2026:DHC:6670-DB

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

% ***Date of Decision: 07.08.2026***

\+ W.P.(C) 4526/2026 and CM APPL. 22031/2026

M S LIBERTY GENERAL INSURANCE LIMITED .....Petitioner

Through: Ms. Ashwini Chandrashekaran, Ms. Priyanshi Chakraborty & Ms. Smruti Sagarika Das, Advs.

versus

THE ADDITIONAL COMMISSIONER OF CGST DELHI SOUTH COMMISSIONERATE & ANR. .....Respondents

Through: Mr. Atul Tripathi, SSC for CBIC with Mr. Shubham Mishra, Gaurav Mani Tripathi & Mr. Akshay Sagar, Advs.

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

J U D G M E N T (ORAL)

ANIL KSHETARPAL, J.:

1. By way of the present Writ Petition, the Petitioner has prayed for the following reliefs:

> *"(i) To issue a writ of Certiorari or any other appropriate writ, quashing the Order-in-Original No. 46/AKC/ADC/CGST/DSC/2025-26 dated 03.12.2025, passed the Ld. Additional Commissioner of CGST, South Delhi Commissionerate, to the extent it is in violation of Section 6(2)(b) of the CGST Act and has resulted in multiplicity of proceedings for the FY 2020-21;*
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> *(ii) To issue a writ of Certiorari or any other appropriate writ, quashing the proceedings initiated by the Respondents by invoking extended period of limitation under Section 74 of the CGST Act;*
>
> *(iii) In the alternative, to issue a writ of Mandamus, directing the Ld. Respondent No. 1 to upload proper DRC-07 for each of the Financial*

Years on the GST portal and to decide the rectification applications on merits within a stipulated time-frame, considering the fact that demand already stands dropped by the State authorities for the said period on the same issue;"

2. At the outset, it may be noted that the Petitioner has an efficacious statutory remedy of appeal against the Order-in-Original dated 03.12.2025 ['Impugned Order']. It is well settled that the existence of an alternative statutory remedy does not, in every case, constitute an absolute bar to the exercise of jurisdiction under Article 226 of the Constitution of India. However, where adjudication of the challenge requires examination of disputed facts and appreciation of the nature and scope of proceedings conducted by different statutory authorities, the Court would ordinarily be slow to exercise its extraordinary jurisdiction in the first instance.

3. Learned Counsel appearing on behalf of the Petitioner, however, submits that the entire proceedings culminating in the Impugned Order were conducted in violation of Section 6(2)(b) of the Central Goods and Services Tax Act, 2017 ['CGST Act'] and have resulted in multiplicity of proceedings in respect of Financial Year ['FY'] 2020-21. It is, therefore, contended that the present case warrants interference by this Court in exercise of its writ jurisdiction.

FACTUAL MATRIX

4. In order to appreciate the controversy involved in the present Petition, it is relevant to notice, in brief, the relevant facts.

5. The Petitioner is a registered taxable person under the GST regime. On 07.11.2023, the Anti-Evasion Branch of the Central Goods

and Services Tax Department issued summons to the Petitioner seeking an explanation with regard to the discrepancy/mismatch between the Input Tax Credit ['ITC'] reflected in Form GSTR-3B and the corresponding figures reflected in Form GSTR-9.

6. The Petitioner responded to the aforesaid summons by submitting its reply dated 22.11.2023. The proceedings before the Central GST authorities thereafter continued.

7. Subsequently, the State GST authorities issued a Show Cause Notice ['SCN'] dated 26.11.2024 in respect of FY 2020-21. The said notice, *inter alia*, alleged excess availment of ITC amounting to Rs.2,44,97,609/- (Rupees Two Crore Forty-Four Lakh Ninety-Seven Thousand Six Hundred Nine only). The Petitioner submitted its reply to the aforesaid SCN on 21.01.2025. The proceedings initiated by the State GST authorities were thereafter dropped vide order dated 22.02.2025.

8. In the meantime, the investigation being undertaken by the Central GST authorities continued, culminating in the issuance of an SCN dated 26.05.2025 under Section 74 of the CGST Act. The said SCN covered the period from FY 2018-19 to FY 2023-24 and alleged fraudulent availment of excess ITC.

9. In response to the aforesaid SCN, the Petitioner submitted its reply on 25.07.2025. It is significant to note that, in the said reply, the Petitioner did not raise any objection to the continuation of the proceedings on the ground of Section 6(2)(b) of the CGST Act. Learned Counsel appearing on behalf of the Petitioner does not

dispute this position. Thereafter, the Petitioner was afforded opportunities of personal hearing on 16.09.2025 and 19.11.2025.

10. An Order-in-Original dated 03.12.2025 was subsequently passed by the learned Additional Commissioner of CGST, Delhi South Commissionerate, creating a demand of Rs.4,80,26,753/- (Rupees Four Crore Eighty Lakh Twenty-Seven Thousand Six Hundred Fifty-Three only), along with penalty.

11. Aggrieved thereby, the Petitioner has approached this Court challenging the aforesaid Order-in-Original, principally on the ground that the proceedings before the Central GST authorities were barred by Section 6(2)(b) of the CGST Act, since proceedings on the same subject matter had already been initiated by the State GST authorities.

CONTENTIONS OF THE PARTIES

12. Learned Counsel appearing on behalf of the Petitioner submits that the proceedings initiated by the State GST authorities in respect of FY 2020-21 concerned the very same issue of alleged excess availment of ITC which subsequently formed part of the proceedings before the Central GST authorities.

13. It is submitted that Section 6(2)(b) of the CGST Act expressly prohibits initiation of proceedings by a proper officer under the CGST Act where a proper officer under the State GST Act has already initiated proceedings "*on a subject matter*". According to the Petitioner, the statutory prohibition is intended to prevent parallel proceedings by the Central and State authorities in respect of the same

tax dispute.

14. Learned Counsel submits that the State GST proceedings culminated in an order dated 22.02.2025 whereby the demand in respect of FY 2020-21 was dropped. It is contended that the subsequent continuation of the Central proceedings, to the extent they encompass the same dispute for FY 2020-21, consequently results in an impermissible duplication of proceedings.

15. Learned Counsel further submits that, notwithstanding the absence of any such objection in the written reply, an objection under Section 6(2)(b) was raised during the course of personal hearing before the adjudicating authority. It is contended that the said objection was not considered while passing the Impugned Order.

16. *Per contra*, learned Counsel appearing on behalf of the Respondents submits that the Petitioner cannot be permitted to challenge the Impugned Order directly before this Court when an efficacious statutory remedy of appeal is available.

17. It is further submitted that the proceedings conducted by the State GST authorities and those conducted by the Central GST authorities did not necessarily concern the same subject matter. According to the Respondents, the Central proceedings covered a substantially larger period, namely FY 2018-19 to FY 2023-24, and were founded upon allegations and material which were distinct from those considered in the State proceedings.

18. It is also submitted that the Petitioner did not raise any

objection under Section 6(2)(b) in its reply to the SCN dated 26.05.2025 and participated in the adjudication proceedings without raising any such objection. The Respondents, therefore, contend that the Petitioner cannot, after the passing of an adverse adjudication order, seek to invoke the writ jurisdiction of this Court on a ground which was not raised before the adjudicating authority.

ANALYSIS & FINDINGS

19. This Court has heard the learned Counsel appearing for the parties and perused the material placed on record.

20. The principal question urged before this Court is whether the proceedings initiated by the Central GST authorities, insofar as they relate to FY 2020-21, were barred by Section 6(2)(b) of the CGST Act on account of the earlier proceedings instituted by the State GST authorities.

21. In order to appreciate the aforesaid contention, it would be apposite to reproduce Section 6(2)(b) of the CGST Act, which reads as under:

> "***Section 6. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.-***
>
> *XXX*
>
> *(2) Subject to the conditions specified in the notification issued under sub-section (1),-*
>
> *XXX*
>
> *(b) 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 this Act on the same subject matter…"*

22. A plain reading of the aforesaid statutory provision makes it evident that the provision is procedural in nature and its object is to prevent the initiation of parallel proceedings by the Central and State tax authorities in respect of the same subject matter and thereby avoid multiplicity of proceedings and conflicting determinations.

23. The expression '*same subject matter*' is central to the controversy raised by the Petitioner. The mere fact that both proceedings relate to GST, or that both proceedings involve examination of ITC, would not, by itself, conclude the enquiry. It would be necessary to examine the nature and scope of the respective proceedings, the period involved, the allegations forming the basis of the proceedings, the transactions or ITC under scrutiny, the liability sought to be determined and the material relied upon by the respective authorities.

24. This enquiry assumes particular significance in the present case because the proceedings initiated by the State GST authorities, as placed before this Court, concerned FY 2020-21 and alleged excess availment of ITC amounting to Rs.2,44,97,609/-, whereas the SCN issued by the Central GST authorities covered a substantially wider period, namely FY 2018-19 to FY 2023-24 and quantified the alleged excess ITC at Rs.4,80,26,753/-.

25. Thus, whether the portion of the Central proceedings relating to FY 2020-21 was, in substance and in law, concerned with the same subject matter as the proceedings previously initiated by the State GST authorities cannot be determined merely from the fact that both

proceedings relate to ITC for the same financial year. The respective SCNs, the allegations contained therein, the basis of the alleged ITC discrepancy, the computations relied upon, the transactions covered, the material forming the basis of the proceedings and the order passed by the State authorities would all be relevant to such determination.

26. The question, therefore, necessarily entails an examination and comparison of the underlying factual record. The fact that the Central GST proceedings cover additional financial years does not, by itself, answer the question whether there was an overlap in respect of FY 2020-21; equally, the fact that the State proceedings concerned FY 2020-21 does not, without examination of the respective proceedings, establish that the Central proceedings involved the identical subject matter.

27. Learned Counsel for the Petitioner has also placed reliance upon the decision dated 08.12.2025 of this Court passed in W.P.(C) 2252/2025 titled ***Alliance Polychem Private Limited v. Deputy Commissioner, CGST, Mundka Division, Delhi West & Ors.***, wherein the Court was concerned with two proceedings in which the very same demand of Rs.10,62,000/- towards ineligible ITC had been raised against the petitioner. Since the demand had already been confirmed in the earlier proceedings and the petitioner was already pursuing an appeal thereagainst, this Court found that the same demand could not be raised again in the subsequent proceedings and accordingly quashed the subsequent demand *qua* the petitioner.

28. The aforesaid decision, however, does not obviate the factual

enquiry required in the present case. Unlike the proceedings considered in ***Alliance Polychem*** *(supra)*, where the identity of the demand in the two proceedings was apparent from the record, the question in the present case is whether the proceedings initiated by the Central GST authorities, to the extent they relate to FY 2020-21, concern the same subject matter as the proceedings previously initiated by the State GST authorities. As noticed hereinabove, the two proceedings differ in their period, quantum and the material and allegations forming their respective bases. The applicability of Section 6(2)(b) must, therefore, be determined upon examination and comparison of the underlying proceedings and cannot be conclusively answered merely on the basis of the fact that both proceedings concern ITC for FY 2020-21.

29. There is, however, another relevant circumstance which bears upon the exercise of writ jurisdiction in the present case. The Petitioner was admittedly aware of the earlier State GST proceedings. Despite such knowledge, the Petitioner did not raise an objection under Section 6(2)(b) in its written reply to the subsequent SCN dated 26.05.2025. The statutory bar contemplated under Section 6(2)(b) operates at the stage of initiation of proceedings. Consequently, where an assessee seeks to object to the continuation of parallel proceedings on the ground of the said provision, such objection ought ordinarily to be raised at the earliest available opportunity, particularly upon receipt of the SCN.

30. Learned Counsel for the Petitioner submits that, notwithstanding the absence of any objection under Section 6(2)(b) in

the written reply, such objection was raised at the stage of personal hearing. However, no material has been placed before this Court demonstrating that such objection was recorded by the adjudicating authority or otherwise formed part of the record of the adjudication proceedings. The Petitioner thereafter participated in the adjudication proceedings, furnished its substantive defence to the allegations contained in the SCN and availed the opportunities of personal hearing on 16.09.2025 and 19.11.2025.

31. During the course of hearing before this Court, learned Counsel for the Petitioner has placed on record a copy of the order dated 07.04.2026, stated to have been passed on an application for rectification filed by the Petitioner before this Court, wherein the Petitioner is stated to have raised an objection under Section 6(2)(b) of the CGST Act. The aforesaid material, however, does not enable this Court, in exercise of its writ jurisdiction, to undertake the factual comparison which is necessary for determining whether the State and Central proceedings concerned the same subject matter.

32. This Court is also required to bear in mind that the Petitioner does not contend that it was denied an opportunity of hearing before the adjudicating authority. On the contrary, the record indicates that the Petitioner submitted a reply to the SCN and participated in the personal hearings granted to it. In the circumstances, the absence of the objection in the written reply, the participation of the Petitioner in the adjudication proceedings and the absence of material establishing that the alleged oral objection was raised before and considered by the adjudicating authority are relevant circumstances while determining

whether this Court ought to exercise its extraordinary jurisdiction in the first instance. The Petitioner has also not been able to demonstrate any prejudice occasioned to it on account of the alleged violation of Section 6(2)(b) of the CGST Act.

33. In any event, the determination of the applicability of Section 6(2)(b), in the facts of the present case, requires examination of the respective proceedings and their underlying record. The statutory appellate mechanism provides an efficacious forum for such examination, including consideration of the respective SCNs, the allegations and computations contained therein, the material relied upon, the order passed by the State GST authorities and the subsequent proceedings before the Central GST authorities. The Appellate Authority would, therefore, be in a position to determine whether the proceedings initiated by the Central GST authorities, to the extent they relate to FY 2020-21, were on the same subject matter as the proceedings previously initiated by the State GST authorities.

34. This Court, therefore, considers it neither necessary nor appropriate to express any final opinion at this stage on the Petitioner's contention under Section 6(2)(b) of the CGST Act. Any such determination, in the absence of a complete examination of the underlying factual record, may unnecessarily foreclose issues which are otherwise available to the Petitioner in the statutory appellate proceedings. The availability of an efficacious statutory remedy, coupled with the factual enquiry required for determination of the applicability of Section 6(2)(b), accordingly militates against interference under Article 226 of the Constitution of India at this

stage.

35. The Petitioner has an efficacious statutory remedy of appeal against the Impugned Order-in-Original. Before the Appellate Authority, it would be open to the Petitioner to place on record the proceedings initiated by the State GST authorities, including the SCN dated 26.11.2024 and the order dated 22.02.2025 dropping the proceedings for FY 2020-21, together with the subsequent SCN dated 26.05.2025 issued by the Central GST authorities and all other relevant material, and to contend that the proceedings before the Central GST authorities, to the extent they concern the same subject matter, were barred by Section 6(2)(b) of the CGST Act.

36. For the same reason, this Court does not consider it appropriate to examine at this stage the Petitioner's challenge to the invocation of the extended period of limitation under Section 74 of the CGST Act, the correctness of the ITC demand, the finding of fraud, wilful misstatement or suppression, or the consequential levy of interest and penalties. All such questions are available to the Petitioner before the competent statutory Appellate Authority.

37. Likewise, this Court expresses no opinion on the Petitioner's grievance concerning the manner in which the demand has been reflected on the GST portal or on the rectification application stated to have been filed by the Petitioner. All such contentions shall remain open to the Petitioner to pursue before the competent authority in accordance with law.

38. It is, therefore, clarified that nothing contained in the present

judgment shall be construed as an adjudication upon the merits of the demand confirmed under the Impugned Order-in-Original or upon the applicability of Section 6(2)(b) of the CGST Act to the facts of the case. The Appellate Authority shall consider all contentions raised by the Petitioner independently and in accordance with law, without being influenced by the observations contained herein. The observations made herein concerning the absence of an objection in the written reply, or the manner in which such objection is stated to have been raised during the adjudication proceedings, are confined to the question whether this Court ought to exercise its extraordinary writ jurisdiction at this stage and shall not be treated as a finding on the merits of such objection before the Appellate Authority.

39. Learned Counsel for the Petitioner has also drawn the attention of this Court to the fact that the Petitioner may face an issue of limitation in availing the statutory appellate remedy on account of the time spent prosecuting the present proceedings before this Court.

40. In this regard, it is observed that, in case the Petitioner files an appropriate application before the competent Appellate Authority under Section 14 of the Limitation Act, 1963, seeking exclusion of the period during which the present Writ Petition remained pending before this Court, the said application shall be considered by the Appellate Authority in accordance with law and on its own merits.

41. Needless to state, this Court has expressed no opinion on whether the requirements of Section 14 of the Limitation Act, 1963 are satisfied. The said issue shall be considered by the competent

authority independently in accordance with the applicable statutory provisions and the facts placed before it.

CONCLUSION

42. In view of the foregoing discussion, this Court is not persuaded to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India at this stage. The Petitioner has an efficacious statutory remedy of appeal against the Impugned Order-in-Original, and the question whether the proceedings initiated by the Central GST authorities were barred by Section 6(2)(b) of the CGST Act requires examination of the factual and statutory overlap, if any, between the proceedings initiated by the State and Central GST authorities.

43. The Petitioner shall, however, be at liberty to urge all its contentions before the competent Appellate Authority, including the contention under Section 6(2)(b) of the CGST Act. The Appellate Authority shall consider the same independently and in accordance with law, without being influenced by any observations contained in the present judgment.

44. With the aforesaid observations, the present Writ Petition stands disposed of, along with the pending applications.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 07, 2026
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