills of Rs. 50,34,71,932 was made/issued in the name of Radhey Traders from April 2019 to December 2019 As per the complainant he has no knowledge of these bills and there is also no record in his bank account regarding any business transactions with any firm.

4. In view of the above-said facts and Circumstances, prima facie cognizable offence u/s- 419/420/468/471/120B IPC is made out Hence, FIR No. 281/24 Dt 30.06.2024 u/s- 419/420/468/471/120B IPC was registered and investigation was taken up.

5. That a notice u/s 91 CrPC was given to GST department during enquiry and details of Radhey Tradres were sought Reply of the notice was received from GST department and on perusal of the documents, it has come to the notice that registered mobile number of Radhey Traders withn GST department was changed from 9811116735 to 9540855252 and Email ID was also changed from paharganj04@gmail.com to maxtrading725@gmail.com. Details of mobile no and Gmai ID was obtained from service providers.

6. That during investigation a notice U/S 91 CrPC was further served to GST department and details of firms were sought who issued bills in the name of Radhey Traders. Reply of the notice received from GST department and it has been found that 7 firms issued bills for Radhey Traders. On enquiry, complainant submitted that he has no knowledge about these firms and their bills. Further, all the firms are found non-



operational. Details of the Suspect Firms found are as under:-

- 07ASVPY0158J1ZX- MARKSON TRADE INDIA
- 07BWVPP1155K2ZV- PERAMOUNT TRADING CO
- 07DJJPR5463P1Z9- KN ENTERPRISES
- 07AWGPM9892E1Z0- SAMIYA HOSIERY
- 07ATEPG7683G1ZH- MITTAL TRADING COMPANY
- 07AXUPT9207F1ZU- DISHA TRADING
- CNNPM5167L1ZA- BARWARIK ENTERPRISES

7. That during investigation, another notice is us 91 CrPC was issued to GST department to provide registrant details, invoice copies, GST returns filed and other details with respect to these 7 suspect GST numbers.

8. That reply of the notice was received from GST department and details provided of suspect GST Numbers/fims are as under:-

- *GST No- 07ASVPY0158J1ZX MARKSON TRADE INDIA was found registered on the name of Mukesh Kumar Yadav, Proprietor H.No 1139, Chhata Madan Gopal, Maliwara Chandni Chowk North Delhi MNo 7827291804, mail ID marksontradingindia@gmail.com*
- *GST No- 07BWVPP1155K2ZV-PERAMOUNT TRADING CO was found registered on the name of Parul, Proprietor, Ground Floor, 10/1, Street No-1, Uttarakhand Enclave, Shastri Park Extn.. Delhi M.No 8800660809, Email ID parulv633@gmail.com.*
- *GST No 07DJJPR5463P1Z9- KN ENTERPRISES was found registered on the name of Ajay Ray, Proprietor, right portion of*



*First Floor, 8928/14-B, Shop No 678,
Sidhipura, Karol Bagh Delhi, M.No
7827291804, Email ID
enterprisesg35@gmail.com.*

- *GST No- 07AWGPM9892E1ZO- SAMIYA HOSIERY was found registered on the name of Mujammil, Proprietor, H.No 667, first floor, KH No 381 and 382, Gali No-9, Rajiv Ghandi Nagar, New Mustafabad, Delhi, M.No*
- *GST No- 07ATEPG7683G1ZH- MITTAL TRADING COMPANY was found registered on the name of Rajender Gupta, Proprietor, D10/129 Gamri Extn Delhi, M.No 7988840603, Email ID mittalassociates726@gmal.com*
- *GST No- 07AXUPT9207F1ZU- DISHA TRADING was found registered on the name of Tanuj, Proprietor, Ground Floor- 185. village Nangal Thakran Delhi North west Delhi, M. No 7988840603 Fmail ID dishatrading725@gmail.com.*
- *GST No- 07CNNPM5167L1ZA- BARWARIK ENTERPRISES was found registered on the name of Atul Mishra, Proprietor, Kh. No 112-20, Vijay Nagar Colony Village Bawana near Talab Delhi M.No. 9667731972, Email ID barwarikenterprises725@umail.com*

9. During further course of investigation Notice U/s 35 (3) BNSS for 08/04/2025 were issued, but address of 5 GST holders were found untraceable. Notices were duly served to Ms Parul and Mr. Mujjamil to join investigation of the case. Mr. Mujjamil proprietor of



SAMIYA HOSIERY has joined the investigation and provided ITR and bank statements of the firm and ITR for the relevant period. He was examined but he stated that details will be provided by his accountant/CA. Further detailed examination of Mujammil and accountant and Chartered accountant will be conducted to ascertain the facts of issuing bills in the name of Radhey Traders by him. Ms. Parul could not be examined as she was not available and she will be further examined.

10. That during the investigation conducted so far, from the replies and documents submitted by GST department, all the transactions related to the GST registration number 07BGIPS5434H1Z4 in the name of Radhey Traders had been done in year 2019.

11. That the alleged transactions/activity with the GST number of Radhey Traders was occurred in the year 2019 and complaint was filed in the year 2024, hence activity logs of said transactions could not be resolved to ascertain actual user of said GST number at the time of said transactions.

12. Further investigation of the case is underway.”

10. On a query from the Court, Id. Counsel for the Delhi Police submits that the FIR being **FIR No.0281/2024**, P.S. Special Cell (Delhi) has already been registered and the investigation is ongoing.

11. Even in the present writ petition being W.P.(C) 9371/2025, in paragraph 5, the stand of the Petitioner is as under:

“However, the same could not materialize and the Petitioner in the year 2019 went to the GST Office to surrender the firm where he was informed that due to non-usage the GSTIN of the Petitioner’s firm has been automatically suspended. The Petitioner had no knowledge of GST and was satisfied to learn that the firm’s registration has been suspended.



Afterwards, the Petitioner met Tara Chand Sagar, Accountant (Mobile No. 9582856444, 8076077434) in his office at Building No. 3, 2nd Floor, Shop No. 205, Guru Angad Nagar, New Delhi – 110092 and told him about his GSTIN suspension. Mr. Tara Chand told the Petitioner that he will help in the cancellation of the Petitioner's Registration and thereafter asked for OTP to do the same. However, later on, when the Petitioner had given the OTP, Mr. Tara Chand Sagar said that the GSTIN be suspended only and it will get cancelled on its own."

12. After reading both, the averments of the Petitioner in the writ petitions, as also the status report, it becomes clear that the Petitioner had got the GST number registered on 23rd November 2018.

13. Thereafter, the Petitioner claims to have gone to the GST Department to seek for suspension of the registration, which has already been suspended. Subsequently, the Petitioner again himself gave the OTP from his mobile number to some third party.

14. On the basis of the OTP which was given by the Petitioner voluntarily to some third party, seven firms with the GST numbers, as extracted above, have been created. The total availment of ITC is to the tune of more than Rs.50 crores.

15. Under such circumstances, the Petitioner cannot claim to be completely innocent and prefer the present writ petitions challenging the impugned orders which have been passed. This Court also cannot go into a factual inquiry in the matter as to who is responsible for the availment of the fraudulent ITC in this manner. The giving of the OTP to a known person and subsequent misuse of the same, would require investigation by the



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police authorities. The same cannot be conducted by the Court – that too in a writ petition.

16. Under these circumstances and in view of the revelations contained in the status report, this Court is not inclined to entertain the present two writ petitions.

17. The present petitions are disposed of in said terms. Pending applications, if any, are also disposed of. The Petitioner is permitted to avail of his legal remedies in accordance with law.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

AUGUST 11, 2025/*pd/ss*