2026:DHC:7854-DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Judgment reserved on: 06.08.2026***
Judgment pronounced on: 16.09.2026
Judgment uploaded on: 16.09.2026

\# **CNR No. DLHC010483562025**
\+ W.P.(C) 10607/2025 and CM APPL. 43991/2025
KATYANI EXPORTS THROUGH ITS PROPRIETOR SH. AJAY SINGH GAUTAM .....Petitioner
Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents
Through: Mr. Shashank Sharma, SSC along with Ms. Malika Kumari, Adv.
Ms. Avshreya Pratap Singh Rudy, CGSC along with Ms. Usha Jamnal, Ms. Nyasa Sharma, Mr.Ankit Khatri, Mr. Siddhant Nagar and Mr. Abhinav Mall, Advs.
Mr. Anurag Ojha, SSC along with Mr. Dipak Raj and Mr. Aditya Choudhary, Advs.

\# **CNR No. DLHC010483582025**
\+ W.P.(C) 10609/2025 and CM APPL. 43995/2025
VISHNU IMPEX THROUGH ITS PARTNER SH. AJAY SINGH GAUTAM .....Petitioner
Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents
Through: Mr. Shashank Sharma, SSC along with Ms. Malika Kumari, Adv.
Mr. Anurag Ojha, SSC along with Mr. Dipak Raj and Mr. Aditya Choudhary, Advs.

\# **CNR No. DLHC010483622025**

\+ W.P.(C) 10613/2025 and CM APPL. 44002/2025

MATRIX DESIGN ENTERPRISES THROUGH ITS PARTNER SH. UMESH CHANDRA MISHRA .....Petitioner

Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Shashank Sharma, SSC along with Ms. Malika Kumari, Adv.
Mr. Anurag Ojha, SSC along with Mr. Dipak Raj and Mr. Aditya Choudhary, Advs.
Mr. Syed Abdul Haseeb, CGSC along with Mr. Muhammad Aamir Khan, Adv.

\# **CNR No. DLHC010483632025**

\+ W.P.(C) 10614/2025 and CM APPL. 44004/2025

DIVINE CREATIONS THROUGH ITS PARTNER SH. AJAY SINGH GAUTAM .....Petitioner

Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Anurag Ojha, SSC along with Mr. Dipak Raj and Mr. Aditya Choudhary, Advs.
Ms. Anushree Narain, SSC along with Mr. Apurv Yadav and Mr. NamanChoula, Advs.

\# **CNR No. DLHC010484682025**

\+ W.P.(C) 10718/2025 and CM APPL. 44356/2025

ETEMAD CARGO THROUGH ITS SURVIVING PARTNER SH. UMESH CHANDRA MISHRA .....Petitioner

Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Shashank Sharma, SSC along with Ms. Malika Kumari, Adv.
Mr. Anurag Ojha, SSC along with Mr. Dipak Raj and Mr. Aditya Choudhary, Advs.

\# **CNR No. DLHC010484182025**

\+ W.P.(C) 10670/2025 and CM APPL. 44126/2025

AURA CREATIONS THROUGH ITS PARTNER SH.ARUN GUPTA .....Petitioner

Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Ms. Avshreya Pratap Singh Rudy, CGSC along with Ms. Usha Jamnal, Ms. Nyasa Sharma, Mr. Ankit Khatri, Mr. Siddhant Nagar and Mr. Abhinav Mall, Advs.
Mr. Anurag Ojha, SSC along with Mr. Dipak Raj and Mr. Aditya Choudhary, Advs.
Mr. Shlok Chandra, SSC along with Mr. Parikshit Singh Bhati and Ms. Lolita Crasta, Advs.

\# **CNR No. DLHC010484702025**

\+ W.P.(C) 10720/2025 and CM APPL. 44360/2025

LOTUS EXIM THROUGH ITS PARTNER SH. AJAY SINGH GAUTAM .....Petitioner

Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Satya Ranjan Swain, CGSC along with Mr. Kautilya Birat,

GP and Mr. Tushar Hazrati, Mr. Sanskar Gupta and Mr. Prakhar Negi, Advs.
Mr. Shashank Sharma, SSC along with Ms. Malika Kumari, Adv.
Mr. Anurag Ojha, SSC along with Mr. Dipak Raj and Mr. Aditya Choudhary, Advs.

\# **CNR No. DLHC010484712025**
\+ W.P.(C) 10721/2025 and CM APPL. 44365/2025
MYSTIC EXIM PRIVATE LIMITED .....Petitioner
Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents
Through: Mr. Shashank Sharma, SSC along with Ms. Malika Kumari, Adv.
Mr. Anurag Ojha, SSC along with Mr. Dipak Raj and Mr. Aditya Choudhary, Advs.
Mr. Farman Ali, CGSC along with Ms. Usha Jamnal and Ms. Tanya, Advs.

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

J U D G M E N T

ANIL KSHETARPAL, J.:

A. INTRODUCTION:

1. The present batch of 08 Petitions arises out of challenges laid by five (05) exporters and three (03) suppliers, against the Show

Cause Notices (SCNs) dated 29.07.2022 and 26.02.2024, as well as the consequential Order-in-Original (OIO) dated 05.02.2025, arising out of proceedings under Central Goods and Services Act, 2017[1] and Integrated Goods and Services Act, 2017[2]. In addition, the Petitions also raise a challenge to the Circular No.31/05/2018-GST dated 09.02.2018[3], as amended by Circular No. 169/01/2022-GST dated 12.03.2022[4], Circular No. 239/33/2024-GST dated 04.12.2024[5], inasmuch as the the amended provisions thereof lay down the manner of determining the Common Adjudicating Authority in respect of SCNs issued to multiple noticees by the Directorate General of Goods and Services Tax Intelligence (DGGI).

2. Although the present Petitions raise questions on merits as well as on the jurisdiction of the Adjudicating Authority who passed the impugned OIO, this Court, by way of its Order dated 20.08.2025, noticed the jurisdictional issue and directed the parties to file their respective submissions on the said aspect. Accordingly, the final hearing before this Bench was confined only to the issue of jurisdiction, which is being dealt with in the succeeding paragraphs.

B. <u>BRIEF FACTUAL BACKGROUND</u>:

3. Before adverting to the facts leading to filing of the present Petitions, the status/role of each of the Petitioners as per the investigation is noticed hereunder for clarity and ease of reference:

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[1] hereinafter referred to as 'Act of 2017'
[2] hereinafter referred to as 'IGST Act'
[3] hereinafter referred to as 'CN 31/2018'
[4] hereinafter referred to as 'CN 169/2022'
[5] hereinafter referred to as CN 239/2024 and collectively as 'Impugned Circular'

S. No.	Case No. and corresponding Petitioners	Status/Role
1.	W.P.(C) 10607/2025 Katyani Exports through its Proprietor Sh. Ajay Singh Gautam[6]	Exporter/ End User of L-2 suppliers
2.	W.P.(C) 10609/2025 Vishnu Impex through its Partner Sh. Ajay Singh Gautam[7]	Exporter/End User
3.	W.P.(C) 10613/2025 Matrix Design Enterprises through its Partner Sh. Umesh Chandra Mishra[8]	L-1 Supplier
4.	W.P.(C) 10614/2025 Divine Creations through its Partner Sh. Ajay Singh Gautam[9]	Exporter/ End User of L-2 suppliers
5.	W.P.(C) 10670/2025 Aura Creations through its Partner Sh.Arun Gupta[10]	Exporter/ End User of L-2 suppliers
6.	W.P.(C) 10718/2025 Etemad Cargo through its Surviving Partner Sh. Umesh Chandra Mishra[11]	L-1 Supplier
7.	W.P.(C) 10720/2025 Lotus Exim through its Partner Sh. Ajay Singh Gautam[12]	Exporter/ End User

[6] hereinafter referred to as ‘Petitioner No.1’
[7] hereinafter referred to as ‘Petitioner No.2’
[8] hereinafter referred to as ‘Petitioner No.3’
[9] hereinafter referred to as ‘Petitioner No.4’
[10] hereinafter referred to as ‘Petitioner No.5’
[11] hereinafter referred to as ‘Petitioner No.6’
[12] hereinafter referred to as ‘Petitioner No.7’

8.	W.P.(C) 10721/2025 Mystic Exim Private Limited[13]	L-1 Supplier

4. Pithily put, the genesis of the present proceedings lies in intelligence received by the DGGI, Gurugram Zonal Unit, indicating the involvement of various exporter firms across India in a large-scale fraudulent IGST racket. Pursuant thereto, a joint operation was conducted, during which two exporter firms, namely, Petitioner Nos.2 and 7, were identified and taken up for investigation to ascertain the genuineness of purchases reflected in their returns.

5. Further, the investigation, on tracing the inward supply chain of the said exporter firms, ultimately culminated in the passing of impugned SCN and OIO, whereby the Petitioners have been fastened with liability towards the benefit availed by way of an alleged fraudulent Input Tax Credit (ITC).

<u>Modus Operandi of the fraud</u>

6. As per findings recorded by the Adjudicatory Authority, the IGST fraud operated through a three-layer chain of fake invoicing, without any actual movement of goods. At the bottom of the chain, 18 non-existent entities, characterised as L-2 suppliers, issued goods-less invoices to a set of L-1 Suppliers, thereby enabling the L-1 firms to falsely claim ITC on purchases that never actually took place. These L-1 firms, also found to be non-existent at their declared addresses, in turn passed on the same fraudulent credit further up the chain by issuing their own goods-less invoices to exporter/end-user firms.

[13] hereinafter referred to as 'Petitioner No.8'

7. Upon receipt of such invoices, the end-user firms availed and utilised such credit to discharge their tax liability and, more significantly, to claim IGST refunds on exports. During the course of the investigation, it was further found that the entire chain was controlled by two individuals, namely Mr. Surender Kumar Gupta (allegedly controlling the L-1 Suppliers) and Mr. Ajay Singh Gautam (allegedly controlling the exporter/end-user firms) who used to generate and route invoices between entities under their respective control without any genuine underlying transaction, with the help of a common transporter who was engaged across the chain to lend a semblance of actual movement of goods.

Role of the Petitioners

8. Insofar as the Petitioners are concerned, it was found that Petitioner Nos.2 and 7, being controlled by Mr. Ajay Singh Gautam, acted as 'End Users' in the aforesaid chain and availed the benefit of fraudulent/inadmissible ITC through common L-1 Suppliers, namely Petitioner Nos.3, 6 and 8 amongst others, who issued goods-less/fictitious sale invoices to the Petitioner Nos.2 and 7.

9. Further, the Petitioner Nos.1, 4 and 5, also controlled by Mr. Ajay Singh Gautam, acted as parallel end-user entities and availed fraudulent ITC directly on the strength of goods-less invoices issued by the L-2 suppliers, without any intervention of L-1 Suppliers. Following such discovery, statements under Section 70 of Act of 2017 were recorded and it was revealed that the entire fraudulent chain, comprising both the exporter/end-user firms and the L-1 Suppliers, was controlled solely by Mr. Surender Kumar Gupta and Mr. Ajay

Singh Gautam.

<u>Proceedings arising out of Act of 2017 and IGST Act</u>

10. On the strength of the aforesaid findings, the Impugned SCN was issued under Section 74(1) of the Act of 2017 to as many as 146 noticees, including the Petitioners herein and their respective proprietors/partners/directors/controllers, invoking the extended period of limitation on the ground of alleged fraud and wilful suppression of facts, and proposing recovery of the wrongly availed/passed-on ITC, along with applicable interest and penalty.

11. Upon adjudication, the Additional Commissioner, CGST, Delhi by way of the impugned OIO, confirmed the demand of ITC along with interest under Section 74(1) read with Section 50 of the Act of 2017 against the 'End User' firms; confirmed demand, interest and penalty under Sections 74(1) and 122(1) of the Act of 2017 against the 'L-1 Supplier' firms; and further imposed penalty under Sections 74(1), 122(1) and 122(3) of the Act of 2017 upon the individual proprietors/partners/directors/controllers of the said firms, including Mr. Surender Kumar Gupta and Mr. Ajay Singh Gautam.

12. Aggrieved thereby, the Petitioners instead of filing Appeals, have invoked the jurisdiction of this Court seeking our indulgence.

13. As noted at paragraph No.2 of this judgment, we shall now proceed to examine the issue of jurisdiction agitated by the Petitioners herein.

C. CONTENTIONS OF THE PARTIES:

14. Learned counsel representing the Petitioners have made the following submissions:

14.1 Reference has been made to CN 169/2022 and 239/2024, to argue that the amendments made by way of these circulars in the CN 31/2018, in particular under paragraph Nos.7.1 and 7.2, merely provide for a procedure of adjudication of a common SCN by a single Additional/Joint Commissioner, and do not assign the function to any particular officer. Making reference to the Impugned Circular, it has further been argued that the same neither recites the source of statutory power, nor do they record approval of Board under Section 168(2) of the Act of 2017.

14.2 Further, reference has been made to Notification No.2/2022-Central Tax dated 11.03.2022[14], to argue that the insertion of paragraph No.3A and Table V, merely confers a power upon a class and makes no assignment qua any particular assessee, and gap between the two, is fulfilled only by the Impugned Circular through the 'highest demand' criterion, amounting, in substance, to jurisdiction being conferred by a Circular, contrary to the Sections 3, 5 and 167 of the Act of 2017. In regard to the said Circular, it has also been argued that the same was not put before the GST Council for ratification, thereby violating Section 6(1) of the Haryana GST Act, 2017.

14.3 Relying upon Sections 2(91), 3, 5(3) and 167 of the Act

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[14] hereinafter referred to as 'NN 2/2022'

of 2017, it has been argued that the assignment/transfer of functions of a proper officer can only be effectuated by way of a notification, which is then laid before the Parliament in accordance with Section 166 of the Act of 2017. Whereas a Circular is merely confined to securing uniformity in implementation under Section 168(1) of the Act of 2017, in the nature of a clarification and cannot be a vehicle for such assignment. Reliance in this regard is placed on ***Commissioner of Central Excise, Bolpur v. Ratan Melting & Wire Industries***[15]**,** ***BMG Informatics Pvt. Ltd. v. Union of India***[16] **and** ***Union of India v. Bharat Forge Ltd.***[17]**.**

14.4 Reliance is also placed on ***Ishar Alloy Steels Ltd. v. Jayaswals Neco Ltd.***[18] **and** ***Shree Gouri Shankar Jute Mills Ltd. v. Union of India***[19], to contend that the definite article 'the' in 'the proper officer/the Commissioner' denotes a specifically identified officer, and Table II of Notification No. 2/2017-CT dated 19.06.2017[20] has already identified such officer for the Petitioners and such identification cannot be altered by way of a circular.

14.5 It is contended that the selection criterion of 'highest amount of demand' is arbitrary and violative of Article 14 of the Constitution, with no mention under the Act of 2017. The Impugned Circular provides no guidance on clubbing noticees,

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[15] [2008] 17 STT 103 (SC)
[16] 2021 SCC OnLine Gau 2570
[17] 2022 SCC OnLine SC 1018
[18] (2001) 3 SCC 609
[19] (2012) 286 ELT 652
[20] hereinafter referred to as 'NN 2/2017

allowing the DGGI to determine the adjudicating/appellate authorities, Tribunal Bench, and even the jurisdictional High Court, despite no nexus of an assessee with that State. This criterion is argued to be lacking any *intelligible differentia* or rational nexus with the object sought to be achieved. Reliance in this regard has been placed on ***Anirudhsinhji Karansinhji Jadeja v. State of Gujarat***[21] to argue that an exercise of power by an authority not vested with it is void.

14.6 Lastly, it is contended that the Petitioners having their place of business in Haryana are governed by Sections 107, 109 and 112 of the Haryana GST Act, 2017, since no pan-India Commissioner (Appeals) has been notified and Circular No.250/07/2025-GST dated 24.06.2025[22] itself admits that the CN 239/2024 did not address review, revision or appeals. Reliance in this regard has been placed on ***Pr. Commissioner of Income Tax-1 v. ABC Papers Ltd.***[23]

15. *Per contra*, learned counsel representing the Respondents have made the following submissions:

15.1 At the outset, learned counsel placing reliance upon ***Ambika Traders v. Additional Commissioner, Adjudication DGGSTI, CGST Delhi North***[24] raised a preliminary objection to the maintainability of the present Petitions, in view of the availability of an alternative statutory remedy of Appeal.

[21] (1995) 5 SCC 302
[22] hereinafter referred to as 'CN 250/2025'
[23] [2022] 289 Taxman 150 (SC)
[24] W.P.(C) 4853/2025

15.2 Responding to the argument raised by the Petitioner that no pan-India jurisdiction has been identified, it has been argued that such jurisdiction was conferred by NN 2/2017 and not by way of the Impugned Circular. Further, Table III confers co-extensive territorial jurisdiction on Commissioners (Appeals) and specified officers, while Table V, as amended by NN-02/2022, empowers specified Additional/Joint Commissioners, including the Principal Commissioner, Delhi North, to adjudicate DGGI notices under Section 74 of the Act of 2017 on a pan-India basis.

15.3 It has been argued that the Impugned Circular neither confers nor expands jurisdiction. It only provides an administrative mechanism for selecting from officers already vested with pan-India jurisdiction, a Common Adjudicating Authority based on the noticee having the highest demand.

15.4 Highlighting the role of CN 31/2018, as amended by CN 239/2024, it is argued that the aforesaid Circulars merely provides an administrative mechanism for common adjudication where a SCN covers multiple noticees across Commissionerates, by selecting the jurisdiction of the noticee having the highest demand. It does not confer any fresh jurisdiction.

15.5 It is argued that CN 250/2025 clarifies that the Appeals against the OIO lie before the Commissioner (Appeals) having territorial jurisdiction over the Principal Commissioner/Commissioner under whom the Common Adjudicating Authority is posted. Accordingly, where the Common Adjudicating Authority is posted under Principal

Commissioner, Commissioner (Appeals-I), Delhi has appellate jurisdiction.

15.6 Further, reference is also made to CN 250/2025, to argue that it only clarifies that the Appeals against Orders of the Common Adjudicating Authority lie before the Commissioner (Appeals) having territorial jurisdiction over the Principal Commissioner/Commissioner under whom the Common Adjudicating Authority is posted. Since the Common Adjudicating Authority here is under Principal Commissioner, Delhi North, Commissioner (Appeals-I), Delhi has jurisdiction.

15.7 Lastly, it is the case of the Respondents that a conjoint reading of the Notifications and the Impugned Circular establishes valid adjudicatory and appellate jurisdiction.

D. **ANALYSIS AND REASONING:**

16. Heard learned counsel representing the parties at length and with their able assistance perused the material on record along with the written submissions and judgments relied upon.

The Statutory Scheme

17. Before proceeding to the examination of the validity of Impugned Circular, we first notice the provisions of the Act of 2017 under which a notification, on the one hand, and a circular, on the other, are issued, since it is this interplay of these provisions that lies at the heart of the controversy. The relevant provisions are produced hereunder:

2. Definitions.*—In this Act, unless the context otherwise requires,—*

(4) "Adjuicatory Authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include Central Board or Indirect Taxes and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority , the Appellate Tribunal and the Authority referred to in sub-section (2) of Section 171;

(91) *"proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;*

3. Officers under this Act.—*The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—*

(a) Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,

(b) Chief Commissioners of Central Tax or Directors General of Central Tax,

(c) Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,

(d) Commissioners of Central Tax or Additional Directors General of Central Tax,

(e) Additional Commissioners of Central Tax or Additional Directors of Central Tax,

(f) Joint Commissioners of Central Tax or Joint Directors of Central Tax,

(g) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,

(h) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and

(i) any other class of officers as it may deem fit:

Provided that the officers appointed under the Central Excise Act, 1944(1 of 1944.) shall be deemed to be the officers appointed under the provisions of this Act.

5. Powers of officers.—*(1) Subject to such conditions and limitations as the Board may impose, an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.*

(3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.

*166. **Laying of rules, regulations and notifications.**—Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.*

*167. **Delegation of powers.**—The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under this Act may be exercisable also by another authority or officer as may be specified in such notification.*

*168. **Power to issue instructions or directions.**—(1) The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.*

(2) The Commissioner specified in clause (91) of Section 2, subsection (3) of Section 5, clause (b) of sub-section (9) of Section 25, sub-sections (3) and (4) of Section 35, sub-section (1) of Section 37, [* *] sub-section (6) of Section 39, [Section 44], subsections (4) and (5) of Section 52,] [sub-section (1) of Section 143, except the second proviso thereof], [* * *], clause (l) of sub-section (3) of Section 158 and Section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board."*

18. While defining Adjudicatory Authority under Section 2(4) the legislature has included any authority appointed or authorized to pass any order under this Act except a few of officials posted on certain specific posts/office. A perusal of the Section 2(91) of the Act of 2017, makes it evident that the definition of 'proper officer' provided

thereunder is a function-specific power, contemplating an act of assignment by the Commissioner in Board. It is pertinent to note that this provision does not, by itself, prescribe the instrument by which such assignment is to be made.

19. However, this aforesaid gap pertaining to the instrument for such an assignment is answered by Sections 3 and 5 of the Act of 2017. While Section 3 enumerates the classes of officers, Section 5(3) empowers the Commissioner to delegate his powers, subject to such conditions and limitations as may be specified, to any other officer subordinate to him.

20. Further, Section 167 of the Act of 2017 empowers the Commissioner to direct, by way of notification, that any function under the Act of 2017 may be performed by such officer as may be specified therein. Meaning thereby, it confers upon the Commissioner the power to direct any authority or officer to exercise any powers conferred under the Act of 2017. These provisions, when read together, make a notification the statutory vehicle for creating a class of officers, for vesting that class with a function, and for transferring a function from one class of officer to another.

21. Furthermore, Section 166 of the Act of 2017 lends texture to the aforestated scheme, insofar as every notification issued under the Act is required to be laid before each House of Parliament, thereby subjecting the exercise of this power to a measure of legislative oversight that a mere administrative instruction does not attract. This distinction is not a matter of form alone; it reflects a deliberate legislative choice as to the mode in which jurisdiction-affecting

decisions are to be made and scrutinized.

22. However, Section 168 of Act of 2017 stands on a different footing altogether. Sub-section (1) empowers the Board to issue orders, instructions or directions to Central Tax officers to ensure uniformity in the implementation of the Act, which such officers are required to follow. Sub-section (2) further requires that, in respect of specified functions, including those under Sections 5(3) and 167 of Act of 2017, the powers of the Commissioner be exercised by the Board itself or with its approval. Thus, Section 168 does not independently confer, transfer or assign jurisdiction. Its role is administrative and interpretative, intended to ensure uniformity in the exercise of an existing jurisdiction, and not to create or confer such jurisdiction.

23. It is at this stage that the maxim *generalia specialibus non derogant* becomes relevant, which provides that a general provision cannot override a special provision governing the same field, unless the statute expressly or necessarily so requires. Thus, Section 168(1), being a general power to secure uniformity, cannot override the specific mode of conferring jurisdiction prescribed under Sections 3, 5(3) and 167 of the Act of 2017. At the same time, it may be used to administratively operationalise a jurisdiction validly conferred by notification. It is with this framework in mind that we now turn to examine the Notifications and the Impugned Circular said to have been issued in the present matter.

The Notifications: NN 2/2017 and NN 2/2022

24. NN 2/2017, issued under Sections 3 and 5 of the Act of 2017, is the principal notification assigning territorial jurisdiction to Central Tax officers across the country. Table II thereof correlates specified Commissionerate with the officers competent to exercise powers under the Act of 2017 within the prescribed pecuniary limits, thereby identifying the officer ordinarily competent to adjudicate a SCN issued to an assessee within a particular Commissionerate.

25. In turn, NN 2/2022, inserted paragraph No.3A and Table V into NN 2/2017, to specifically address the SCNs issued by the DGGI. It confers pan-India jurisdiction on the Additional/Joint Commissioners specified therein to adjudicate such notices, notwithstanding the territorial limits under Table II. However, NN 2/2022 does not specify which officer, among those vested with pan-India jurisdiction, should adjudicate a composite SCN involving noticees across different Commissionerates. It is this residual, administrative gap, and not the existence of jurisdiction itself, that the Impugned Circular intended to address.

The Impugned Circular: Its function and effect

26. At the outset, we may note that the Impugned Circular does not intend to create or confer any fresh jurisdiction as opposed to the aforesaid notifications. Instead, its function in its own text and in particular paragraph Nos.7.1 and 7.2 thereof, provides that where a composite SCN is issued to multiple noticees falling within the territorial jurisdiction of different Additional or Joint Commissioners,

the SCN shall be adjudicated by the officer having jurisdiction over the noticee against whom the highest amount of demand has been raised.

27. On a plain reading, the Impugned Circular does not claim to appoint any officer, nor does it extend any officer's jurisdiction beyond what NN 2/2022 already confers, as well as it also does not intend to vest adjudicatory power in any officer not already comprehended within the class identified by Table V. Its operative content is confined to selecting, by an objective and uniformly applied criterion, one officer from among several who are already and equally competent to adjudicate.

28. Thus, the Impugned Circular merely operates as an administrative allocation-of-business direction and not as an instrument conferring jurisdiction. While the NN-2/2017 and NN-2/2022 determine who may adjudicate, the Impugned Circular determines which of the competent officers shall adjudicate a particular composite SCN.

Examination of the Petitioners' Contentions

29. Learned counsel during the course of submission, argued that CN 169/2022 and CN 239/2024, neither recite the source of statutory power nor record the approval of the Board under Section 168(2) of Act of 2017. However, we are unable to accept this as a ground to invalidate the Impugned Circular. The validity of an administrative instrument depends on whether the competent authority had the requisite power and duly exercised it, not merely on the recital of its

source. The Petitioners have placed no material to show that the Impugned Circular was issued without such authority or approval. Therefore, the absence of a recital is, at best, a drafting infirmity and not a jurisdictional defect.

30. Further, it was also argued that NN 2/2022 merely confers jurisdiction on a class of officers and does not identify the officer for each assessee and the Impugned Circular, by applying the highest demand criterion, thereby confers jurisdiction. We are unable to accept this contention. The statute does not require a notification under Sections 3 and 5(3) to identify an officer for every possible combination of noticees. NN 2/2022 identifies the competent class and assigns the function; the Circular merely allocates the composite SCN among such officers and does not confer jurisdiction afresh.

31. Moreover, the contention that NN-2/2022 required GST Council ratification under Section 6(1) of the Haryana GST Act, 2017 is also untenable. Since, no material or statutory provision has been shown to establish such a requirement. Moreover, Section 6(1) concerns cross-empowerment for enforcement and does not make such ratification a condition for the validity of a notification issued under Sections 3 and 5(3) of Act of 2017.

32. Lastly, it was contended that the Petitioners, having their place of business in Haryana, are governed by Sections 107, 109 and 112 of the Haryana GST Act, 2017; that no pan-India Commissioner (Appeals) stands notified; and CN 250/2025 itself concedes that CN 239/2024 did not address the appellate mechanism, reliance being placed on ***Pr. Commissioner of Income Tax-1****(Supra)*. We find that

this apprehension, though understandable, does not survive scrutiny of the material on record.

33. The appellate forum is not created by CN 250/2025; it stands already notified under Table III of NN 2/2017 for the Commissionerate in which the Common Adjudicating Authority is posted. CN 250/2025 merely clarifies the position. Thus, the principle in ***Pr. Commissioner of Income Tax-1*** *(Supra)* is not violated, as the adjudicatory, appellate and Tribunal hierarchy remains within the notified jurisdiction of the same Commissionerate. Any hardship caused to an assessee by such arrangement, being incidental to the pan-India scheme for composite notices, cannot by itself invalidate the jurisdiction of the Adjudicating Authority.

34. In this regard, it is also relevant to note that, apart from the challenge to the vires of the Impugned Circular, the Petitioners have not shown any actual prejudice arising from the exercise of jurisdiction by the Delhi-based Common Adjudicating Authority. No plea or material has been placed to show that the Petitioners were denied a proper opportunity of hearing, were unable to effectively respond to the notice, or were treated less fairly than they would have been by an officer in Haryana. The grievance is thus confined to the forum and not to any substantive prejudice. While absence of prejudice cannot cure a genuine jurisdictional defect, it is a relevant circumstance where, as held above, the forum is otherwise lawfully constituted.

Article 14 of the Constitution: highest demand criterion

35. Learned counsel representing the Petitioners argued that the 'highest amount of demand' criterion is arbitrary and offends Article 14 of the Constitution. However, in the considered view of this Court, this criterion is objective, quantifiable and uniformly applicable. It bears a rational nexus with the legitimate object of ensuring a single and consistent adjudication of what is, in substance, one cause of action arising from one investigation. Moreover, it also avoids the possibility of conflicting findings on the same set of facts by different officers.

36. In this regard, a reliance was also placed on ***Anirudhsinhji Karansinhji Jadeja****(Supra)*, which is distinguishable. This decision dealt with impermissible sub-delegation of statutory power to an officer who had not been vested with such power. However, no such infirmity arises in the present case. The officer issuing the composite SCN exercises no discretion in choosing the Adjudicating Authority but merely applies the criterion prescribed by the Board. Therefore, there is, no sub-delegation, and the said decision has no application to the present case.

The Preliminary Objection: Alternative Remedy

37. We may finally advert to the preliminary objection raised on behalf of the Respondents, founded on ***Ambika Traders*** *(Supra)*, to the effect that the present Petitions are not maintainable in view of the availability of an efficacious alternative remedy of Appeal under Section 107 of the Act of 2017. It is well settled that the writ

jurisdiction under Article 226 is ordinarily not exercised where such alternate remedy is available. However, as reiterated in ***Assistant Commissioner of State Tax v. Commercial Steel Limited***[25], the writ court may intervene where the challenge concerns the very existence of jurisdiction.

38. At the same time, the jurisdiction under Article 226 of the Constitution is discretionary. In the present case, the Adjudicatory Authority, has recorded a finding that the Petitioners indulged in fraudulent transactions to usurp the Government Revenue. In such circumstances and having regard to the availability of the statutory appellate remedy, the exercise of jurisdiction by a Writ Court on grounds pertaining to the merits of the adjudication would not be warranted.

39. The present Petitions were, therefore, entertained only to examine the jurisdictional foundation of the Impugned OIO. Having held that the Common Adjudicating Authority derives jurisdiction from a valid notification and the Impugned Circular is not vitiated by the alleged defect, the basis for invoking the exception no longer survives. However, the remaining grounds, including the merits of the demand, evidentiary issues and alleged violation of principles of natural justice, are appropriately left to be dealt by the statutory Appellate Authority under Section 107 of the Act of 2017.

E. <u>CONCLUSION</u>:

40. For the foregoing reasons, the challenge to the jurisdiction of

[25] (2022) 16 SCC 447

the Common Adjudicating Authority and to the *vires* of the Impugned Circular fails, such jurisdiction being traceable to NN 2/2017 and NN 2/2022, validly issued under Sections 3 and 5(3) of the Act of 2017.

41. Accordingly, the present Petitions, are dismissed.

42. However, the Petitioners shall be at liberty to avail themselves of the remedy of Appeal under Section 107 against the Impugned OIO and raise all other contentions on merits, before the Appellate Authority, who shall decide the matter on its own merits, uninfluenced by any observation made in this judgment.

43. It shall be open to the Petitioner to file an application under Section 14 of the Limitation Act, 1963 for exclusion of period during which the present Petitions remained pending, which shall be considered by the Appellate Authority in accordance with law.

44. With these observations, the present Petitions, along with all pending applications, are disposed of.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 16, 2026
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