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

% ***Date of Decision: 27.07.2026***

\+ W.P.(C) 10993/2025 and CM APPL. 45300/2025

M/S DK ENTERPRISES THROUGH PROPRIETOR, DEEPAK MITTAL .....Petitioner

Through: Mr. Rupesh Sharma, Sr. Adv. with Mr. Kartik Jindal, Mr. Alekshendra Sharma, Ms. Palak Gupta, Mr. Mukul Tyagi, Advs.

versus

UNION OF INDIA REPRESENTED THROUGH SECRETARY DEPT OF REVENUE MINISTRY OF FINANCE & ANR. .....Respondents

Through: Mr. Siddhartha Shankar Ray, CGSC with Ms. Sonali Modi, Mr. Mukul Dev, Advs. for R-1.
Ms.Anushree Narain, SSC with Mr. Naman Choula, Mr. Apurv Yadav, Advs. for R-2.

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

ORDER (ORAL)

ANIL KSHETARPAL, J.:

1. At the outset, it is be noted that two earlier Writ Petitions preferred by the Petitioner were disposed of by relegating the Petitioner to the statutory remedy of appeal under Section 107 of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as 'CGST Act'].

2. Through the present Writ Petition, the Petitioner seeks quashing of the order dated 03.02.2025 [hereinafter referred to as 'Impugned Order'], whereby a demand of approximately Rs.64 crores has been raised. By the Impugned Order, the Additional Commissioner (Adjudication), Central Goods and Services Tax, Delhi has concluded that the Petitioner had wrongly availed Input Tax Credit ('ITC') on the basis of fake invoices.

3. Learned senior counsel representing the Petitioner contends that in view of Section 107(11) of the CGST Act, the Appellate Authority has no power to remit the matter to the Adjudicating Authority. It is submitted that since no opportunity to cross-examine the witnesses was afforded to the Petitioner during the adjudication proceedings, the present Writ Petition deserves to be entertained.

4. Learned senior counsel further submits that the Petitioner has already deposited a sum of Rs.64 crores, which has not been duly considered by the Adjudicating Authority.

5. At this stage, it is pertinent to refer to Section 107(11) of the CGST Act. The relevant extract of the same has been reproduced hereinbelow:

> *"**Section 107. Appeals to Appellate Authority. -** (11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:*

6. A plain reading of the aforesaid provision indicates that although the Appellate Authority cannot remand the matter to the

Adjudicating Authority, it is expressly empowered to undertake such further inquiry as may be necessary before deciding the appeal. Such power is sufficiently wide to enable the Appellate Authority, in an appropriate case, to permit cross-examination of witnesses wherever it considers the same necessary for a just adjudication.

7. Additionally, the Appellate Authority exercises the jurisdiction of the first appellate forum and possesses ample powers to confirm, modify or annul the order under challenge. Being vested with wide appellate powers, it is competent to examine both factual and legal issues arising from the Impugned Order, including the grievance relating to denial of cross-examination.

8. Insofar as the second submission is concerned, the Impugned Order records consideration of the Petitioner’s contention regarding the payment of Rs.64 crores. In any event, the Appellate Authority is fully competent to re-examine the said issue while deciding the appeal.

9. In view of the aforesaid, this Court is not inclined to entertain the present Writ Petition in exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India. The Petitioner is relegated to the statutory remedy of appeal available under Section 107 of the CGST Act.

10. The Petitioner shall be at liberty to file an appropriate application under Section 14 of the Limitation Act, 1963, seeking exclusion of the period during which the present Writ Petition remained pending for the purposes of limitation.

11. With these observations, the present Writ Petition is disposed of. The pending application also stands closed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

JULY 27, 2026
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