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

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Judgment reserved on: 03.07.2026

Judgment pronounced on: 09.07.2026

Judgment uploaded on: 09.07.2026

+ W.P.(C) 8412/2026, CM APPL. 39417/2026 and CM APPL. 39418/2026

SUNIL CHAUHAN PROP OF SHREE CHEM INDIA

.....Petitioner

Through: Mr. A. K. Babbar and Mr. B. K. Tripathi, Advs.

versus

THE PRINCIPAL COMMISISONER OF CGST DELHI NORTH & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The present Writ Petition under Article 226 of the Constitution of India has been filed by the Petitioner assailing the Order-in-Original No. 91/JC/DN/RAVIPARKASH/2025-26 dated 16.12.2025 (hereinafter referred to as the 'Impugned Order') alongwith DRC-07 dated 16.12.2025 passed under Section 74 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act'), whereby a demand of tax amounting to Rs.5,51,34,232/- together with applicable interest has been confirmed against the Petitioner. The Impugned Order also imposes a penalty equivalent to the tax so determined under Section 74 of the CGST Act, besides penalties under Sections 122(1)(ii) and 122(3)(e) of the CGST Act. The



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Petitioner also assails the Show Cause Notice No. DGGI/DZU/2025-2026 dated 17.06.2025 (hereinafter referred to as 'Impugned SCN').

2. The controversy in the present Writ Petition lies within a narrow compass. During the course of hearing, the challenge to the Impugned Order was confined principally to the alleged violation of Sections 74(9) and 75(4) of the CGST Act, the reliance placed upon the statement of the Petitioner recorded under Section 70 of the CGST Act, and the competence of the Principal Commissioner of CGST, Delhi North (hereinafter referred to as 'Adjudicating Authority'), to impose the penalties contained in the Impugned Order.

3. Though the Impugned Order is appealable under Section 107 of the CGST Act, the Petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India principally on the ground that the adjudication proceedings stand vitiated by violation of the principles of natural justice and excess of jurisdiction.

FACTUAL MATRIX:

4. In order to appreciate the controversy involved in the present Writ Petition, the relevant facts, in brief, are required to be noticed.

5. The Petitioner is the proprietor of M/s Shree Chem India and is a registered person under the provisions of the CGST Act bearing GSTIN No. 07AUSPC8705A1ZS. The Petitioner is engaged in the business of trading in agro-chemical products, including insecticides and pesticides.

6. On 17.06.2025, the Directorate General of Goods and Services



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Tax Intelligence (hereinafter referred to as 'DGGI'), Delhi Zonal Unit, issued the Impugned SCN under Section 74 of the CGST Act proposing recovery of GST amounting to Rs.5,51,34,232/- for the financial years 2018-19 to 2022-23 together with applicable interest and penalty. The allegations in the Impugned SCN principally pertained to mis-declaration, undervaluation and clandestine clearance of taxable goods.

7. The Petitioner submitted a reply dated 16.07.2025 denying the allegations contained in the Impugned SCN. The Petitioner also sought permission to cross-examine certain persons upon whose statements and records reliance had been placed in the Impugned SCN.

8. Thereafter, the adjudicating authority passed the Impugned Order dated 16.12.2025 under Section 74 of the CGST Act confirming the proposed demand of tax together with applicable interest and penalty. The Impugned Order records that opportunities of personal hearing had been fixed on 09.10.2025, 14.10.2025 and 06.11.2025. The Petitioner disputes having been served with any notice intimating the aforesaid dates of hearing.

9. Aggrieved by the Impugned Order, the Petitioner has preferred the present Writ Petition invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

CONTENTION OF THE PETITIONER:

10. Learned counsel appearing on behalf of the Respondents entered appearance on the first date of hearing. However, despite the matter being taken up subsequently, none appeared on behalf of the



Respondents. Accordingly, this Court proceeded to hear the learned counsel representing the Petitioner. With his able assistance, the paperbook has been perused.

11. Learned counsel representing the Petitioner has confined his challenge on the following grounds:

- i. The Impugned Order is liable to be set aside for non-compliance with Section 74(9) of the CGST Act. Although the Petitioner had filed a reply dated 16.07.2025 to the Impugned SCN, the Adjudicating Authority has merely observed that the reply is “neither in consonance to the allegations made in the Show Cause Notice nor do they seem to validate their stance” without considering or dealing with the submissions raised therein.
- ii. The mandatory requirement under Section 75(4) of the CGST Act has been violated. Although the Impugned Order records that personal hearings were fixed on 09.10.2025, 14.10.2025 and 06.11.2025, no notice intimating the aforesaid dates was ever served upon the Petitioner.
- iii. The statement recorded from the Petitioner under Section 70 of the CGST Act was not voluntary and was obtained under coercion. It is contended that the said statement could not have been relied upon while adjudicating the proceedings.
- iv. The allegations in the Impugned SCN are substantially founded upon statements and material pertaining to third parties. Despite a specific request made in the reply to the Impugned SCN, the Petitioner was not afforded an opportunity to cross-



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examine the said persons.

v. Lastly, the Adjudicating Authority has exceeded its jurisdiction in imposing the penalties under the Impugned Order. The levy of penalties, in the facts of the present case, is beyond the authority conferred upon the Adjudicating Officer under the provisions of the CGST Act.

12. No other submissions have been made by the learned counsel representing the Petitioner.

ANALYSIS AND FINDINGS:

13. This Court has carefully considered the submissions advanced on behalf of the learned counsel representing the Petitioner and perused the material placed on record.

14. At the outset, it deserves notice that the Impugned Order is appealable under Section 107 of the CGST Act. Ordinarily, where a statute creates a complete machinery for redressal of grievances by providing an appellate remedy, the High Court, in exercise of its discretionary jurisdiction under Article 226 of the Constitution, would refrain from entertaining a challenge to the original adjudication order. This self-imposed restraint is founded upon the principle that where the legislature has provided a specialised mechanism for adjudication of disputes together with a hierarchy of appellate remedies, the parties must ordinarily pursue the remedy so provided before invoking the extraordinary writ jurisdiction of the High Court.

15. At the same time, it is equally well settled that the rule requiring exhaustion of an alternative statutory remedy is one of discretion and



not of jurisdiction. The existence of an alternative remedy does not operate as an absolute bar to the exercise of powers under Article 226 of the Constitution. In *Assistant Commissioner of State Tax and Others v. Commercial Steel Limited*¹, the Supreme Court reiterated that notwithstanding the availability of a statutory remedy, a writ petition may be entertained in exceptional circumstances, namely, where there is: (i) 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 a statute or delegated legislation.

16. The aforesaid exceptions have consistently been recognised by the constitutional courts as instances where relegating a litigant to the statutory remedy may not serve the ends of justice. In such cases, the High Court is not precluded from examining whether the decision-making process itself stands vitiated on account of jurisdictional error or breach of the principles of natural justice. However, the mere invocation of one of the aforesaid grounds in the pleadings is not by itself sufficient to bypass the statutory remedy. The Court is required to independently examine whether a *prima facie* case falling within any of the recognised exceptions has been made out so as to justify the exercise of its extraordinary jurisdiction.

17. In the present case, the Petitioner seeks to invoke the jurisdiction of this Court principally on the grounds that the adjudication proceedings are vitiated by non-compliance with Sections 74(9) and 75(4) of the CGST Act, denial of the opportunity to cross-examine witnesses whose statements have been relied upon, reliance upon a statement allegedly recorded under coercion under Section 70

¹ (2022) 16 SCC 447



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of the CGST Act, and excess of jurisdiction in the matter of imposition of penalty. It is, therefore, necessary to examine whether any of the aforesaid contentions disclose a case falling within the recognised exceptions warranting interference under Article 226 of the Constitution.

18. The first contention advanced on behalf of the Petitioner is that the Impugned Order is vitiated on account of non-compliance with Section 74(9) of the CGST Act. It is contended that despite the Petitioner having filed a detailed reply dated 16.07.2025 to the Impugned SCN, the Adjudicating Authority has merely observed that the reply is “neither in consonance to the allegations made in the Show Cause Notice nor do they seem to validate their stance” and has failed to deal with the submissions raised therein.

19. Section 74(9) of the CGST Act obligates the proper officer to consider the representation made by the person chargeable with tax before determining the amount of tax, interest and penalty payable. The provision undoubtedly casts a duty upon the adjudicating authority to apply its mind to the defence raised by the noticee. At the same time, the adequacy of reasons recorded by the adjudicating authority and the correctness of the findings returned are matters which ordinarily fall within the domain of the appellate authority.

20. Merely because the Adjudicating Authority has not elaborately dealt with every submission contained in the reply would not, by itself, lead to the conclusion that the representation was not considered at all. Whether the reasoning furnished in the Impugned Order is adequate or whether the conclusions recorded therein are sustainable matters touching upon the merits of the adjudication and are more



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appropriately examined in appeal. This Court, therefore, is not persuaded to hold that the contention founded upon Section 74(9) of the CGST Act, in the facts of the present case, constitutes such an exceptional circumstance as would warrant exercise of jurisdiction under Article 226 of the Constitution.

21. The next limb of contention is predicated upon the alleged violation of Section 75(4) of the CGST Act. Learned counsel representing the Petitioner submits that although the Impugned Order records that personal hearings were fixed on 09.10.2025, 14.10.2025 and 06.11.2025, no notice intimating the aforesaid dates was ever served upon the Petitioner in accordance with Section 169 of the CGST Act.

22. This contention, in the opinion of this Court, raises disputed questions of fact which cannot conveniently be adjudicated in proceedings under Article 226 of the Constitution. While the Petitioner asserts that no notice of personal hearing was ever served, the Impugned Order records that opportunities of personal hearing had been granted. Whether notices were in fact issued, whether they were served in accordance with the modes prescribed under Section 169 of the CGST Act, and whether the Petitioner had knowledge thereof, are all matters requiring examination of the record maintained by the Department. Such factual issues are best left to be examined by the appellate authority constituted under the statute. It cannot, therefore, be said, at this stage, that there exists a patent or self-evident violation of the principles of natural justice so as to justify bypassing the statutory remedy.

23. Learned counsel representing the Petitioner has also assailed the



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reliance placed upon the statement recorded under Section 70 of the CGST Act by contending that the same was obtained under coercion and has subsequently been retracted. It has further been urged that the request for cross-examination of the persons whose statements have been relied upon has been illegally declined.

24. These submissions again pertain to the evidentiary appreciation undertaken by the Adjudicating Authority. The voluntariness of the statement recorded under Section 70 of the CGST Act, the effect of its subsequent retraction, the evidentiary value to be attached thereto, and the necessity or otherwise of permitting cross-examination are all matters intrinsically connected with the merits of the adjudication. They neither disclose a patent jurisdictional defect nor establish, on the face of the record, such manifest violation of the principles of natural justice as would justify invocation of the extraordinary writ jurisdiction. All these issues are capable of being effectively urged before the appellate authority, which is empowered to reappreciate both facts and law.

25. The final submission advanced by the learned counsel representing the Petitioner is that the Adjudicating Authority lacked the jurisdiction to impose penalties under Sections 122(1)(ii) and 122(3)(e) of the CGST Act while exercising powers under Section 74 of the Act.

26. This contention also does not commend acceptance. The issue is no longer *res integra*. In ***Patanjali Ayurved Limited v. Union of India & Others***², the Allahabad High Court, while examining the scheme of

² [2025] 99 GSTL7 (Allahabad)



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the CGST Act, held that the proper officer who adjudicates proceedings under Sections 73 or 74 of the Act is competent to determine and impose the consequential penalties contemplated under Section 122 of the CGST Act. The Court observed that the provisions of the Act, read holistically, do not contemplate separate adjudication proceedings merely for the purpose of imposition of penalty under Section 122 of the Act where such liability arises out of the very adjudication undertaken under Sections 73 or 74 of the Act.

27. The said view also finds support from Explanation 1(ii) to Section 74 and Rule 142 of the CGST Rules, which envisage culmination of all consequential proceedings arising from the show cause notice by the adjudicating authority itself. The challenge to the competence of the adjudicating authority to impose the penalties, therefore, does not disclose any patent lack of jurisdiction warranting interference under Article 226 of the Constitution.

28. Insofar as the Petitioner's challenge to the competence of the officer issuing the Impugned SCN or the authority passing the Impugned Order is concerned, the same too raises questions regarding the interpretation of the statutory framework governing assignment of functions under the CGST Act. Such questions can appropriately be urged before the appellate authority constituted under Section 107 of the CGST Act, which is competent to examine both questions of fact and law arising from the adjudication. This Court is, therefore, not persuaded to entertain the present Writ Petition on the said ground as well.

29. Having considered each of the submissions advanced on behalf of the Petitioner, this Court is of the considered view that none of the



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grounds urged disclose a case falling within the recognised exceptions to the rule of alternate remedy as noticed hereinabove. The issues raised either involve disputed questions of fact requiring appreciation of evidence or relate to the correctness and legality of the findings recorded in the Impugned Order, all of which can appropriately be examined by the statutory appellate authority. No case of patent lack of jurisdiction or manifest violation of the principles of natural justice, warranting exercise of the extraordinary jurisdiction of this Court under Article 226 of the Constitution, is made out.

30. Consequently, the present Petition is dismissed and all the pending applications are disposed of. However, it shall be open to the Petitioner to avail the statutory remedy of appeal under Section 107 of the CGST Act, if so advised.

31. It is clarified that, in the event the Petitioner prefers an appeal under Section 107 of the CGST Act, the period during which the present Writ Petition remained pending before this Court shall not be reckoned for the purposes of limitation. The appellate authority shall consider the appeal in accordance with law and on its own merits, uninfluenced by any observations contained in the present judgment.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

JULY 09, 2026
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