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

Date of decision: 25th August, 2025

+ **W.P.(C) 12832/2025 & CM APPL. 52358/2025**

**DAWN EXPRESS COURIER DEL PRIVATE
LIMITED**

.....Petitioner

Through: Mr. Nikhil Gupta, Mr. Rochit Abhishek,
Ms. Neelam Murpana & Mr. Prince
Nagpal, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak
Raj, Mr. Shashank Kumar & Ms.
Garima Kumari, Adv.
Mr. Ravi Kant Srivastava, SPC for UOI
with Mr. Robert Laishram & Mr.
Bhupender, 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 petition has been filed by the Petitioner M/s Dawn Express Courier Del Private Limited under Article 226 of the Constitution of India, *inter alia*, challenging the Show Cause Notice issued by Respondent No. 2 (hereinafter, 'SCN') dated 29th June, 2025 issued to the Petitioner, calling upon the Petitioner to show cause as to why the demands and penalties ought not to be imposed on the Petitioner. The amount sought to be demanded is Goods and Service Tax (hereinafter, 'GST') amounting to Rs.32,82,37,775/- along with the penalties of the above amount.



3. The chronology of events leading to filing of the present petition is that the Directorate General of Goods and Services Tax Intelligence, Delhi Zonal Unit (hereinafter, 'DGGI') started an investigation against the Petitioner, as also other courier agents, sometime in January, 2024.

4. A summon was issued to the Petitioner for appearance before the DGGI and the DGCI, after recording the statements of the Petitioner, had issued a letter dated 29th May, 2024 to the Respondent No. 2 - The Additional Commissioner CGST Delhi South Commissionerate, recording various discrepancies in the data collected by them. In terms of the DGGI's letter, the following discrepancies were found in the Petitioner's record:

- (i) That the entire consideration was not being shown and there was evasion of tax while comparing with the data as to the amount of space purchased by the Petitioner in the airlines, as the present case relates to International In-bound courier consignments;
- (ii) The Courier Services Companies are also issuing invoices by bifurcating the same into air freight service and handling and clearance service;
- (iii) The GST liability on import of services received from overseas channel partners is also not being discharged. The courier agents who provide other services on import consignments are also not paying GST on the respective services.

5. The DGGI investigation related to 41 companies falling within the CGST Delhi, South Commissionerate. The Petitioner is one such company. After the DGGI's communication to the GST Department, summons were issued to the Petitioner to appear on 18th June 2025 at 11:00 AM. Unfortunately, though the said summon is dated 13th June, 2025, the same was communicated to the



Petitioner by an email dated 20th June, 2025. Thus, the Petitioner could not have appeared at all. This fact was highlighted by the Petitioner in its communication dated 20th June, 2025 and an extension was sought till 31st July, 2025 to submit a complete and substantiated response with all the documents. This letter was communicated to the Respondent Department on 21st June, 2025 by email.

6. A second summons was issued to the Petitioner for appearance on 25th June, 2025 and the same was communicated to the Petitioner on 24th June, 2025 by an email, giving just one day's time.

7. The Petitioner then wrote a letter dated 26th June, 2025 wherein he again sought time till 31st July, 2025 and enclosed certain invoices along with its communication. On 25th June, 2025, the Petitioner is stated to have appeared as well and sought an adjournment as well. The copies of the invoices filed with the said email are also placed on record.

8. Again, on 24th July, 2025, an opportunity for personal hearing was granted in response to which the Petitioner again sought 30 days' time on 06th August, 2025 to file the reply.

9. In the meantime, the SCN dated 29th June, 2025 has also been issued, which is the subject matter of challenge in this petition.

10. Mr. Nikhil Gupta, Id. Counsel appearing for the Petitioner submits that the investigation, which was undertaken by the DGGI was an investigation against various companies and not exclusive to the Petitioner.

11. Further, the pre-notice consultation under Rule 142 of the Central Goods and Services Tax Rules, 2017 (hereinafter, '*CGST Rules*') was also not issued in this matter specifying the amount sought to be demanded. If the said notice was issued, an opportunity could have been given to the Petitioner to deposit the same with 15% penalty. Mr. Gupta, Id. Counsel also relies upon Section



74(5) of the Central Goods and Services Tax Act, 2017 (hereinafter, ‘CGST Act’) to argue that the opportunity to deposit tax prior to issuance of SCN has therefore been deprived of to the Petitioner. It is further submitted by him that the detailed reply was not filed with the GST Department, as the Petitioner was planning to file the writ petition challenging the SCN.

12. Finally, it is submitted by Id. Counsel for the Petitioner that the manner in which summons were issued one day before the hearing itself would show that this is a complete non-compliance of the principles of natural justice.

13. On behalf of the GST Department, Mr. Anurag Ojha, Id. SSC submits that Rule 142 of the CGST Rules, as it then stood, mandated the pre-notice consultation prior to the issuance of SCN. However, with effect from 09th October, 2019, the same is discretionary. Rule 142(1A) of the CGST Rules reads as under:

“142. ... [(1A) The [proper officer may], before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74, as the case may be, [communicate] the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A.]”

14. Further submission by Mr. Ojha, Id. SSC is that the Petitioner has repeatedly sought adjournments and has not appeared before the GST Department.

15. The Court has considered the matter. Firstly, the DGGI investigation itself commenced in January, 2024, so the Petitioner was all along well aware of the fact that the evasion of GST is an allegation against the Petitioner.

16. Under such circumstances, considering the nature of the investigation and the kind of questions that may be put to the Petitioner, the Petitioner could



have itself availed of Section 74(5), which reads as under:

“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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*(5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax **on the basis of his own ascertainment of such tax** or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.”*

17. The above provision permit the assessee to make an own ascertainment of tax if the GST Department does not communicate the amount of tax which it intends to demand from the Petitioner. This has clearly not been done.

18. According to the Petitioner, it has already paid the entire tax of Rs.44 lakhs and no further amount is due. Under these circumstances, even the opportunity of pre-notice consultation under Rule 142 of the CGST Rules would have been of no purpose.

19. Even if a pre-notice consultation was issued with any specific amount, the Petitioner would have obviously not agreed, as even today, the stand of the Petitioner is that no amount is liable to be paid.

20. Under these circumstances, the challenge to the SCN on the ground of Rule 142 of the CGST Rules and Section 74(5) of the CGST Act is clearly not tenable.

21. Insofar as the compliance of principles of natural justice is concerned, there can be no doubt that the same ought to be mandatorily complied with. The



manner in which the Department has issued on one occasion an email communication after the date of hearing has already passed or given email communication before the date of hearing would not be acceptable as such SCN would obviously require tax payers to prepare a detailed reply in consultation with their GST lawyers/consultants and also collect various documents which are to be presented to the Department.

22. One day's notice for hearing would be completely violative of the principles of natural justice. Under these circumstances, the Department ought to ensure that at least reasonably, sufficient time is granted to the Petitioners and assesses in order to enable them to file a reply.

23. However, in this case, from June onwards, repeated summons and notices have been issued but there is not a single letter on record by the Petitioner giving its stand in respect of the contentions and allegations of the Department.

24. Under these circumstances, this Court is of the opinion that the Petitioner ought to be afforded a proper 30 days' time to file a reply to the SCN. There is no jurisdictional challenge to the SCN which warrants the interference of this Court under writ jurisdiction.

25. Let the SCN be replied to by 30th September, 2025. The notice for personal hearing shall be granted to the Petitioner. After hearing the Petitioner, a detailed reasoned order shall be passed by the Adjudicating Authority.

26. Finally, it is submitted by Mr. Gupta, Id. Counsel that the ground for alleging fraud wilful misstatement or suppression of facts to evade tax are not satisfied in the present petition.

27. This allegation of non-compliance of Section 74(5) of the CGST Act be raised before the Adjudicating Authority.



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28. All rights and remedies in respect of any order passed by the Adjudicating Authority are left open. All contentions are left open.

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

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 25, 2025

Pd/Rahul/Ck