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

Date of Decision: 26th August, 2025

\+ **W.P.(C) 2394/2025 & CM APPL. 11289/2025**

M/S MATHUR POLYMERS .....Petitioner

Through: Mr. Akhil Krishan Maggu, Mr. Vikas Sareen, Mr. Aryan Nagpal, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Gibran Naushad, SSC with Mr. Harsh Singhal and Mr. Suraj Shekhar Singh, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Articles 226 & 227 of the Constitution of India seeking to set aside the impugned Order-in-Original dated 02nd February, 2025 passed by Respondent No. 3. The impugned order is challenged, *inter alia*, on the ground that the notices for personal hearing were not received by the Petitioner.

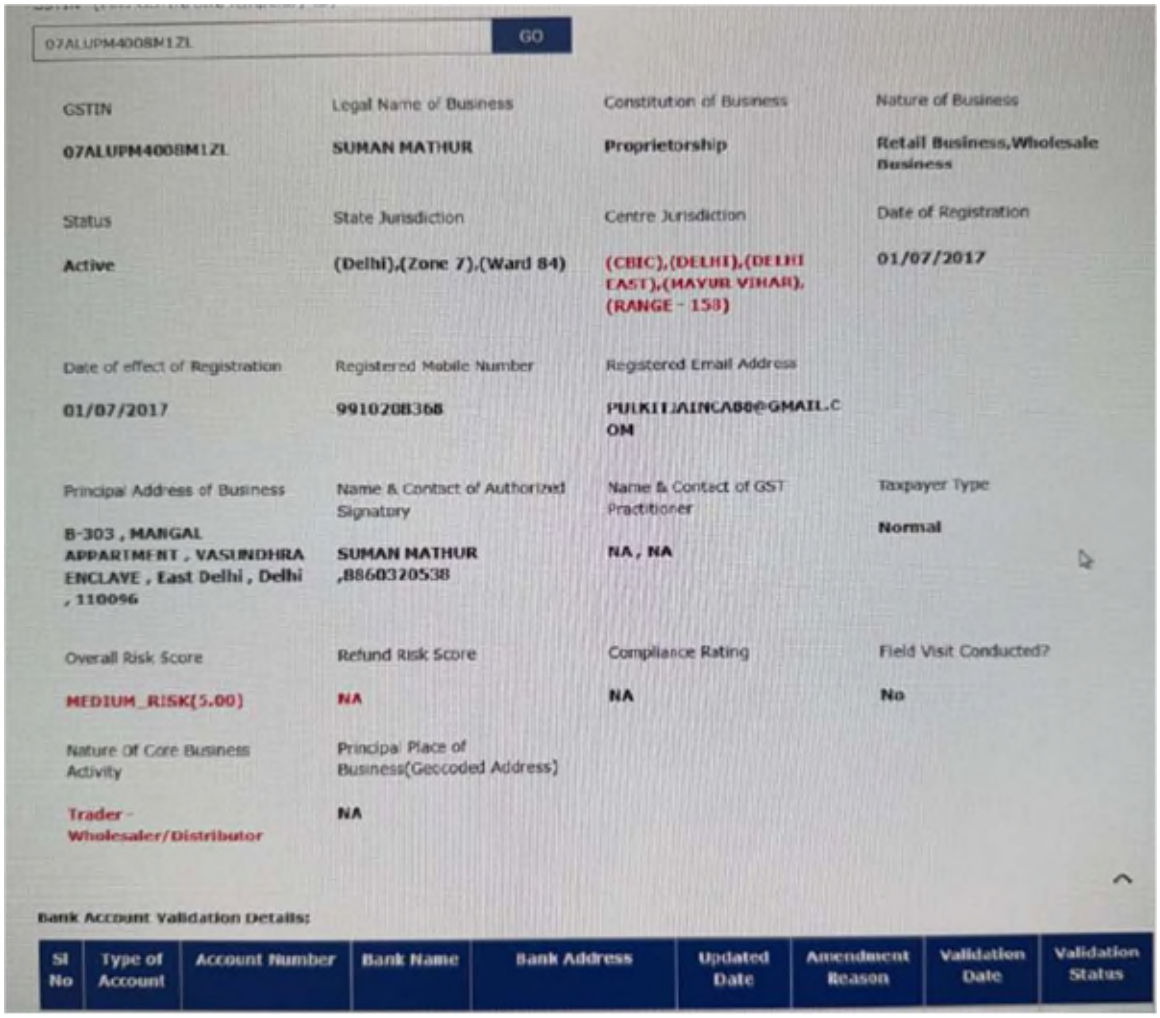
3. On previous dates of hearing, i.e., 10th March, 2025 and 17th April, 2025, the CGST Department was directed to place on record any documents to show that the personal hearing notices have been given to the Petitioner in this matter.

4. A set of documents, along with an affidavit, has been placed on record by the CGST Department. Mr. Gibran Naushad, ld. Counsel for the CGST Department has shown to the Court that there were three opportunities for

hearing which were given to the Petitioner *vide* two hearing notices.

5. For the first hearing on 16th January, 2025, an e-mail was sent to the registered e-mail address provided by the Petitioner. The e-mail dated 13th January, 2025, sent at 16:33 hrs to *pulkitjainca88@gmail.com*, which is the registered e-mail address of the Petitioner in the Goods and Services Tax *(hereinafter, 'GST')* portal has been placed on record. The second notice fixing the dates for personal hearing on 23rd January, 2025 and 29th January, 2025, was sent by e-mail to the same e-mail address i.e., *pulkitjainca88@gmail.com* on 18th January, 2025 at 05:44 p.m.

6. The GST portal of the Petitioner is relevant and is extracted below:



07ALUPM4008M1ZL GO

GSTIN	Legal Name of Business	Constitution of Business	Nature of Business
07ALUPM4008M1ZL	SUMAN MATHUR	Proprietorship	Retail Business,Wholesale Business
Status	**State Jurisdiction**	**Centre Jurisdiction**	**Date of Registration**
Active	(Delhi),(Zone 7),(Ward 84)	(CBIC),(DELHI),(DELHI EAST),(MAYUR VIHAR),(RANGE - 158)	01/07/2017
Date of effect of Registration	**Registered Mobile Number**	**Registered Email Address**	
01/07/2017	9910208368	PULKITJAINCA88@GMAIL.COM	
Principal Address of Business	**Name & Contact of Authorized Signatory**	**Name & Contact of GST Practitioner**	**Taxpayer Type**
B-303 , MANGAL APPARTMENT , VASUNDHRA ENCLAVE , East Delhi , Delhi , 110096	SUMAN MATHUR ,8860320538	NA , NA	Normal
Overall Risk Score	**Refund Risk Score**	**Compliance Rating**	**Field Visit Conducted?**
MEDIUM_RISK(5.00)	NA	NA	No
Nature Of Core Business Activity	**Principal Place of Business(Geocoded Address)**		
Trader - Wholesaler/Distributor	NA		

Bank Account Validation Details:

Sl No	Type of Account	Account Number	Bank Name	Bank Address	Updated Date	Amendment Reason	Validation Date	Validation Status

7. A perusal of the above GST portal of the Petitioner would show that the Petitioner is a proprietary concern of Smt. Suman Mathur who has given the registered mobile number as '9910208368'. The registered e-mail address is '*pulkitjainca88@gmail.com'*.

8. Insofar as the authorised signatory is concerned, the name is mentioned as Suman Mathur and under the heading of **'name & contact of GST practitioner', 'NA, NA'** has been provided.

9. Thus, the e-mail address which has been provided on the GST portal is presumed to be the registered email of the proprietor itself and is not reflected merely as a GST practitioner or consultant's e-mail.

10. In fact, the writ petition is conspicuously silent on this fact that the e-mails for personal hearing were sent to the Petitioner's registered e-mail address.

11. Be that as it may, under Section 169(1)(c) of the Central Goods and Service Tax Act, 2017 *(hereinafter, 'the Act')*, a communication sent to an e-mail address provided at the time of GST registration is adequate service of a decision, order, summons or notice or any other communication. Relevant portion of the said provision is extracted hereunder:

> *"169. Service of notice in certain circumstances.—(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—*
>
> *xxxx*
>
> ***(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time.."***

12. Ld. Counsel for the Petitioner relies upon ***Mrs. Neelam Ajit Phatarpekar vs. Assistant Commissioner of Income Tax, Tax Appeal No. 2756 of 2024*** to

argue that a notice given to the Chartered Accountant would not be sufficient notice under the Income Tax Act, 1961.

13. Insofar as this issue is concerned, the Court is of the view that the language in the Income Tax Act and in the CGST Act is different. With respect to Section169 of the Act, this Court has also taken a view recently in ***W.P. (C) 4374/2025*** titled ***Rishi Enterprises through its Proprietor v. Additional Commissioner Central Tax Delhi, North & Anr.*** that communication on the e-mail address is sufficient communication. The relevant part of the order reads as under:

> *32. A perusal of the above provision would show that the service can be effected either -*
>
> *(i) through physical tendering, or*
>
> *(ii) by registered post or speed post or courier with acknowledgment due, or*
>
> *(iii) by a communication to the email address, or*
>
> *(iv) uploading on the common portal, or*
>
> *(v) by publication in a newspaper or by affixation.*
>
> *It is not in dispute that service can be effected by any one of the above modes under Section 169 of Act. However, ld. Counsel for the Petitioner raises an interesting issue under Section 169(2) that 'deemed service' only would be in case of service, which is under Section 169(1)(a), 169(1)(e) or 169(1)(f) of the Act in view of the terms **'tendered'** or **'published'** or **'affixed'** being used in said subsection. The Petitioner's contention is that no 'deemed service' can be attributed where service is effected through the modes prescribed under the remaining sub-clauses.*
>
> *33. Insofar as this argument is concerned, the Court has no doubt as to the fact that 'limitation' and 'service' are interlinked with each other. Therefore, the term issuance of an order has to be interpreted in the context of Section 169 of the Act and Rule 142 of the CGST Rules. Under the scheme of Section 169 of the Act the usual modes of service are stipulated and some modes of service are also construed as*

> *'deemed service' under Section 169(2). The usual modes of service could be physical service, registered post, speed post, courier, email, uploading on the common portal, affixation etc., In the case of some modes of service, the service is deemed to have been effected. However, it cannot be argued or held that only when the service is done by any of the deemed service modes, that the order would stand* ***issued****. The issuance of the order in any of the stipulated modes of service would constitute* ***service****. There is a difference between issuance of an order and deemed service under Section 169(2) of the Act. Issuance of the order is what is required under Section 74(10) of the Act and service through a mode which would constitute* ***deemed service*** *of the order is not mandated. Therefore, communicating an order by email would be sufficient service in terms of Section 169 of Act for constituting issuance of an order. Rule 142 is also clear in the initial portion where it uses the expression,* ***summary of the order issued*** *under Section 74 of the Act.*

14. Thus, in this case, the Court is satisfied that by both the e-mails, the proper hearing notices have been given to the Petitioner.

15. The second issue that is being raised herein is in respect of Section 74(10) of the Act, stating that a combined Show Cause Notice and order cannot be given and separate orders have to be passed in respect of separate financial years.

16. In support of the said submission, reliance is placed upon by the Petitioner on the decision of the Supreme Court in ***State of Jammu and Kashmir and Others Versus Caltex (India) Ltd. 1965 SCC OnLine SC 168,*** wherein reference was also made to the decision in ***Bennet and White (Calgary) Ltd. v. Municipal District of Sugar City No. 5, [1953] S.C.R. 1069.***

17. The judicial committee, in ***Bennet & White (supra)*** observed that when the assessment is not for an entire sum but for separate sums, the same ought

to be dissected and earmarked, each to a separate assessable item. The said decisions were, however, rendered in the context of sales tax.

18. In the case of ***Caltex (India) (supra),*** there was one assessment order passed from the period January, 1, 1955 to May, 1959, but the assessment could be easily split up and dissected and the items of sales could be separated and taxed for different periods. Hence, the Supreme Court held that in such a case, the assessment for the period from January 1, 1955 to September 6, 1955 can be separated from the assessment of the rest of the period.

19. However, the decision in ***Caltex (India)(supra)*** cannot be applied to the facts in the present case, since the case in hand pertains to allegations of fraudulent availment of Input Tax Credit *(hereinafter, 'ITC').* The impugned order contains the record of a long drawn investigation over a period of time which led to the confirmation of tax demand of ITC amounting to Rs. 81,54,990/-.

20. Another decision relied upon by the Petitioner is ***W.P. No. 33164 of 2023*** titled ***Titan Company Ltd. v. Joint Commissioner of GST & Central Excise***. In the said case, the issue of bunching of Show Cause Notices (SCNs) was considered by the Madras High Court and the Court was of the opinion that under Section 73, Central Goods and Service Tax Act, 2017, bunching of SCNs would not be permissible.

21. Heard. This Court has, in the past, considered several orders-in original involving demands on the ground of allegations of fraudulent availment of ITC and has held that there are several factual issues in such cases, which would need to be looked into, which cannot be adjudicated in a writ petition. In the decision of ***W.P.(C) 4853/2025*** titled ***Ambika Traders through Proprietor v. Additional Commissioner, Adjudication, DGGSTI, CGST Delhi North,*** in the

context of issuance of multiple consolidated SCNs and passing of a consolidated order, this Court observed 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.—***
> >
> > *XXXX*
> >
> > *(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.*
> >
> > *XXXX*
> >
> > ***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.—***

XXXX

*(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.*

In the above decision, the Court has fully considered the statutory scheme as also the legislative history of the GST Act and held that in cases relating to availment of Input Tax Credit, considering the maze of transactions and due to the fact that the transactions may be spread over several years, issuance of a consolidated notice for multiple Financial Years would be permissible and tenable.

22. Thus, this Court is of the opinion that in cases involving allegations of fraudulent availment of ITC, where the transactions are spread across several years, a consolidated notice may in fact be required in such cases in order to establish the illegal modality adopted by such businesses and entities. The language of the legislation, itself, does not prevent issuance of SCN or order for multiple years in a consolidated manner.

23. Thus, this Court is of the opinion that on both the contentions made by the Petitioner, there is no jurisdictional error and there is also no violation of the principles of natural justice.

24. Thus, the impugned order does not warrant interference under writ jurisdiction of this Court.

25. Further, the Petitioner also had a duty to specifically plead in the writ petition that on the registered e-mail address, notices for personal hearing were received, which has not been done. The plea of Natural Justice was raised vehemently, until the Department established that emails were sent. Thereafter the plea being taken is that the emails were sent to the email address of the Chartered Accountant. This Court has already noted above that the said email was the registered email address of the Petitioner on the CGST portal. Thus, the notices were rightly sent and this Court is also of the opinion that the relevant and material facts have been concealed from the Court. The Petition is accordingly dismissed with costs of Rs.50,000/- to be paid to the CGST Department.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 26, 2025*/kp/ss*