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

*Date of Decision: 24<sup>th</sup> September 2025*

+ **W.P.(C) 14428/2025**

TRECO WIRE INDIA PVT.LTD THROUGH ITS  
DIRECTOR

.....Petitioner

Through: Mr. Vijay Gupta, Mr. Rahul Gupta,  
Ms. Kajol Soni, Mr Harpreet Singh  
and Ms Saumya Shukla, Advs. (M:  
9711953429)

versus

THE COMMISSIONER OF CENTRAL GOODS AND SERVICE  
TAX AND ORS

.....Respondents

Through: Mr. Aditya Singla, SSC, CBIC. (M:  
9958846148)

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**  
**JUSTICE SHAIL JAIN**

### **JUDGMENT**

**Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.

#### **Factual Background**

2. The present petition has been filed challenging the impugned Order-in-Original dated 27th January, 2025 (hereinafter "*the impugned order*"), passed pursuant to the Show Cause Notice dated 22nd November, 2023 (hereinafter "*the SCN*"). *Vide* the impugned order a demand of approximately Rs. 1.11 crores has been confirmed against the Petitioner, the breakup of which is as under:



Sr. No.	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	0	0.00	JUL 2017	MAR 2018	CGST	NA	14,95,449.00	25,99,868.00	14,95,449.00	0.00	0.00	55,90,766.00
2	0	0.00	JUL 2017	MAR 2018	SGST	NA	14,95,449.00	25,99,868.00	14,95,449.00	0.00	0.00	55,90,766.00
Total							29,90,898.00	51,99,736.00	29,90,898.00	0.00	0.00	1,11,81,532.00

3. The present case arises out of the investigation, which was conducted by the Directorate General of GST Intelligence (hereinafter “*DGGI*”), against various bogus and fake suppliers. One such supplier was M/s Balaji Sales Corporation (hereinafter “*M/s. Balaji*”), which had its principal place of business at Nangloi, West Delhi. During the course of investigation, the concerned proprietor of M/s. Balaji was issued summons at its registered place of business, and inspection was sought to be conducted on the residential premises of the said proprietor. However, both the said addresses were found to be untraceable. Accordingly, it was realised that the said firm was not operational and non-existent indulging in passing-on of fraudulent Input Tax Credit (hereinafter “*ITC*”).

4. Various e-way bills etc. were also perused and out of 377 e-way bills, 100 vehicle registrations were found to be non-existent. One of the beneficiaries of M/s Balaji was found to be the Petitioner- M/s Treco Wire India Private Limited. The analysis of GSTR 2A of the Petitioner, as per the GST Department, revealed that the Petitioner had availed fraudulent ITC to the tune of Rs.29,90,898/- which was passed on to it by M/s Balaji. In view of the same, investigation under Section 67 and 70 of the Central Goods and Services Act, 2017 (hereinafter “*CGST Act*”) was initiated by the GST



Department against the Petitioner.

5. Pursuant to the same, at the Chandini Chowk premises being the registered place of business of the Petitioner, visits were also conducted, however, the same was found locked. Additional place of business of the Petitioner situated in Shahbad Daulatpur, North West Delhi, could not be located. Summons was also issued on 27th October, 2021 and 12th August, 2022, and an order for provisional attachment of the Petitioner's bank account was passed 1st May, 2023. Thereafter, the signatory of the Petitioner had appeared for personal hearing. However, the provisional attachment was confirmed on 3rd August, 2023. It is recorded that parallel to the said proceedings, the DGGI had also requested Additional/Joint Commissioner, CGST Delhi North Commissionerate *vide* letter dated 1st May, 2023 for blocking of ITC in the electronic cash ledger to the extent of Rs. 29,90,898/-.

6. The SCN dated 22nd November, 2023 was then issued to the Petitioner. Personal hearings were also fixed on 03rd November, 2023, 08th November 2024 and 11th December, 2024. Short replies were filed by the Petitioner along with some documents. After considering all the facts, the impugned order has been passed holding that M/s. Balaji was bogus, non-traceable and non-operational. The Petitioner was held to have wrongly availed of ITC to the tune of Rs.29,90,898/- on the basis of bogus invoices issued by a non-existing firm - M/s Balaji. The operative portion of the order passed by the Adjudicating Authority reads as under:

*“42. In view of the above discussions and findings, I pass the following order:*

**O R D E R**

*(i) I hereby confirm the demand and recovery of ineligible Input Tax Credit amounting to Rs.29,90,898/-*



*(CGST:Rs.14,95,449/-, SGST: Rs. 14,95,449/-) (Rs. Twenty Nine Lakhs Ninety Thousand Eight Hundred and Ninety Eight only), from the noticee, under Section 74 of the CGST Act, 2017 read with under Section 74 of the SGST Act, 2017, along-with interest at applicable rates under the provisions of section 50 of the CGST Act, 2017 read with section 50 of the SGST Act, 2017;*

*(ii) I drop to appropriate the amount freezes vide order No.06/2-023-24 dated 03.08.2023, which is lying in bank account of M/s Treco Wire (India) Pvt. Ltd., if any, against the confirmed demand of GST totalling Rs.29,90,898/- (CGST:Rs.14,95,449/-, SGST: Rs. 14,95,449/-);*

*(iii) I hereby order to recover and appropriate the available balance of ITC Rs.14,95,449/- (SGST) (Rs. fourteen lakhs ninety five thousand four hundred forty nine only) from the Electronic Credit Ledger of the noticee against the confirmed demand of GST totalling Rs.29,90,898/- (CGST:Rs.14,95,449/-, SGST: Rs. 14,95,449/-), subject to successful transfer of the same to Government;*

*(iv) I, hereby impose penalty of Rs.29,90,898/- (CGST:Rs.14,95,449/-, SGST: Rs.14,95,449/-) (Rs. Twenty Nine Lakhs Ninety Thousand Eight Hundred and Ninety Eight only), upon the noticee, under Section 74 of the CGST Act, 2017 read with Section 74 of the SGST Act, 2017;*

*(v) I, refrain to impose penalty upon Sh. Sanjay Gupta & Sonal Goyal, directors of M/s Treco Wire (India) Pvt. Ltd., under Section 137 of the CGST Act, 2017 read with Section 74 of the SGST Act, 2017.”*

7. It is stated that pursuant to the impugned order being passed, the electronic cash ledger of the Petitioner has also been blocked on 13th January, 2025.



**Submissions on behalf of the parties**

8. At the outset, the grievance of the Petitioner, as submitted by Mr. Gupta, Id. Counsel appearing for the Petitioner, is that the blocking of the electronic cash ledger could not have been done without hearing the Petitioner. An application for unblocking the same has been filed on 17th April, 2025, however, the same has not been unblocked. On a query from the Court, as to whether the impugned order had been challenged prior to blocking of the electronic cash ledger, it is submitted by Mr. Gupta that the present writ petition was filed sometime in April, 2025 but has been listed now for the first time. It is submitted that the writ was filed within the limitation period of under Section 107 of the CGST Act.

9. Second submission of the Petitioner is that short replies were filed, however, the Adjudicating Authority holds that there was no personal appearance of the Petitioner. Reliance is placed upon the acknowledgement given by the GST Department on 08th November, 2024 to some documents, which have been filed by the Petitioner as also the acknowledgment given on 11th December, 2024 when a short reply was filed by the Petitioner.

10. It is noted that the prayer in the writ petition is for setting aside the impugned order, for unblocking the credit ledger and a challenge has also been raised of Section 16(2)(c) of the CGST Act as being unconstitutional.

11. Mr. Singla, Id. SSC appearing for the GST Department submits that in this case a perusal of the replies filed by the Petitioner would show that there is no contention, which has been raised by the Petitioner, explaining its relationship with M/s Balaji. Even in the reply, the only stand given is that the registration certificate of the supplier was valid and all the documents have been submitted. The Petitioner claims ignorance about the cancellation of



GST registration of M/s Balaji.

**Analysis and Findings**

12. The Court has heard the parties and considered the matter. Firstly, the impugned order is dated 27th January, 2025 and in terms of Sections 107 of the CGST Act, the limitation for challenging the same by way of an appeal is three months, which may be extended by one month. Clearly, the limitation period for filing the appeal has already lapsed in the present case. The stand of the Petitioner is that the writ petition was filed in April, 2025 itself and has now listed in September today for the first time. There is no explanation given for such a delay in listing, inasmuch as in the Delhi High Court usually matters are listed, if objections are cleared, between 24 to 48 hours. The Petitioner has deliberately held back the listing of this writ petition for reasons unknown. It is also pertinent to note that as per the case history of the present petition the same has been filed on 8th September, 2025. Thus, within the prescribed period, no appeal has been filed against the impugned order, whereby, the findings in impugned order dated 27th January, 2025 have thus, become final against the Petitioner.

13. Secondly, insofar as the issue of compliance of the principles of natural justice is concerned, the SCN was duly served to the Petitioner. The Petitioner has been given the opportunity to file the reply. On one such occasion *i.e.*, on 08th November, 2024, the Petitioner had filed some documents and on another occasion *i.e.*, 11th December, 2024, the Petitioner had filed a further reply in the matter.

14. In respect of the compliance with the principles of natural justice the Adjudicating Authority in the impugned order records as under:



**“Record of Personal Hearing:**

*22. To follow the principle of natural justice three opportunities were given to the Notice to plead this case by way of submission of defence reply and also through personal appearance. Accordingly, Personal Hearings in the case were fixed for appearing on 03.11.2023, 08.11.2024 and 11.12.2024 to enable the Noticee to plead their case. However, the noticee neither turned up on scheduled date for personal appearance nor any person on their behalf. Therefore, the adjudicating authority has no other option except to decide the matter on the basis of avail records take up this case for ex-parte adjudication.*

**Discussion and Findings:**

*23. I have carefully gone through the impugned SCN, written reply of the noticee, documents available on record and the relevant legal provisions pertain to the case in hand. Three opportunities were given to the Noticee to join the personal hearing, but he never appeared to join the personal hearing. As per provisions contained in the CGST Act, 2017 read with Delhi GST Act, 2017, in order to observe the principles of natural justice sufficient opportunities were extended to the noticee for pleading their case either by submitting written reply or to join in person for hearing. In view of above facts, I proceed to decide the case on merit.”*

15. A perusal of the above would show that on the one hand, it may have been inadvertently recorded by the Adjudicating Authority that none appeared on behalf of the Petitioner. However, on the other hand the Adjudicating Authority has taken note of the reply and the documents which have been filed by the Petitioner. In fact, the seal of acknowledgement which has been obtained by the Petitioner on 08th November, 2024 and 11th December, 2024, while furnishing the documents and the reply, can be taken as proof of filing but not incontrovertible proof of having attended the hearings.



16. Be that as it may, broadly, it cannot be stated that there has been any violation of the principles of natural justice as the documents and reply have been considered by the Adjudicating Authority. Moreover, even if this Court takes the reply into consideration, there is no details given therein as to who is the contact person of M/s Balaji or any other evidence given to show that the said M/s Balaji did actually exist as a firm. In the absence of such averments, in the opinion of the Court, the crux of the SCN remains unanswered.

17. Further, the submission in respect of the electronic cash ledger is also that it was blocked and unblocked repeatedly. Even in August, 2025 there is a debit, which has been created for a sum of Rs.14,97,207/-. No fault can be found in the debiting of electronic cash ledger by the GST Department as the order dated 27<sup>th</sup> January, 2025 has, in fact, attained finality since no appeal has been filed and, in fact, as of August, 2025 no writ petition was also listed in this Court in respect of the impugned order.

18. Under these circumstances, following the decision in *W.P.(C) 14279/2024* titled *M/s. Addichem Speciality LLP v. Special Commissioner I, Department of Trade and Taxes and Anr.*, the Court is of the view that after the period of limitation for filing an appeal under Section 107 of the CGST Act has lapsed, the same cannot be extended unless there are exceptional circumstances, such as complete violation of the principles of natural justice. The relevant portion of the said judgement is set out below:

*“64. A careful reading of the aforesaid decision would bring to the fore that the legislative intention to provide a specific period of limitation, thereby excluding the general applicability of the Limitation Act, 1963, must be respected. **The Supreme Court has observed that the plenary powers***



**of the High Court cannot in any case exceed the jurisdictional powers under Article 142 of the Constitution of India, 1950, and even the Supreme Court cannot extend the period of limitation de hors the provisions contained in any statutory enactment.**

65. Section 107(4) firstly prescribes a general time frame within which an appeal may be preferred. Once that period has elapsed, it stipulates that the appeal may be instituted within a further period of one month. The provision thus prescribes an additional period of one month within which an appeal may be instituted. That section however stops at that and does not allude to aspects such as sufficient cause or other similar factors which may have prevailed and led to the appeal not being lodged within the time prescribed. The provision thus clearly excludes the general principles which the law recognises as relevant for the purposes of condonation of delay. It is this facet of Section 107(4) which appears to have weighed upon various High Courts to hold that the said provision excludes the principles underlying Section 5 and other provisions concerned with condonation contained in the Limitation Act. It is this facet which triggers Section 29 of the Limitation Act and results in the exclusion of the other provisions governing condonation contained in that statute.

66. At this juncture, it would be expedient to refer to few judgments of the other High Courts on the subject. Reference can be invited to the decision of the Chhattisgarh High Court in **Nandan Steels & Power Ltd. v. State of Chhattisgarh**, wherein it was held that the statutory timeline for filing an appeal under Section 107(1) of the CGST Act is three months from the date the decision or order is communicated to the appellant. However, Section 107(4) provides a limited extension of one additional month, at the discretion of the appellate authority, if sufficient cause is demonstrated. The Court observed that the Legislature, while allowing an extension in specific instances, did not intend for the Limitation Act to apply to proceedings under the CGST Act.



*If such an intention existed, there would have been no need to confer special powers on the High Court to entertain appeals beyond the prescribed period, subject to sufficient cause being shown. This distinction is crucial because, unlike other legislations where Section 5 of the Limitation Act applies automatically via Section 29(2), the CGST Act prescribes a rigid timeframe. Further, the absence of the phrase “but not thereafter” in Section 107(4) does not dilute its mandatory nature.*

*67. Likewise, the Allahabad High Court in **Yadav Steels v. Commissioner** dealt with a matter wherein the appeal was filed 66 days after the expiry of the additional one-month period, making it ineligible for condonation, decision of the Appellate Authority that refused to entertain it in view of section 107(4) was upheld. Emphasizing the significance of the statutory limitations in tax laws particularly in the context of the CGST Act, it was also pointed out that limitation provisions are crucial in ensuring the timely resolution of disputes, promoting legal certainty, and facilitating efficient tax compliance. It was held that given the complexity of tax laws and the potential for disputes between taxpayers and authorities, such provisions establish a structured framework that prevents undue delays and ensures fiscal stability. It was thus observed that Section 107 of the CGST Act, being a self-contained provision, prescribes a specific limitation period for filing appeals, reflecting the legislative intent to expedite dispute resolution and by setting strict time limits, the provision ensures that tax-related matters are adjudicated without unnecessary delays, thereby enhancing administrative efficiency and revenue certainty. It was held that Section 5 of the Limitation Act generally allows for extensions in exceptional cases but its application is expressly excluded in taxation statutes where specific timeframes are prescribed.*

*68. That being the legal position, we unhesitatingly find that the decision of the Calcutta High Court in the case of **Mukul Islam v. Assistant Commissioner of Revenue** wherein the*



*Court overturned the order that had rejected the appeal holding that the CGST law does not explicitly exclude the Limitation Act as also the decision of the Andhra Pradesh High Court in **Venkateshwara Rao Kesanakurti v. State of AP**, wherein it was held that Limitation Act is applicable to condone the delay in filing the appeal beyond one month under the CGST Act, cannot be of any assistance to the petitioners.*

*69. In summary, the power to condone delay caused in pursuing a statutory remedy would always be dependent upon the statutory provision that governs. The right to seek condonation of delay and invoke the discretionary power inhering in an appellate authority would depend upon whether the statute creates a special and independent regime with respect to limitation or leaves an avenue open for the appellant to invoke the general provisions of the Limitation Act to seek condonation of delay. The facility to seek condonation can be resorted provided the legislation does not construct an independent regime with respect to an appeal being preferred. **Once it is found that the legislation incorporates a provision which creates a special period of limitation and proscribes the same being entertained after a terminal date, the general provisions of the Limitation Act would cease to apply.**”*

As is clear from the above discussion, such a situation does not exist in the present case.

19. Further, in cases of availment of fraudulent ITC, this Court has repeatedly held that exercise of writ jurisdiction ought not to be the usual course, unless some exceptional circumstances exist. Further, the Supreme Court in **Civil Appeal No. 5121/2021** titled ‘**The Assistant Commissioner of State Tax & Ors. v. M/s Commercial Steel Limited**’ passed on 3rd September, 2021 has held as under:



“11. The respondent had a statutory remedy under section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternate remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. **But a writ petition can be entertained in exceptional circumstances where there is: (i) a breach of fundamental rights; (ii) a violation of the principles of natural justice; (iii) an excess of jurisdiction; or (iv) a challenge to the vires of the statute or delegated legislation.**

12. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent.

13. For the above reasons, we allow the appeal and set aside the impugned order of the High Court. The writ petition filed by the respondent shall stand dismissed. However, this shall not preclude the respondent from taking recourse to appropriate remedies which are available in terms of Section 107 of the CGST Act to pursue the grievance in regard to the action which has been adopted by the state in the present case”

20. The said legal position has also been reiterated by this Court in *M/s Sheetal and Sons & Ors. v. Union of India & Anr., (2025: DHC: 4057- DB)*.

The relevant portion of the said decision reads as under:

“15. The Supreme Court in the decision in Civil Appeal No 5121 of 2021 titled *'The Assistant*



*Commissioner of State Tax & Ors. v. M/s Commercial Steel Limited*’ discussed the maintainability of a writ petition under Article 226. In the said decision, the Supreme Court reiterated the position that existence of an alternative remedy is not absolute bar to the maintainability of a writ petition, however, a writ petition under Article 226 can only be filed under exceptional circumstances. [...]

16. In view of the fact that the impugned order is an appealable order and the principles laid down in the abovementioned decision i.e. *The Assistant Commissioner of State Tax & Ors. (Supra)*, the Petitioners are relegated to avail of the appellate remedy.”

21. In the present case, the Petitioner was clearly hand-in-glove with M/s. Balaji and has enabled loss to the exchequer by fraudulently availing ITC without actual supply of goods or services. The investigations which were undertaken at the premises of the Petitioner shows that the Petitioner was well aware of the proceedings. No effort has been made to cooperate in the hearings and to establish *bona fides*. The reply filed is also quite sketchy and gives no details of the whereabouts of M/s. Balaji. Apart from simply saying that the documents in support of availing ITC exist, effort has not been made to answer the allegations in the SCN. There is a doubt as to whether even the personal hearing was attended. After the passing of the impugned order, no attempt has been made to avail the appellate remedy within the period of limitation. It is only when the Electronic Cash Ledger was debited that the present writ petition is sought to be pressed for listing and orders.

22. Insofar as the challenge to the Constitutional validity of Section 16(2)(c) of the CGST Act is concerned, the same is pending consideration in a batch of



matters before this Court, where the lead matter is *W.P.(C) 6293/2019* titled *Bharti Telemedia Ltd. v. Union of India & Ors.* The said batch is presently part heard. The decision in respect of the said provision would be binding on all cases where there is a challenge to Section 16(2)(c) of the CGST Act. Thus, the decision in respect of the challenge to Section 16(2)(c) of the CGST Act in the present case shall also abide by the decision in *W.P.(C) 6293/2019* titled *Bharti Telemedia Ltd. v. Union of India & Ors.*

23. In view of the above discussion on law as also in the facts of the present case, the Court is not inclined to interfere in the present matter. Accordingly, the writ petition is dismissed in the aforesaid terms.

24. In the facts of this case, no orders as to costs are passed.

**PRATHIBA M. SINGH**  
**JUDGE**

**SHAIL JAIN**  
**JUDGE**

**SEPTEMBER 24, 2025/dk/msh**