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

Date of decision: 25th April, 2025

+ **W.P.(C) 4774/2025 & CM APPL. 21990/2025, 21991/2025**

M/S MONTAGE ENTERPRISES PRIVATE LIMITED (THROUGH
ITS AUTHORIZED REPRESENTATIVE SANJAY KUMAR
SINGH) & ORS.Petitioners

Through: Mr. Tarun Gulati, Sr Adv. with Mr.
R.P. Singh, Mr. Yash Aggarwal, Mr.
Pramod Kandpal, Mr. Nirmal Dixit &
Mr. Aman Sinha, Advs. (M:
8076196835)

versus

CENTRAL GOODS AND SERVICES TAX DELHI NORTH &
ORS.Respondents

Through: Mr. Anurag Ojha, SSC along with Mr.
Shubham Kumar and Mr. Dipak Raj,
Advs. for R-1 to 3. (M:6200388793)

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.21991/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 4774/2025 & CM APPL.21990/2025 (for interim relief)

3. The present petition has been filed under Article 226 of the Constitution of India, *inter alia*, challenging the impugned Order-in-Original dated 31st January, 2025, passed by the Joint Commissioner, Adjudication CGST, Delhi North (*hereinafter*, “*the impugned order*”). It is alleged that *vide* the



impugned order, a demand of over Rs. 550 crores against various firms including the Petitioner has been raised.

4. The case of the Department is that an investigation in respect of evasion of GST was conducted against 286 entities, including the Petitioner, which are noticees in the present case. The *modus operandi* as contained in the Show Cause Notice dated 30th July, 2024 (*hereinafter*, “*the SCN*”) is that the Petitioner was issuing bogus invoices to various firms, which were either non-existent or non-operational, in respect of packaging material/laminates. However, the said packaging material was, in fact, being diverted to various *paan masala* and tobacco manufacturing units. It was also allegedly learnt during the said investigation that the Petitioner’s directors and promoters had themselves set up various other companies/firms, which were, in fact, being used to show sales in respect of bogus invoices. Upon becoming aware of the said investigation, the Petitioner is stated to have initiated appropriate proceedings under the Insolvency and Bankruptcy Code, 2016 in respect of the said companies/firms.

5. It is alleged by the Department that there were various depots, transporters and firms, which were all bogus, non-operational and non-existent since their GSTIN numbers were cancelled and the same were operational only for a short period. The various companies and the premises, which were searched, are detailed in the SCN. Further, the various invoices, which show the manner in which incorrect transport has been availed and the manner in which the goods have been diverted, are also explained in detail in the SCN.

6. The SCN has been issued to 286 firms, including the firms which were the purchasers from the Petitioners. Statements have been recorded and upon



the SCN being served upon the Petitioners, no reply was filed by the Petitioners. It is stated that firstly, extension was sought on 26th August, 2024 in the following terms.

“SUBJECT: REQUEST FOR SEEKING TIME TO SUBMIT REPLY OF SHOW CAUSE NOTICE NO. 72/2024-25 (CBIC-DIN-202407DNN4000000C82F) DATED 30.07.2024.

Dear Sir,

This has reference to the captioned Show Cause Notice received from DGGI, Ghaziabad Regional Unit, Kaushambi, Gbaziabad-.201012 issued to various units of our Company M/s Montage Enterprises Pvt. Ltd., located at Jammu (Noticee No.1), Haridwar (Noticee No.2), Noida (Noticee No.3) & Malanpur (Noticee No.4)

In addition to the above, the Ex-Directors of our Company namely Mr. Arvind Gupta (S.No.8) & Mr. Yogeshwar Singh (S. No.9) have also been made as Co-Noticees on the grounds as mentioned in the Show Cause Notice.

In this connection, it is submitted that the Reply of the captioned Show Cause Notice is under the process of preparation and not yet been finalized as our Advocate is busy in some other matters at CESTAT, New delhi and he has requested us to take Two months time for submitting the proper and effective Reply of said SCN. Therefore you are kindly requested to please give us an additional Two month time to submit the proper and effective Reply of the captioned Show Cause Notice.

We shall be highly obliged for your kind consideration.”



7. Thereafter, on 16th December, 2024, a letter was sent by Id. Counsel for the Petitioner seeking various relied upon documents (*hereinafter*, “RUDs”). The notice of personal hearing, thereafter, was issued by the Department on 9th January, 2025 fixing the hearing on three dates *i.e.*, 14th January, 2025, 21st January, 2025 and 28th January, 2025. The Petitioners had appeared on 28th January, 2025 and filed a detailed reply. After hearing the Petitioner and other firms the impugned order was passed on 31st January, 2025.

8. Submission of Mr. Gulati, Id. Sr. Counsel for the Petitioners is that RUDs were not fully supplied to the Petitioners and opportunity of cross-examination of those persons, whose statements were recorded, was also not provided.

9. According to Mr. Ojha, Id. SSC for the Department, most of the RUDs sought by the Petitioner are already in the possession of the Petitioners as they are part of other proceedings, including the insolvency proceedings against the group companies of the Petitioner.

10. The chronology of events in this case would show that the SCN itself was issued on 30th July, 2024, however, the first time a request was made for the RUDs is only on 16th December, 2024 *i.e.*, five months later. The SCN itself relates to the period 2017-18 onwards and in terms of the various notifications, which have been issued by the Department, the last date for passing the final order was 5th February, 2025 in respect of the period 2017-18, which was well within the knowledge of the Petitioners and the Department.

11. The Petitioner first sought extension on 26th August, 2024, and then stayed quiet for more than three months. Thereafter, the Petitioner sought RUDs only on 16th December, 2024. Further, when the hearing got fixed on



28th January, 2025, the Petitioner chose to file a reply for the first time running into almost 3000 pages. In addition, electronic copies of the ledgers, bank statements, etc. were also submitted. Under such circumstances, the request made by the Petitioner on 16th December, 2024, for the first time, seeking documents is highly belated and, in any event, not *bona fide* conduct.

12. A perusal of the reply filed by the Petitioner, would show that the Petitioners all along had all the requisite information to reply to the SCN, however, it chose not to file the same for almost six months. It was only when the personal hearing notice was given, due to the imminent expiry of the limitation period for passing the order, that the Petitioners have chosen to file a reply. The Petitioner only then raised objections in respect of RUDs and non-grant of opportunity for cross-examination. The Petitioners have, clearly, not been diligent in this matter.

13. Moreover, Mr. Ojha, Id. SCC for the Department, also submits that the insolvency proceedings have also been fraudulently initiated against the companies from whom the recoveries were to be made by the Department.

14. Under such circumstances, this is not a fit case for exercising extraordinary writ jurisdiction of this Court under Article 226 of the Constitution.

15. The Petitioners are free to avail of their appellate remedies in accordance with law. If the appeal is filed within a period of 30 days from now along with the requisite pre-deposit, the same shall be entertained on merits and not be dismissed on the ground of limitation.

16. The observations made in this order shall not affect the adjudication of the appeal before the Appellate Authority.



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17. The petition, along with pending applications, is disposed of in above terms. Needless to add, the observations in this order shall not bind the Appellate Authority and the appeal shall be heard on its own merits.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

APRIL 25, 2025/dk/ss