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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Judgment reserved on: 07.08.2026***
Judgment pronounced on: 18.09.2026
Judgment uploaded on: 18.09.2026

\# **CNR No. DLHC010025762025**

\+ W.P.(C) 929/2025 and CM APPL. 4550/2025
SANSKRITI EXIM PRIVATE LIMITED .....Petitioner
Through: Mr. Chinmaya Seth, Mr. A.K. Seth, Ms. Palak Mathur, Mr. Karanveer Singh, Advs.

versus

DIRECTORATE GENERAL OF GST INTELLIGENCE, DZU AND ORS. .....Respondents
Through: Mr. Shubham Tyagi, SSC for CBIC with Ms. Navruti Ojha, Adv.

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. By way of the present Writ Petition, the Petitioner assails the Show Cause Notice dated 29.07.2024 issued by the Directorate General of GST Intelligence, Delhi Zonal Unit [‘DGGI/DZU’] under Sections 74 and 122 of the Central Goods and Services Tax Act, 2017 [‘CGST Act’], read with Section 20 of the Integrated Goods and Services Tax Act, 2017 [‘IGST Act’]. The Petitioner also challenges the consequential Order-in-Original passed by the competent adjudicating authority.

2. At the outset, it may be noted that although the Petitioner has referred to the impugned Order-in-Original as being dated 03.02.2025, the Order-in-Original placed on record bears the date 31.01.2025. The present judgment shall accordingly proceed on the basis that the impugned Order-in-Original was passed on 31.01.2025.

3. The principal grievance of the Petitioner is that the proceedings initiated by the DGGI are without jurisdiction in view of Section 6(2)(b) of the CGST Act, since the State GST authorities had already initiated proceedings in respect of alleged wrongful availment of Input Tax Credit [‘ITC’]. The Petitioner further assails the issuance of a consolidated Show Cause Notice covering multiple financial years.

FACTUAL MATRIX

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

5. The Petitioner is stated to be engaged in the business of export of readymade garments and has been registered under the GST regime with effect from 01.07.2017.

6. The record placed before this Court shows that an intelligence was developed jointly by the DGGI and the Directorate General of Revenue Intelligence [‘DRI’] concerning alleged fraudulent availment of ITC on invoices issued by non-existent and fictitious entities and utilisation of such ITC towards payment of IGST on exports and consequential availment of IGST refunds. In the course of the investigation, searches were conducted on 11.09.2019 and 18.10.2019,

and statements of Shri Parag Garg, stated to be a Director of the Petitioner, were recorded under Section 70 of the CGST Act.

7. Thereafter, the State GST authorities issued a Show Cause Notice dated 23.09.2023 under Section 73 of the Delhi Goods and Services Tax Act, 2017 ['DGST Act'] for FY 2017-18, alleging availment of ineligible ITC from cancelled/non-existent suppliers. The said proceedings culminated in an order dated 22.12.2023 confirming the demand along with interest and penalty.

8. A further Show Cause Notice dated 11.12.2023 was issued by the State GST authorities under Section 73 of the DGST Act for FY 2018-19 in respect of alleged wrongful availment of ITC. The said proceedings culminated in an order dated 09.04.2024, whereby the demand was confirmed along with interest and penalty.

9. The Petitioner also refers to a subsequent Show Cause Notice dated 10.09.2024 issued by the State GST authorities under Section 74 of the DGST Act in respect of FY 2017-18.

10. In the interregnum, the DGGI issued the Show Cause Notice dated 29.07.2024 under Section 74 of the CGST Act, covering the period from FY 2017-18 (July onwards) to FY 2019-20. The said Show Cause Notice proposed, inter alia, recovery of ITC aggregating to Rs.7,81,78,980/-, comprising IGST of Rs.4,46,05,885/-, CGST of Rs.1,67,86,547/- and SGST of Rs.1,67,86,547/-, along with applicable interest and penalties.

11. The Petitioner states that, after issuance of the aforesaid Show

Cause Notice, it addressed various communications to the DGGI seeking clear and legible copies of the relied-upon documents [‘RUDs’] as well as non-relied-upon documents. A corrigendum was thereafter issued on 23.12.2024.

12. The Petitioner had approached this Court in January 2025 challenging the proceedings initiated pursuant to the Show Cause Notice dated 29.07.2024. The Petitioner states that an earlier petition had been withdrawn on account of an inadvertent reference to a different Show Cause Notice and that no earlier writ petition had been filed challenging the Show Cause Notice dated 29.07.2024.

13. On 31.01.2025, the competent adjudicating authority passed Order-in-Original No. 73/SPP/ADC/CGST/DSC/2024-25 pursuant to the Show Cause Notice dated 29.07.2024. By the said order, the demand of Rs.7,81,78,980/- was confirmed under Section 74(9) of the CGST Act read with the relevant provisions of the DGST Act and the IGST Act, along with applicable interest. Penalties were also imposed, including a penalty of Rs.7,81,78,980/- in respect of the alleged fraudulent availment and utilisation of ITC and a penalty of Rs.6,51,63,242/- in respect of the alleged fraudulent availment of IGST refund.

14. The Petitioner thereafter amended the present Writ Petition so as to assail the aforesaid Order-in-Original as well.

<u>CONTENTIONS OF THE PARTIES</u>

15. <u>Contentions of the Petitioner</u>

15.1. Learned counsel for the Petitioner submitted that the proceedings initiated by the DGGI are without jurisdiction in view of Section 6(2)(b) of the CGST Act. According to the Petitioner, the State GST authorities had already initiated proceedings concerning alleged wrongful availment of ITC for the period July 2017 to March 2019 and two such proceedings had culminated in orders confirming the demand.

15.2. It was further submitted that the proceedings initiated by the DGGI also concern alleged wrongful availment and utilisation of ITC for substantially the same period. According to the Petitioner, the two sets of proceedings consequently concern the same subject matter and the subsequent proceedings initiated by the DGGI are barred by Section 6(2)(b) of the CGST Act.

15.3. Reliance was placed upon the guidelines issued by the DGGI on 08.02.2024 to contend that where the State GST authorities are also examining the taxpayer, the investigating offices are required to coordinate with each other and consider the feasibility of one office pursuing the entire matter.

15.4. Further reliance has been placed upon the decisions of various High Courts, including ***Toyota Kirloskar Motors Pvt. Ltd. v. Union of India***, (2024) 24 Centax 48 (Kar.), ***Rajesh Mittal v. Union of India***, (2024) 16 Centax 28 (Gau.), as well as the orders passed by this Court in ***M/s Aastha Apparels Pvt. Ltd. v. Directorate General of GST Intelligence & Ors.***, W.P.(C) 16293/2024, to contend that parallel proceedings by the Central and State GST authorities in respect of the same subject matter are impermissible.

15.5. It was further submitted that the issuance of a consolidated Show Cause Notice covering multiple financial years is itself impermissible. According to the Petitioner, the statutory scheme contemplates determination of tax liability with reference to the financial year and, consequently, separate proceedings ought to have been initiated for the respective financial years.

16. Contentions of the Respondents

16.1 *Per contra*, learned counsel for the Respondents raised a preliminary objection as to the maintainability of the present Petition on account of the efficacious statutory remedy of appeal available under Section 107 of the CGST Act. It was submitted that the Show Cause Notice dated 29.07.2024, which was initially challenged by the Petitioner, has already culminated in a reasoned Order-in-Original dated 31.01.2025 and the Petitioner can challenge the said order before the competent appellate authority.

16.2. Reliance has been placed upon the judgment of this Court in ***M/s PEI Industries v. Union of India & Ors.****, W.P.(C.) 7725/2026, decided on 29.05.2026, where a challenge to an Order-in-Original on, inter alia, the ground that proceedings under Section 74 were barred by Section 6(2)(b) was declined to be entertained in view of the statutory appellate remedy. It was submitted that the said decision applies with greater force once the proceedings have culminated in an Order-in-Original.

16.3. On merits, it was submitted that the proceedings relied upon by the Petitioner under Section 73 of the DGST Act and the proceedings initiated by the DGGI under Section 74 of the CGST Act arise in materially different factual and legal settings. According to the Respondents, the State proceedings concerned specific discrepancies and ITC claims, including ITC allegedly availed from cancelled dealers, whereas the DGGI proceedings arose from an independent investigation into alleged fraudulent availment of ITC from 20 non-existent suppliers and the consequential utilisation of such ITC towards IGST liability on exports and availment of IGST refunds.

16.4. It was submitted that the mere fact that both proceedings concern ITC, or that there may be some factual or transactional overlap, does not establish identity of the "subject matter" for the purposes of Section 6(2)(b) of the CGST Act.

16.5. Reliance was placed upon the judgment of the Supreme Court in ***M/s Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate & Anr.***, 2025 INSC 982, to contend that the expression "same subject matter" has to be understood with reference to the particular tax liability, deficiency or obligation arising from the contravention which is the subject of the proceedings.

16.6. Insofar as the challenge to the consolidated Show Cause Notice is concerned, learned counsel relied upon the judgment of this Court in ***Ambika Traders through Proprietor Gaurav Gupta v. Additional Commissioner, Adjudication DGGSTI, CGST Delhi North***, 2025 SCC OnLine Del 6913, to submit that the statutory scheme does not prohibit issuance of a consolidated Show Cause Notice under Section 74 covering more than one financial year.

ANALYSIS & FINDINGS

17. This Court has heard learned counsel for the parties at considerable length and carefully perused the material on record.

18. At the outset, it is necessary to notice that the Petitioner seeks to invoke the extraordinary jurisdiction of this Court against an Order-in-Original dated 31.01.2025 whereby a demand has been confirmed under the CGST Act. The statutory scheme provides a remedy of appeal against such an order under Section 107 of the CGST Act.

19. The existence of an efficacious alternative statutory remedy is a material consideration while exercising discretionary jurisdiction under Article 226 of the Constitution of India. The fact that the original challenge was instituted at a stage when the Show Cause Notice was pending does not alter the position once the adjudicatory proceedings have culminated in an Order-in-Original during the pendency of the writ proceedings.

20. The present case is, in this regard, covered by the principle applied by this Court in ***PEI Industries*** (supra). There also, the challenge to the Order-in-Original was founded, inter alia, upon the contention that proceedings under Section 74 were barred by Section 6(2)(b) on account of proceedings undertaken by the State GST authorities under Section 73. The Court declined to exercise writ jurisdiction in view of the statutory appellate remedy and observed

that the issues relating to appreciation of material and evidence could appropriately be examined by the appellate authority.

21. The same principle applies in the present case. The Petitioner's challenge to the Order-in-Original raises issues concerning the factual and evidentiary foundation of the proceedings, including the nature of the ITC allegedly availed, the suppliers involved, the allegations of fraud, the material relied upon by the adjudicating authority and the alleged overlap between the State and Central proceedings.

22. These are matters which can appropriately be examined in the statutory appellate proceedings. The appellate authority is competent to examine the legality and correctness of the adjudication and to consider the material placed before it in accordance with law.

23. The Petitioner has also urged that the requirement of statutory pre-deposit should not compel it to avail the appellate remedy. This contention cannot, by itself, furnish a ground for bypassing the statutory remedy. The same consideration was noticed and dealt with by this Court in ***PEI Industries*** (supra).

24. The fact that the present petition was initially filed when the Show Cause Notice was pending also does not justify continuation of the writ proceedings for adjudication of the challenge to the Order-in-Original. The adjudicatory proceedings have since been completed and the Order-in-Original is independently amenable to challenge under Section 107 of the CGST Act.

25. Consequently, on this ground alone, the present Petition is

liable to be dismissed.

26. Even otherwise, insofar as the principal objection founded upon Section 6(2)(b) of the CGST Act is concerned, the same does not warrant interference in exercise of writ jurisdiction.

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

28. The expression "same subject matter" is, therefore, of central significance. The mere fact that two proceedings arise out of the affairs of the same assessee, concern the same general period, or involve ITC cannot, by itself, establish that the two proceedings concern the same subject matter.

29. The Supreme Court, in ***Armour Security*** (supra), has examined the scope and ambit of Section 6(2)(b) of the CGST Act. The Court explained that the expression "subject matter" refers to the tax liability, deficiency or obligation arising from a particular contravention which the Department seeks to assess or recover. The statutory bar is attracted where two proceedings are, in substance, directed towards the same or overlapping tax liability, deficiency or obligation arising from the same contravention. Where the proceedings concern distinct infractions, they would not constitute the "same subject matter" merely because the tax liability or obligation may be similar.

30. The Supreme Court further laid down a two-fold test for determining whether the subject matter is the same: first, whether an authority has already proceeded on an identical liability of tax or alleged offence by the assessee on the same facts; and secondly, whether the demand or relief sought is identical.

31. The nature and scope of the proceedings in the present case have, therefore, to be examined in the light of the aforesaid principles.

32. The Show Cause Notice dated 23.09.2023 issued by the State GST authorities under Section 73 of the DGST Act concerned FY 2017-18 and alleged availment of ineligible ITC from cancelled/non-existent suppliers. The said proceedings culminated in an order dated 22.12.2023.

33. Similarly, the subsequent Show Cause Notice dated 11.12.2023 issued under Section 73 of the DGST Act concerned FY 2018-19 and resulted in an order dated 09.04.2024.

34. The proceedings initiated by the DGGI, on the other hand, arise out of an investigation into alleged fraudulent availment of ITC on the basis of invoices issued by non-existent and fictitious entities and the alleged utilisation of such ITC towards payment of IGST on exports and consequential availment of IGST refunds. The DGGI Show Cause Notice dated 29.07.2024 was issued under Section 74 of the CGST Act and covers the period from FY 2017-18 (July onwards) to FY 2019-20.

35. Thus, although the proceedings may concern ITC and may have

some factual or transactional overlap, the material placed before this Court indicates a distinction in the nature of the allegations forming the basis of the respective proceedings. The State proceedings were undertaken under Section 73 in relation to the alleged availment of ineligible ITC, whereas the DGGI proceedings under Section 74 arise from allegations of fraudulent availment and utilisation of ITC based upon invoices issued by fictitious/non-existent entities and consequential utilisation towards exports and IGST refunds.

36. The mere fact that certain ITC claims or transactions may feature in both proceedings cannot, by itself, lead to the conclusion that the two proceedings necessarily concern the identical liability or the same alleged contravention.

37. The Petitioner's contention under Section 6(2)(b), therefore, cannot be accepted merely on the basis that both sets of proceedings concern ITC during overlapping financial periods. The statutory prohibition is against initiation of proceedings on the same subject matter and not against every subsequent proceeding concerning the same assessee or a related transaction.

38. The reliance placed by the Petitioner upon the guidelines dated 08.02.2024 also does not advance the case beyond the statutory requirement contained in Section 6(2)(b). The question whether the particular proceedings are in respect of the same subject matter has to be determined with reference to the nature of the liability, the alleged contravention and the relief or demand sought in the respective proceedings.

39. The decisions relied upon by learned counsel for the Petitioner, including ***Toyota Kirloskar Motors*** (supra), ***Rajesh Mittal*** (supra) and ***Aastha Apparels*** (supra), have to be understood in the factual setting in which they were rendered. The applicability of Section 6(2)(b) ultimately turns upon whether the proceedings in question concern the same subject matter. The said decisions do not dispense with that statutory requirement.

40. The fact that the DGGI proceedings were initiated after the State GST proceedings had commenced also does not, by itself, attract the statutory bar. What is material for the purposes of Section 6(2)(b) is not merely the chronological sequence but whether the subsequent proceedings are on the same subject matter.

41. The Petitioner has also challenged the issuance of a consolidated Show Cause Notice covering multiple financial years.

42. This contention has been considered by this Court in ***Ambika Traders*** (supra). While examining a consolidated Show Cause Notice issued under Section 74 covering multiple financial years, this Court considered the language employed in Sections 73(3) and 74(3), as well as Sections 73(10) and 74(10) of the CGST Act.

43. Consequently, the mere fact that the Show Cause Notice dated 29.07.2024 covers more than one financial year cannot, by itself, render the notice without jurisdiction.

44. The questions as to whether the demand pertaining to a particular financial year is within the prescribed period of limitation,

whether the ingredients of Section 74 are otherwise satisfied, and whether the quantification of the demand for the respective periods is legally sustainable are matters which can be examined in the statutory proceedings.

45. In the present case, therefore, the Petitioner has not demonstrated any such patent jurisdictional infirmity which would warrant exercise of the extraordinary jurisdiction of this Court after the proceedings have culminated in an Order-in-Original.

46. This Court is also conscious of the fact that the challenge under Section 6(2)(b) involves examination of the precise allegations, liabilities and material forming the basis of the State and Central proceedings. Such examination is more appropriately undertaken by the competent appellate authority in the first instance, particularly when a statutory appeal against the Order-in-Original is available.

47. The present case is consequently distinguishable from a situation where the Court is called upon to examine a pure jurisdictional objection at the threshold, before the statutory adjudicatory process has concluded. Here, the Show Cause Notice has already culminated in an adjudicated demand and the Petitioner has an efficacious statutory remedy against the said adjudication.

48. For the aforesaid reasons, this Court finds no ground to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.

CONCLUSION

49. In view of the aforesaid discussion, the present Writ Petition is dismissed. The Petitioner has an efficacious statutory remedy of appeal under Section 107 of the CGST Act against the Order-in-Original dated 31.01.2025.

50. It is clarified that the observations made herein with regard to Section 6(2)(b) and the consolidated Show Cause Notice are only for the purpose of examining the present challenge and shall not preclude the Petitioner from raising all permissible grounds before the competent appellate authority in accordance with law.

51. In case the Petitioner avails the statutory remedy, the competent appellate authority shall consider the appeal on its own merits and in accordance with law, uninfluenced by any observation contained in the present judgment.

52. The pending application also stands disposed of.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 18, 2026
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