2026:DHC:7263-DB

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

% ***Judgment reserved on: 13.08.2026***
Judgment pronounced on: 31.08.2026
Judgment uploaded on: 01.09.2026

\# **CNR No. DLHC010509092024**

\+ W.P.(C) 11352/2024, CM APPL. 46994/2024 and CM APPL. 53620/2026

M/S SUPRA ENTERPRISES .....Petitioner

Through: Mr. Pulkit Verma, Mr. Saket Jain, and Ms. Surabhi Kukreti, Advs.

versus

ASSISTANT COMMISSIONER CIRCLE 6 CENTRAL GST AUDIT 1 & ORS. .....Respondents

Through: Mr. Arun Khatri, SSC along with Ms. Anoushka Bhalla, 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. The present Writ Petition under Article 226 of the Constitution of India has been filed by the Petitioner assailing the proceedings initiated pursuant to the Show Cause Notice dated 26.07.2024 [hereinafter referred to as 'SCN'] issued under Section 74(1) of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as 'CGST Act']. During the pendency of the present Writ Petition, the adjudication proceedings have culminated in the passing of Order-in-

Original No.62/AY/AC/NP/2024-25 dated 03.02.2025 [hereinafter referred to as the 'Impugned Order'] by the Assistant Commissioner, CGST Div-Nehru Place, Delhi East Commissionerate.

2. At the outset, it deserves notice that the Impugned Order is appealable under Section 107 of the CGST Act. The appellate remedy so provided constitutes a complete, efficacious and comprehensive statutory mechanism for redressal of grievances arising from orders of adjudication.

3. The Appellate Authority is vested with wide powers to examine both questions of fact and law, re-appreciate the material placed on record, scrutinise the findings returned by the adjudicating authority, and determine the legality as well as the correctness of the order under challenge. It is for this reason that where the legislature has consciously created a specialised adjudicatory framework coupled with a hierarchy of appellate remedies, constitutional courts have consistently exercised restraint in entertaining a challenge to the original adjudication order under Article 226 of the Constitution. Such self-imposed restraint is founded not upon any lack of jurisdiction, but upon sound principles governing the exercise of judicial discretion.

4. Questions involving appreciation of evidence, adequacy of material, correctness of factual findings or the legality of conclusions reached in the adjudicatory process are, in the ordinary course, matters which the statutory appellate authority is best equipped to examine. Entertaining a writ petition in such circumstances would not only permit a litigant to bypass the legislative scheme but would also

render *otiose* the efficacious appellate remedy consciously provided by the statute.

5. At the same time, it is equally well settled that the existence of an alternative statutory remedy does not operate as an absolute bar to the exercise of writ jurisdiction. In ***Assistant Commissioner of State Tax and Others v. Commercial Steel Limited***[1], the Supreme Court reiterated that notwithstanding the availability of an efficacious statutory remedy, the High Court may entertain a petition under Article 226 of the Constitution in exceptional circumstances, namely, where there is: (i) breach of fundamental rights; (ii) violation of the principles of natural justice; (iii) excess of jurisdiction; or (iv) a challenge to the *vires* of a statute or delegated legislation. The Supreme Court further observed that the mere assertion of one of the aforesaid grounds would not, by itself, justify bypassing the statutory remedy. The High Court is required to independently examine whether the facts of the case disclose circumstances warranting the exercise of its extraordinary jurisdiction notwithstanding the availability of an efficacious appellate remedy.

6. In the backdrop of the aforesaid principles, the question which arises for consideration in the present case is whether the Petitioner has made out a case falling within any of the recognised exceptions so as to justify invocation of the extraordinary jurisdiction of this Court under Article 226 of the Constitution despite the availability of the statutory remedy under Section 107 of the CGST Act.

[1] (2022) 16 SCC 447

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FACTUAL MATRIX:

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

8. The Petitioner is a partnership firm engaged in the manufacture, export and distribution of flanged pipes and fittings across India as well as abroad. It is registered under the CGST Act bearing GSTIN No.07AACFS1978H1ZZ.

9. On 15.12.2023, Respondent No.1 issued Form GST ADT-01 proposing to conduct an audit under Section 65 of the CGST Act for the period from July, 2017 to March, 2022. The Petitioner furnished documents and information in response to the said notice on 20.12.2023, 26.12.2023 and 13.01.2024.

10. Thereafter, an audit memo dated 01.02.2024 was issued raising various discrepancies relating, *inter alia*, to availment of input tax credit (ITC), payment of tax under Reverse Charge Mechanism (RCM) and other transactions. The Petitioner submitted a Reply/Clarification dated 15.02.2024 along with supporting documents.

11. A further audit memo dated 26.03.2024 was issued raising, *inter alia*, allegations concerning ITC, RCM, supplies made to certain suppliers, export transactions and other issues. The Petitioner submitted Replies dated 30.03.2024 and 26.04.2024 thereto.

12. On 26.06.2024, the Respondents issued Form GST ADT-02 under Section 65(6) of the CGST Act raising audit objections

involving a tax liability of approximately Rs.78,53,548/-, excluding interest. The Petitioner disputes the said audit findings and contends that the Replies and supporting documents furnished during the audit were not duly considered.

13. On 08.07.2024, Form GST DRC-01A was issued intimating the proposed liability under Section 74(5) of the CGST Act. The Petitioner submitted its response dated 19.07.2024, disputing both the audit findings as well as the proposed invocation of Section 74.

14. Thereafter, on 26.07.2024, Respondent No.1 issued SCN in Form GST DRC-01 under Section 74(1) of the CGST Act proposing recovery of tax, interest and penalty. The SCN alleges, *inter alia*, that the Petitioner had suppressed facts with intent to evade payment of appropriate taxes.

15. The Petitioner had earlier brought to the notice of the Respondents that the SCN was the subject matter of challenge before this Court. The Petitioner had, *vide* communication dated 21.08.2024, informed the Department regarding the filing of the Writ Petition.

16. During the pendency of the aforesaid proceedings, the Petitioner submitted its Reply to the SCN. The Petitioner raised, *inter alia*, objections to the invocation of Section 74 of the CGST Act, the issuance of a consolidated SCN covering multiple financial years, the audit proceedings preceding the SCN and the individual demands proposed under the various heads.





17. The adjudicating authority thereafter proceeded to adjudicate the SCN and passed the Impugned Order dated 03.02.2025, confirming the demand of tax, together with applicable interest and penalty, as determined therein.

18. The Petitioner has subsequently placed on record its Rejoinder, wherein the findings and conclusions contained in the Impugned Order have also been assailed. The Petitioner contends that the adjudicating authority failed to consider the detailed submissions and documents furnished by it, including documents evidencing payment/reversal of certain amounts through DRC-03, reconciliations, invoices, bank statements and documents relating to exports.

19. Aggrieved by the aforesaid proceedings and the subsequent Impugned Order, the Petitioner seeks to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

CONTENTIONS OF THE PARTIES:

20. Heard learned counsel representing the parties and with their able assistance perused the record.

21. Learned counsel representing the Petitioner has made the following submissions:

i. The proceedings under Section 74 of the CGST Act are without jurisdiction as the SCN does not disclose the requisite ingredients of fraud, wilful misstatement or suppression of facts with intent to evade tax.





ii. A single SCN could not have been issued covering the financial years 2017-18 to 2021-22, since the statutory scheme contemplates separate limitation periods and separate determination for each financial year.

iii. The audit proceedings and the consequential Audit Report in Form ADT-02 are vitiated since the Replies and documents furnished by the Petitioner were not considered before the audit was concluded and the SCN was issued.

iv. The Impugned Order is liable to be set aside for failure to consider the detailed Reply submitted by the Petitioner and the documents placed on record, including DRC-03s evidencing payment/reversal of the amounts in question.

v. The findings returned in respect of the individual heads of demand, including inadmissible ITC, ITC allegedly availed from cancelled suppliers, excess ITC, short payment under RCM, ITC allegedly blocked under Section 17(5), place of supply and the alleged non-compliance with Rule 96A, are contrary to the material placed on record.

vi. The proceedings are consequently vitiated by violation of the principles of natural justice and warrant interference under Article 226 of the Constitution.

22. *Per contra*, learned SSC representing the Respondents has made the following submissions:

i. The challenge raised by the Petitioner essentially pertains to the correctness of the findings returned in the course of adjudication and the appreciation of the material placed on record. Such issues are amenable to examination by the appellate authority under Section 107 of the CGST Act.

ii. The SCN specifically set out the basis for invocation of Section 74 of the CGST Act and alleged suppression of facts on the part of the Petitioner with intent to evade payment of tax. Whether the material relied upon by the Department was sufficient to sustain such allegations is a matter going to the merits of the adjudication and can be examined in appeal.

iii. The Petitioner was afforded adequate opportunity to place its defence before the adjudicating authority and that the Reply, submissions and documents furnished by the Petitioner were duly considered while passing the Impugned Order.

iv. The various objections raised by the Petitioner with respect to the individual heads of demand, including the alleged payment of certain amounts through DRC-03, reconciliation of ITC, RCM liability, eligibility of ITC and compliance with Rule 96A of the CGST Rules, involve appreciation of factual material and examination of the records. Such matters fall squarely within the appellate jurisdiction under Section 107 of the CGST Act.

v. None of the grounds urged by the Petitioner disclose any patent lack of jurisdiction or manifest violation of the principles

of natural justice so as to attract any of the recognised exceptions to the rule of alternative remedy.

23. No other submissions have been made by the learned counsel representing the parties.

ANALYSIS AND FINDINGS:

24. This Court has carefully considered the submissions advanced on behalf of the learned counsel representing the parties and perused the material placed on record.

25. As noticed hereinabove, the Petitioner had initially approached this Court challenging the SCN dated 26.07.2024 issued under Section 74 of the CGST Act. During the pendency of the present Writ Petition, however, the adjudication proceedings have culminated in the passing of the Impugned Order dated 03.02.2025. The challenge, as it presently survives, therefore, encompasses not merely the initiation of proceedings under Section 74 of the CGST Act but also the findings and conclusions returned by the adjudicating authority in the Impugned Order.

26. It is, therefore, necessary to examine whether the aforesaid grounds disclose any circumstance falling within the recognised exceptions to the rule of alternative remedy, or whether the grievances raised by the Petitioner are matters which are required to be agitated before the statutory appellate authority.

27. The first contention advanced on behalf of the Petitioner is that the SCN could not have been issued under Section 74 of the CGST

Act as it does not disclose the requisite ingredients of fraud, wilful misstatement or suppression of facts with intent to evade tax. It is contended that the allegations essentially arise from discrepancies noticed during audit and are not supported by any material establishing the ingredients contemplated under Section 74 of the CGST Act.

28. The aforesaid objection was specifically raised by the Petitioner before the adjudicating authority. The Impugned Order notices the said submission and proceeds to consider the applicability of Section 74 of the CGST Act, including the allegations relating to suppression of facts. The Petitioner was also afforded an opportunity to submit its defence and participate in the adjudication proceedings. The challenge, therefore, is not one of denial of an opportunity of hearing, but essentially to the sufficiency of the material and the correctness of the conclusion that the ingredients of Section 74 stood satisfied.

29. Whether the material relied upon by the Respondents constitutes sufficient evidence of fraud, wilful misstatement or suppression of facts within the meaning of Section 74 of the CGST Act, and whether the findings returned by the adjudicating authority in this regard are legally and factually sustainable, would require an examination of the SCN, the material relied upon, the Petitioner's replies and the findings recorded in the Impugned Order.

30. These questions fall within the appellate jurisdiction contemplated under Section 107 of the CGST Act. In the facts of the present case, where the objection was raised, considered and

adjudicated upon after affording an opportunity of hearing, the mere disagreement with the conclusion reached by the adjudicating authority does not disclose a case of patent lack of jurisdiction or violation of natural justice warranting interference under Article 226 of the Constitution.

31. The next contention advanced on behalf of the Petitioner is that a single SCN could not have been issued covering the financial years 2017-18 to 2021-22, particularly since separate periods of limitation operate in respect of each financial year. The contention, however, cannot be accepted as a ground of jurisdictional challenge in view of the judgment of this Court in ***Ambika Traders through Proprietor Gaurav Gupta v. Additional Commissioner, Adjudication, DGGSTI, CGST Delhi North***[2], wherein a Division Bench, while considering a consolidated SCN under Section 74 of the CGST Act covering multiple financial years, held that the statutory scheme does not prohibit issuance of a consolidated notice. The Court specifically noted that Sections 73(3) and 74(3) of the CGST Act employ the expressions "for any period" and "for such periods", whereas Sections 73(10) and 74(10) refer to the "financial year" for the purpose of prescribing the limitation for passing the order.

32. The distinction is material. The fact that the limitation prescribed under Sections 73(10) and 74(10) is computed with reference to the financial year does not, by itself, impose a requirement that a separate SCN must necessarily be issued for each financial year. As held in ***Ambika Traders*** *(supra)*, the statutory

[2] 2025:DHC:6181-DB

language contemplates a notice relating to a period which may extend beyond one financial year. The Court further observed that, particularly in cases involving alleged fraudulent availment or utilisation of ITC, transactions spread across different financial years may be required to be examined together to ascertain the alleged pattern of fraud or suppression. Accordingly, the mere issuance of a consolidated SCN covering multiple financial years does not constitute a patent lack of jurisdiction so as to warrant interference under Article 226 of the Constitution. Any contention that the demand pertaining to a particular financial year is barred by the limitation prescribed under Section 74(10) is a distinct issue, which may be examined in the statutory appeal on the basis of the relevant dates and the period to which the demand relates.

33. The Petitioner has also assailed the audit proceedings on the ground that its Replies dated 15.02.2024, 30.03.2024 and 26.04.2024, along with the documents furnished therewith, were not considered before issuance of Form GST ADT-02. It is contended that the audit report was approved before the final Reply was furnished and that the subsequent issuance of the report was consequently contrary to Section 65(6) of the CGST Act.

34. These contentions require examination of the audit record and the material considered by the Respondents. Significantly, the Petitioner was thereafter afforded an opportunity to file its defence in the adjudication proceedings, which culminated in the Impugned Order. Whether the audit authorities properly considered the Petitioner's replies and whether any prejudice was occasioned thereby

are matters which can appropriately be urged before the appellate authority and do not, in the facts of the present case, disclose a patent violation of natural justice warranting interference under Article 226 of the Constitution.

35. Learned counsel representing the Petitioner has placed reliance upon the judgment of the Andhra Pradesh High Court in ***Vardhaman Gold v. State of Andhra Pradesh & Ors.***[3], wherein the audit report and the consequential notice under Section 73 of the Andhra Pradesh Goods and Service Tax Act, 2017, were set aside on the ground that the mandatory period contemplated under Section 65(3) of the Act had not elapsed before the audit was finalised and, further, that the subsequent notice was founded upon such defective audit report. The said decision is distinguishable on its facts. In the present case, the Petitioner was subsequently afforded a full opportunity to respond to the SCN and participate in the adjudication proceedings, which culminated in the Impugned Order. The grievance raised by the Petitioner is thus not of denial of an opportunity to meet the case ultimately adjudicated upon, but of the manner in which its replies and material were considered. The aforesaid decision, therefore, does not establish any patent violation of natural justice or lack of jurisdiction in the present case so as to warrant interference under Article 226 of the Constitution.

36. The Petitioner has further contended that the Impugned Order fails to consider its detailed Reply and the documents relied upon

[3] 2023 SCC OnLine AP 3833

therein, including DRC-03s, reconciliations, invoices, bank statements and documents relating to exports.

37. The Impugned Order, however, records the submissions of the Petitioner and deals with the objections raised during the adjudication proceedings. Whether the findings returned therein correctly appreciate the documents and explanations furnished by the Petitioner, or whether the material relied upon by the Petitioner warranted a different conclusion, is a matter concerning the merits of the adjudication. Such issues are appropriately amenable to examination in appeal and do not, in the circumstances of the present case, warrant interference in writ jurisdiction.

38. Learned counsel representing the Petitioner has also assailed the findings returned in respect of the individual heads of demand, contending that certain amounts had already been paid or reversed through DRC-03, certain ITC had either not been availed or was otherwise admissible, the alleged RCM liability stood discharged, and the export transactions were duly supported by invoices, returns and proof of realisation.

39. These submissions essentially challenge the factual findings and computation of liability under the respective heads. Their examination would require consideration of the returns, invoices, ledgers, DRC-03s, reconciliations, bank statements and other documents relied upon by the parties. The correctness of the findings and the effect to be given to such material are matters falling within the appellate jurisdiction.

40. The same applies to the contention regarding the difference between GSTR-2A and GSTR-3B, the applicability of Section 17(5) of the CGST Act and the alleged compliance with Rule 96A of the CGST Rules. The applicability of the decisions relied upon by the Petitioner would also depend upon the facts and material on record. These issues, therefore, do not disclose any exceptional circumstance warranting interference under Article 226 of the Constitution.

41. Learned counsel representing the Petitioner has sought to characterise the aforesaid deficiencies as violation of the principles of natural justice. However, the record indicates that the Petitioner participated in the adjudication proceedings, filed a detailed Reply to the SCN and placed documents in support of its defence.

42. A distinction must be maintained between a case where a party is denied an opportunity of hearing and one where, despite having been heard, the party disputes the manner in which its defence or documents have been considered. The latter constitutes a challenge to the merits of the adjudication and is ordinarily amenable to the statutory appellate remedy.

43. In the present case, the Petitioner has not demonstrated any patent denial of an opportunity to present its case. Its grievance essentially concerns the appreciation of its Reply and supporting documents and the findings returned by the adjudicating authority thereon.

44. The aforesaid grounds, therefore, do not disclose any manifest violation of the principles of natural justice so as to warrant exercise

of the extraordinary jurisdiction of this Court under Article 226 of the Constitution.

CONCLUSION:

45. In view of the foregoing discussion, this Court is of the considered view that the present case does not disclose any circumstance warranting exercise of the extraordinary jurisdiction of this Court under Article 226 of the Constitution notwithstanding the availability of the statutory remedy of appeal under Section 107 of the CGST Act.

46. The issues raised by the Petitioner, including the challenge to the invocation of Section 74, the consolidated SCN, the audit proceedings, the consideration of the Petitioner's defence and the individual heads of demand, are matters which can appropriately be examined by the appellate authority in accordance with law.

47. Accordingly, the present Writ Petition, along with the pending applications, is dismissed.

48. The Petitioner shall, however, be at liberty to avail the statutory remedy of appeal under Section 107 of the CGST Act, if so advised.

49. It is clarified that, in the event the Petitioner prefers an appeal under Section 107 of the CGST Act, it shall be at liberty to seek exclusion of the period during which the present Writ Petition remained pending before this Court, in accordance with law. The appellate authority shall consider the question of limitation, including any prayer for exclusion of the period spent in prosecuting the

proceedings before this Court, in accordance with law and uninfluenced by any observations contained in the present Judgment.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 31, 2026
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