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

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Date of Decision: 04.05.2026

+ **CONT.CAS(C) 484/2025**

TRUTH FASHION

.....Petitioner

Through: Mr. M.A. Ansari, Mr. Tabbassum
Firduse Ahmad Ansari, Mr. Imran
Ahmad, Advs.

versus

S.K SINGH SPECIAL COMMISSIONER & ANR.....Respondents

Through: Ms. Vaishali Gupta (Adv.)

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

1. The present petition has been filed by the petitioner alleging wilful disobedience/ non-compliance of the directions contained in the order dated 10.02.2025 passed in W.P(C) 486/2025. The said order reads as under:-

1. The instant writ petition has been preferred seeking the following reliefs: -

“(i) Directing to the respondent to comply in respect of order dated 10.05.2024 (ANNEXURE-P-1) of the appellate authority for release of refund of Rs 18,33,000/- in spite of the direction of the Hon'ble High court of Delhi vide order dated 18.11.2024 (ANNEXURE P-6) to release the refund of the petitioner expeditiously within three weeks from the date of the order.

(ii) Directing to the respondent to grant interest in terms of Section 56 under DGST/CGST/IGST Act 2017;”

2. We note that in an earlier round of litigation, the writ petitioner had approached this Court by way of W.P.(C) 15886/2024 and which came to be disposed of on 18 November 2024 in the following terms:-

“2. Mr. Aggarwal, learned counsel who appears on behalf of the respondent, states that subject to due verification of all facts and contentions on merits being kept open, the respondent shall ensure that the claim for refund is disposed of with expedition and preferably within a period of three weeks



from today. The statement so made is recorded and accepted.

3. The aforesaid direction shall be subject to any orders that may be obtained by the respondents on any statutory appeal that they may choose to prefer and orders that may be passed thereon.

4. The petition shall stand disposed of on the aforesaid terms.”

3. Despite the aforesaid directions, the respondents have failed to take appropriate steps and release the refund as claimed. It is this which has constrained the writ petitioner to approach the Court yet again.

4. The claim for refund itself emanates from an order dated 10 May 2024 in terms of which the **Objection Hearing Authority**¹ had allowed the objections as were preferred by the writ petitioner and set aside the order which had rejected the claim for refund.

5. When the matter was taken up for consideration today, learned counsel appearing for the respondents had drawn our attention to the provisions contained in Section 54(11) of the **Central Goods and Services Tax Act, 2017**² to submit that since the Commissioner has taken a decision to prefer an appeal against the order dated 10 May 2024, the respondents are justified in not effecting the refund as claimed. Section 54(11) of the CGST Act reads as follows: -

“Section 54 – Refund of Tax

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(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.”



6. We find ourselves unable to countenance that submission bearing in mind the plain language in which Section 54(11) stands couched and which refers to a contingency where an order giving rise to a refund “is the subject matter of an appeal”. In our considered opinion, the mere decision to prefer or institute an appeal would not qualify Section 54(11).

7. This we hold since a decision taken by the Commissioner to assail an order cannot ipso facto or automatically result in the principal order being placed in abeyance. We, in this regard, also bear in mind the following pertinent observations which had been rendered by the Division Bench of the Court in **Alex Tour & Travel (P) Ltd. vs. Commr. (CGST)**³:-

“17. Undisputedly, the Revenue is entitled to file an appeal under section 112 of the Central Goods and Services tax Act, 2017, within a period of three months from the date of the order. We are informed that the said period has been extended as the Appellate Tribunal has not been constituted as yet. However, the respondent cannot refuse to comply with the appellate orders on this ground.

18. We are unable to accept that the Revenue can ignore an order passed by the appellate authority on the ground that it proposes to appeal the said order.

19. Suffice it to note that there is no order passed by any competent court, staying the implementation of the orders-in-appeal passed by the appellate authority. The Revenue has also taken no steps for securing orders to that effect.

20. We are also unable to appreciate the insistence on the part of the Revenue for the appellant to file fresh applications for the refund.

21. Mr. Singla fairly states that fresh applications for refund or response to show-cause notices are not necessary, considering that the proceedings emanated from the petitioner filing applications for refund, which culminated in orders-in-appeals passed by the

³ 2023 SCC OnLine Del 2709



appellate authority.

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25. The present petition is allowed. The respondent is directed to forthwith disburse the petitioner's claim for refund along with interest as payable in accordance with law.

26. It is, however, clarified that this order would not preclude the respondent from availing statutory remedy against the orders-in-appeal in accordance with law.”

8. Accordingly, and for all the aforesaid reasons, we allow the instant writ petition and hereby command the respondents to affect the refund to the writ petitioner forthwith together with statutory interest, as payable.

2. The background of the matter is that an appeal came to be filed by the petitioner before the Objection Hearing Authority/GST Additional Commissioner, Department of Trade and Taxes, Government of NCT of Delhi against a Refund Rejection Order dated 05.02.2024 passed by the Proper Officer/Assistant Commissioner, Department of Trade & Taxes, Government of NCT of Delhi in GST RFD 06. *Vide* an order dated 10.02.2025, the said appeal preferred by the petitioner came to be allowed by the Objection Hearing Authority and the aforementioned order dated 05.02.2024 was set aside. The operative directions contained in the order dated 10.05.2024 are as under:

“8. Upon a careful perusal of above deliberations and the facts of the case alongwith other available records and provisions thereof, I am of the considered view that the impugned rejection orders passed by the proper officer appears to be not justified and not tenable in accordance with the provisions of the CGST/DGST and rules made therein under. Accordingly, the appeal preferred by the Appellant is allowed and hence the impugned Rejection



orders of refund dated 05.02.2024 for the period April 2022 to March 2023 is hereby set aside in the aforesaid terms. This is in accordance with the prescribed procedure under the GST Act and Rules.”

3. Subsequently, the petitioner filed W.P(C)15886/2024 before this Court on account of the failure of the respondent to process the refund application of the petitioner submitted in consequence to the order dated 10.05.2024 passed by the Objection Hearing Authority. *Vide* order dated 18.11.2024, this Court in W.P(C)15886/2024 directed as under: -

“1. The solitary grievance of the writ petitioner is a failure on the part of the respondents to process the refund application of the petitioner submitted in consequence to the order dated 10th May 2024 passed by the Objection Hearing Authority, the Additional Commissioner.

2. Mr. Aggarwal, learned counsel who appears on behalf of the respondent, states that subject to due verification of all facts and contentions on merits being kept open, the respondent shall ensure that the claim for refund is disposed of with expedition and preferably within a period of three weeks from today. The statement so made is recorded and accepted.

3. The aforesaid direction shall be subject to any orders that may be obtained by the respondents on any statutory appeal that they may choose to prefer and orders that may be passed thereon.

4. The petition shall stand disposed of on the aforesaid terms.”

4. However, since the respondents failed to comply with the aforementioned orders, the petitioner filed W.P.(C) 486/2025 seeking to direct the respondent to comply with the directions contained in the order dated 10.05.2024 passed by the Objection Hearing Authority and order dated 18.11.2024 passed by this Court. *Vide* order dated 10.02.2025 passed in W.P(C) 486/2025 (contempt of which has been alleged in the present proceedings), this Court allowed the aforementioned writ petition and directed the respondents to refund the requisite amount to the petitioner along with the statutory interest, as payable.



5. Even after the passing of the aforesaid order, the requisite refund was not given to the petitioner, in view of the fact that an appeal bearing W.P.(C) No. 6571/2025 was filed by the Commissioner of DGST, Delhi, assailing the aforesaid order dated 10.05.2025 passed by the Objection Hearing Authority. *Vide* order dated 16.05.2025 passed in W.P(C) 6571/2025 it was, *inter alia*, directed as under:

“20. Under these circumstances, instead of processing the refund and granting the same in favour of the Respondent, since the appellate authority’s order is under challenge before this Court, the Department shall deposit the entire amount of refund with the Registrar General of this Court by 15th July, 2025. Upon the said amount being deposited, the same shall be kept in a fixed deposit on an auto renewal mode”

6. Subsequently, the said W.P.(C) 6571/2025 came to be disposed of by this Court *vide* order dated 05.02.2026, in the following terms:

“1. Since the Tribunal is being likely to be functional within a period of two weeks as was assured in other collateral proceedings, we dispose of the petition by relegating the petitioner to the remedy of filing an appeal before the Tribunal.

2. Time spent in prosecuting the petition be considered, in case, if the issue of issue of limitation crops up.

3. Needless to clarify, we have not appreciated the merits of the matter.

4. We take note of the fact that the Ms. Urvi Mohan, counsel appearing for the petitioner has stated that the entire liability under order impugned is discharged by depositing the said amount.

5. The present writ petition stands disposed of.”

7. As such, the respondents/DGST Department has been relegated to pursue the appellate proceedings before the concerned Tribunal. Admittedly, no interim order/s has been passed by the concerned Appellate Tribunal preventing release of the refund to the petitioner.

8. Accordingly, the amount lying deposited in this Court pursuant to the



directions contained in the order dated 16.05.2025 passed in W.P.(C) No. 6571/2025 is directed to be released to the petitioner. Needless to say, the same shall necessarily be subject to further orders in the appeal preferred by the respondent/DGST Department before the concerned Appellate Tribunal.

9. Let the aforesaid amount be released to the petitioner upon expiry of three weeks from today.

10. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

MAY 4, 2026/at/sl