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

% ***Date of Decision: 05.08.2026***

\# **CNR No. DLHC010175892025**

\+ W.P.(C) 4126/2025 and CM APPL. 19123/2025

SHUB CONDUCTORS LLP AND ORS .....Petitioners

Through: Mr. Sunil Agarwal, Mr. Adeeb Ahmad and Ms. Harshita Sharma, Advs.

versus

JOINT COMMISSIONER CENTRAL TAX GST DELHI EAST DELHI AND ORS .....Respondents

Through: Mr. Piyush Beriwal, Ms. Ruchita Srivastava and Mr. Sparsh Jain, Advs.

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

ORDER (ORAL)

ANIL KSHETARPAL, J.:

1. Through the present Writ Petition, the Petitioners pray for the following reliefs:

> *"(a) issue writ of certiorari, mandamus or any other appropriate writ, order or direction under Article 226/227 of the Constitution of India quashing the Impugned Order dated 11-1-2025 passed by the Respondents;*
>
> *(b) issue writ of certiorari, mandamus or any other appropriate writ, order or direction under Article 226/227 of the Constitution of India quashing all consequential proceedings/ actions/notices consequent thereto;*
>
> *(c) issue writ of certiorari, mandamus or any other appropriate writ, order or direction under Article 226/227 of the Constitution of India calling for the records relating to the Petitioners from Respondent/Revenue;"*

2. The Petitioners have a remedy of Statutory Appeal under Section 107 of the Central Goods and Services Tax Act, 2017

[hereinafter referred to as 'CGST Act'] against the order dated 11.01.2025.

3. Learned counsel representing the Petitioners has essentially made the following three (03) submissions:

i. Two (02) simultaneous orders have been passed under Sections 74 and 73 of the CGST Act in respect of the same period;

ii. the proceedings initiated by the CGST Authorities were barred by Section 6(2)(b) of the CGST Act, and

iii. Since the controversy raises a pure question of law, this Court ought to entertain the present Writ Petition notwithstanding the availability of the statutory remedy.

4. Learned counsel representing the Respondents has submitted that the search of the Petitioner's premises was carried out on 03.02.2020, during which certain goods were seized as they were found to be without any invoices. Subsequently, the matter was adjudicated by issuing Notice under Section 67(7) of the CGST Act on 06.09.2022, and the proceedings were dropped.

5. It is further contended by learned counsel representing the Respondents that after the investigation, the Competent Authority under the CGST Act issued a Show Cause Notice *('SCN')* under Section 74 of the CGST Act on 22.03.2023 in respect of the period spanning five (05) Financial Years, i.e., F.Ys. 2017-18 to 2021-22.

6. It was alleged that the Petitioner had wrongfully availed Input

Tax Credit and had evaded payment of tax. The Petitioner filed its reply on 16.02.2024, whereafter the Adjudicating Authority, upon consideration of the matter, passed the order dated 11.01.2025.

7. Learned counsel representing the Respondents also submits that the State Goods and Services Tax ('SGST') Authorities issued following three (03) Notices:

i. 25.09.2023 (in respect of F.Y. 2017-18);

ii. 05.12.2023 (in respect of F.Y. 2018-19); and

iii. 29.03.2024 (in respect of F.Y. 2019-20).

8. The SGST Authorities passed the following orders:

i. 29.12.2023 (in respect of F.Y. 2017-18);

ii. 23.01.2024 (in respect of F.Y. 2018-19); and

iii. 08.10.2024 (in respect of F.Y. 2019-20).

9. Learned counsel representing the Respondent further submits that the proceedings under the CGST Act were initiated prior in point of time, the SCN having been issued on 22.03.2023, whereas the first notice by the SGST Authorities was issued only on 25.09.2023. Moreover, the Petitioner never filed any application for stay of the proceedings by the SGST Authorities as provided under Section 6(2)(b) of the CGST Act.

10. This Court has considered the submissions made by learned counsel representing the parties. The availability of an effective statutory remedy of Appeal against the order dated 11.01.2025 is not in dispute.

11. Section 6(2)(b) of the CGST Act provides that where a proper officer under the State Goods and Services Tax Act has initiated proceedings on a subject matter, no proceedings shall be initiated by the proper officer under the CGST Act on the same subject matter.

12. In the present case, however, the SCN under Section 74 of the CGST Act was issued on 22.03.2023, whereas the notices relied upon by the Petitioner as having been issued by the SGST Authorities came subsequently. Thus, on the chronology placed before this Court, the contention based on Section 6(2)(b) of the CGST Act does not disclose such a jurisdictional infirmity as would warrant bypassing the statutory remedy of Appeal.

13. Further, the order dated 06.09.2022 pertained to the proceedings relating to the goods seized during the search, whereas the order dated 11.01.2025 came to be passed after investigation, issuance of the SCN under Section 74 of the CGST Act and consideration of the Petitioner's reply.

14. The two proceedings, therefore, cannot, merely on that basis, be treated as parallel adjudication of the same subject matter.

15. Learned counsel representing the Petitioners has relied upon ***Godrej Sara Lee Ltd. v. Excise & Taxation Officer***[1] to contend that the existence of an alternative remedy does not preclude exercise of writ jurisdiction where a pure question of law or jurisdiction arises, as also upon ***Armour Security (India) Ltd. vs. Commissioner, CGST, Delhi East Commissionerate and Anr.***[2]. However, for the reasons

[1] 2023 SCC OnLine SC 95
[2] 2025 SCC OnLine SC 1700

recorded hereinabove, neither of the said judgments persuades this Court to entertain the present Writ Petition.

16. There can be no quarrel with the proposition laid down in ***Godrej Sara Lee*** *(supra)*. The Supreme Court has clarified that the availability of an alternative remedy does not render a Writ Petition not maintainable, however, its entertainability remains a matter of judicial discretion.

17. This Court has examined the jurisdictional objection raised under Section 6(2)(b) of the CGST Act and, for the reasons recorded hereinabove, finds no such infirmity in the impugned proceedings. Thus, no circumstance is made out warranting exercise of writ jurisdiction in preference to the effective statutory remedy of Appeal available to the Petitioners

18. Accordingly, the present Writ Petition is disposed of, and the Petitioner is relegated to the statutory remedy of Appeal under Section 107 of the CGST Act. The period spent by the Petitioners in prosecuting the present Petition before this Court shall stand excluded while computing the period of limitation for filing the statutory Appeal.

19. The pending application also stands closed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 05, 2026
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