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

Date of decision: 20th August, 2025

+ **W.P.(C) 5522/2025 & CM APPL. 25139/2025**

M/S TUSHAR PRODUCTS

.....Petitioner

Through: Mr. Kunal Jha, Adv.

versus

ADDITIONAL COMMISSIONER, CGST, DELHI
NORTH

.....Respondent

Through: Mr. Mudit Gupta & Mr. Sanyam Gupta,
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- M/s Tushar Products under Article 226 of the Constitution of India, inter alia, assailing the Order-in-Original bearing no. 83/ADC/D.N./Shaukat Ali Nurvi/2024-25 dated 27th January 2025 passed by the Respondent-Additional Commissioner, CGST - Delhi North. The present petition also challenges the Show Cause Notice bearing no. 77/2024-25 dated 23rd July 2024 issued by Deputy Commissioner, Anti Evasion, CGST - Delhi North.
3. The primary issue that arises in the present petition is as to whether a single Show Cause Notice can be issued for multiple years or not.
4. A perusal of the Order-in-Original would show that it relates to multiple years but deals with passing of Input Tax Credit amounting to more than ₹89



crores (Approx.). The demand has been raised against the Petitioner to the tune of ₹20,02,708/- (₹10,01,354/- as Tax and ₹10,01,354/- as Penalty).

5. The impugned order is an appealable order. In the case of *Ambika Traders*, this Court has already held 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.—

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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 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.”

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 permissible but may, in fact, be required to show the wilful misstatement or suppression or the fraudulent availment/utilization.”

6. Therefore it is clear from the above decision that the consolidation of SCN for multiple years has been allowed in cases where ITC has been fraudulently availed which is the primary allegation against the Petitioner in the present case as well. In view of the primary contention being settled *vide* the above decision and considering that fact that the impugned order is appealable under Section 107 of the CGST Act, 2017, the present petition is disposed of with the liberty to the Petitioner to file an appeal by 30th September, 2025 along with the requisite pre-deposits.

7. If the appeal is filed within the stipulated time, the Appellate Authority shall not dismiss the same on the ground of limitation and shall decide it on merits.

8. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

**PRATIBHA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

AUGUST 20, 2025

Rahul/Ar.