2026:DHC:5610-DB

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

% ***Judgment reserved on: 10.07.2026***

Judgment pronounced on: 15.07.2026

Judgment uploaded on: 15.07.2026

\+ W.P.(C) 9153/2026, CM APPL. 42947/2026 and CM APPL. 42948/2026

SODEXO INDIA SERVICES PRIVATE LIMITED .....Petitioner

Through: Ms. Kavita Jha, Sr. Adv. with Mr. Sandeep Gupta, Mr. Arun Jain, Mr. Anant Mann, Ms. Aditi Sabharwal, Ms. Surabhi Prabhu Desai, Adv. and Ms. Kanika Sethi, Advs.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Arjun Malik, SSC, CBIC with Ms. Mayuri Makhija Adv. Mr. Vedansh Anand (SPC) with Mr. Shubham Goyal, GP & Mr. Kush Garg, Adv.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

JUDGMENT

ANIL KSHETARPAL, J.:

1. At the outset, it deserves notice that the Impugned Order is appealable under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'CGST Act'). The appellate remedy so provided constitutes a complete, efficacious and comprehensive statutory mechanism for redressal of grievances arising from orders of adjudication. The appellate authority is vested

with wide powers to examine both questions of fact and law, re-appreciate the material placed on record, scrutinise the findings returned by the adjudicating authority, and determine the legality as well as the correctness of the order under challenge. It is for this reason that where the legislature has consciously created a specialised adjudicatory framework coupled with a hierarchy of appellate remedies, constitutional courts have consistently exercised restraint in entertaining a challenge to the original adjudication order under Article 226 of the Constitution. Such self-imposed restraint is founded not upon any lack of jurisdiction, but upon sound principles governing the exercise of judicial discretion. Questions involving appreciation of evidence, adequacy of material, correctness of factual findings or errors in the adjudicatory process are, in the ordinary course, matters which the statutory appellate authority is best equipped to examine. Entertaining a writ petition in such circumstances would not only permit a litigant to bypass the legislative scheme but would also render *otiose* the efficacious appellate remedy consciously provided by the statute.

2. At the same time, it is equally well settled that the existence of an alternative statutory remedy does not operate as an absolute bar to the exercise of writ jurisdiction. In ***Assistant Commissioner of State Tax and Others v. Commercial Steel Limited***[1], the Supreme Court reiterated that notwithstanding the availability of an efficacious statutory remedy, the High Court may entertain a petition under Article 226 of the Constitution in exceptional circumstances, namely,

[1] (2022) 16 SCC 447

where there is: (i) breach of fundamental rights; (ii) violation of the principles of natural justice; (iii) excess of jurisdiction; or (iv) a challenge to the vires of a statute or delegated legislation. The Supreme Court further observed that the mere assertion of one of the aforesaid grounds would not, by itself, justify bypassing the statutory remedy. The High Court is required to independently examine whether the facts of the case disclose circumstances warranting the exercise of its extraordinary jurisdiction notwithstanding the availability of an efficacious appellate remedy.

3. In the backdrop of the aforesaid principles, the question which arises for consideration in the present case is whether the Petitioner has made out a case falling within any of the recognised exceptions so as to justify invocation of the extraordinary jurisdiction of this Court under Article 226 of the Constitution despite the availability of the statutory remedy under Section 107 of the CGST Act.

4. The challenge in the present Petition arises from the Order-in-Original dated 24.03.2026 (hereinafter referred to as 'Impugned Order') passed under Section 74 of the CGST Act, whereby a demand of approximately Rs.8.75 crores, together with applicable interest and penalty, has been confirmed against the Petitioner on eleven issues arising out of the audit proceedings. The predominant component of the demand pertains to the allegation that the supply of catering services and sale of pre-packaged food products constituted a composite supply liable to GST at the rate of 18%. The Petitioner had participated in the audit proceedings, submitted replies to the Audit Memo as well as the Additional Audit Memo together with

documentary evidence, agreements, invoices and reconciliations, responded to the Show Cause Notice dated 29.09.2025 (hereinafter referred to as 'SCN'), and thereafter participated in the personal hearings conducted by the adjudicating authority before the Impugned Order came to be passed.

5. Learned senior counsel representing the Petitioner submits that the challenge is confined to the decision-making process adopted by the adjudicating authority. It is contended that although replies and supporting documents were furnished during the audit as well as adjudication proceedings, the adjudicating authority, if it considered the material insufficient, ought to have called upon the Petitioner to furnish such further documents or clarifications as were considered necessary before proceeding to determine the liability. It is further submitted that the Petitioner's reply has not been adequately considered and the Impugned Order has been passed mechanically, thereby violating the principles of natural justice. Reliance has been placed upon the decisions of this Court in ***Malaysia Airlines Berhad v. Commissioner of Delhi Goods and Services Tax Department of Trade and Taxes & Anr.***[2] and ***Future Generali India Insurance Company Limited v. Goods and Service Tax Officer (GSTO) Ward 203 & Ors..***[3]

6. *Per contra*, learned counsel representing the Respondents submits that the present Petition is not maintainable in view of the efficacious statutory remedy available under Section 107 of the CGST

[2] 2024 (7) TMI 1383 – Delhi High Court
[3] 2024 (5) TMI 1381 – Delhi High Court

Act. It is contended that the Petitioner was afforded adequate opportunity during the proceedings and had furnished replies together with supporting documents, which have duly been considered in the Impugned Order.

7. Having considered the submissions advanced by the learned counsel representing the parties and perused the material placed on record, this Court is of the considered opinion that the present Petition does not disclose any exceptional circumstance warranting exercise of the extraordinary jurisdiction under Article 226 of the Constitution.

8. The principal grievance of the Petitioner is that if the adjudicating authority considered the material placed on record to be insufficient for determining the liability, it ought to have called upon the Petitioner to furnish such further documents or clarifications as were considered necessary instead of proceeding to pass the Impugned Order. The contention does not commend acceptance.

9. The record reveals that the Petitioner actively participated throughout the adjudication proceedings. Detailed replies were furnished not only to the Audit Memo and the Additional Audit Memo but also to the SCN. Along with the replies, the Petitioner placed on record agreements, invoices, reconciliations and other documentary material in support of its defence. Personal hearings were also conducted before the adjudicating authority. It is, therefore, not a case where the Petitioner was denied an opportunity to place its case or produce material in support thereof.

10. The submission advanced on behalf of the Petitioner, in essence, proceeds on the premise that it was incumbent upon the adjudicating authority to seek further documents before concluding the proceedings. Such a proposition, in the opinion of this Court, cannot be accepted as an inflexible requirement of natural justice. Once adequate opportunity has been afforded to a noticee to place all material in support of its case, the adjudicating authority is required to adjudicate on the basis of the record available before it. Whether the material produced was sufficient to substantiate the Petitioner's case, whether any further documents ought to have been furnished, and whether the conclusions ultimately drawn by the adjudicating authority are sustainable, are all matters touching upon the merits of the adjudication. Such issues are eminently within the province of the statutory appellate authority under Section 107 of the CGST Act.

11. Insofar as the submission regarding non-consideration of the Petitioner's reply is concerned, the same also does not persuade this Court to entertain the present Petition. A perusal of the Impugned Order demonstrates that the reply submitted by the Petitioner has, in fact, been noticed by the adjudicating authority. Whether the reply has been adequately dealt with, whether each contention raised therein has been correctly appreciated, or whether the reasons recorded by the adjudicating authority are sufficient, are all matters which pertain to the correctness of the adjudication. Such questions neither disclose a violation of the principles of natural justice nor establish any jurisdictional infirmity warranting interference under Article 226 of the Constitution.

12. The reliance placed by the Petitioner upon the decisions of this Court in ***Malaysia Airlines Berhad*** *(supra)* and ***Future Generali India Insurance Company*** *(supra)* is also misplaced. Neither of the aforesaid decisions examines the question of maintainability of a writ petition in the face of the efficacious statutory remedy available under Section 107 of the CGST Act, nor do they consider the principles enunciated by the Supreme Court in ***Assistant Commissioner of State Tax*** *(supra)*. The said decisions, therefore, cannot be construed as laying down a proposition that every grievance relating to the appreciation of replies or sufficiency of documents necessarily warrants exercise of writ jurisdiction notwithstanding the availability of an efficacious statutory appeal.

13. Hence, this Court is unable to hold that the present case falls within any of the recognised exceptions to the rule of alternative remedy. The grievance projected by the Petitioner does not establish a manifest violation of the principles of natural justice so as to justify bypassing the statutory appellate mechanism.

14. Consequently, the present Writ Petition is dismissed, leaving it open to the Petitioner to avail the statutory remedy of appeal under Section 107 of the CGST Act, if so advised.

15. 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, including the question of limitation, on its own merits and uninfluenced by any observations contained in the present judgment.

16. All the pending applications stand closed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

JULY 15, 2026
sp/shah