2026:DHC:8550-DB

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

% ***Judgment reserved on: 23.09.2026***

Judgment pronounced on: 01.10.2026

Judgment uploaded on: 01.10.2026

\# **CNR No. DLHC010414842025**

\+ W.P.(C) 9406/2025 & CM APPL. 39693/2025

M/S A.G. ENTERPRISES .....Petitioner

Through: Mr. Bimal Jain, Mr. Anurag Jain and Ms. Ishika Agarwal, Advs.

versus

UNION OF INDIA & ANOTHER .....Respondents

Through: Mr. Harpreet Sing, Mr. Iqbal Singh Bedi, Ms. Suhani Mathur, Mr. Mudit Grover, Mr Jatin Kumar Gaur, Mr. Akshay Saxena, Ms. Animika Bharadwaj, Advs

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Petition, the Petitioner seeks quashing of the Demand-cum-Show Cause Notice dated 06.06.2024, the summary whereof was uploaded on 02.08.2024, as well as the Order-in-Original dated 12.02.2025 passed in the adjudication proceedings, whereby the Petitioner has been held liable for reversal/recovery of Input Tax Credit [hereinafter referred to as "ITC"], along with applicable interest and penalty under the provisions of the CGST Act and the corresponding provisions of the Delhi Goods and Services Tax Act, 2017 [hereinafter referred to as "DGST Act"].

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2. The issue which arises for consideration in the present Petition is whether this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, ought to interfere with the adjudication proceedings culminating in the Order-in-Original passed under Section 74 of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as "CGST Act"], on the grounds that the proceedings were allegedly initiated in breach of Section 6(2)(b) of the CGST Act, in disregard of earlier proceedings undertaken by the State Goods and Services Tax authorities, without affording an effective opportunity of hearing, and by allegedly travelling beyond the allegations contained in the Show Cause Notice.

FACTUAL MATRIX:

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

4. The Petitioner is a proprietorship concern engaged in the business of retail and wholesale trading of machines, screws, scaffolding, shuttering and propping equipment. The proceedings in question emanate from an investigation initially undertaken in respect of M/s Pramod Traders/Bheem Traders, bearing GSTIN 09BIUPP9328M1Z2.

5. The record of the Impugned Adjudication Order shows that a communication dated 06.12.2021 was received from the office of the Assistant Commissioner, CGST, Firozabad, regarding the investigation into the activities of the aforesaid entity. It was reported that the said entity was issuing invoices without corresponding actual

supply of goods and was also not complying with its statutory filing and tax payment obligations.

6. During the course of the aforesaid investigation, it was noticed that M/s ASA Nand Nathu Ram, bearing GSTIN 07ABDPB4654M1ZM, had availed ITC of Rs.7,48,600/- from M/s Pramod Traders/Bheem Traders. Consequently, an inspection of the principal place of business of M/s ASA Nand Nathu Ram was conducted on 18.01.2022 under Section 67(1) of the CGST Act.

7. The Impugned Order records that the premises of M/s ASA Nand Nathu Ram were found to be existent and operational and that its proprietor, Mr. Sunil Kumar Bajaj, was present at the premises. It further records that a summons dated 18.01.2022 was served upon him and that his statement was thereafter recorded under Section 70 of the CGST Act.

8. During the course of the investigation, the mobile phone of Mr. Sunil Kumar Bajaj was also examined and certain WhatsApp conversations were stated to have been found therein. The Impugned Order records that the mobile phone was voluntarily surrendered for further investigation. It is further recorded that Mr. Sunil Kumar Bajaj, in his statement recorded under Section 70 of the CGST Act, stated that ITC had been availed on the basis of "goods-less invoices" provided by one Mr. Udey.

9. The investigation thereafter proceeded to verify the suppliers of M/s ASA Nand Nathu Ram. The Impugned Order records that twelve (12) suppliers falling within the jurisdiction of CGST Delhi North and





CGST Delhi East were verified and were found to be bogus/non-existent.

10. On the basis of the investigation, it was alleged that M/s ASA Nand Nathu Ram had availed fake ITC amounting to Rs.11,95,83,886/-. It was further alleged that the said entity had issued tax invoices without actual supply of goods and had thereby passed on inadmissible ITC amounting to Rs.12,08,75,617/- to 618 beneficiary firms, companies and entities.

11. Out of the aforesaid beneficiaries, 228 entities, falling within the jurisdiction of CGST Delhi North, were stated to have availed ITC amounting to Rs.10,30,79,845/-, while the remaining 390 beneficiary entities, falling within the jurisdiction of other CGST/SGST Commissionerates, were stated to have availed ITC amounting to Rs.1,77,95,772/-.

12. The case of the Department, as reflected in the Impugned Order, is that the aforesaid transactions were undertaken without any genuine supply or receipt of goods or services and that the recipient entities had availed and utilised inadmissible ITC on the strength of invoices without actual receipt of the corresponding goods.

13. During the investigation, summonses were issued to the recipient entities falling within the jurisdiction of CGST Delhi North. The Impugned Order records that some of the recipient entities deposited amounts towards reversal of ITC, interest and penalty. Insofar as the Petitioner is concerned, the Table forming part of the Impugned Show Cause Notice records the alleged ITC liability of M/s

A.G. Enterprises at Rs.47,93,104/-, along with applicable interest and penalty. The record further reflects a deposit of Rs.5,00,000/- by the Petitioner through DRC-03 dated 20.10.2022.

14. A Demand-cum-Show Cause Notice bearing No.22/2024-25 was thereafter issued by the Additional Commissioner (Anti-Evasion), CGST Delhi North Commissionerate. The Impugned Adjudication Order records that the proceedings were initiated under Section 74 of the CGST Act read with the corresponding provisions of the DGST Act and the IGST Act.

15. The allegations against the recipient entities, including the Petitioner, were essentially that they had availed and utilised ITC on the strength of invoices without actual receipt of goods or services and had thereby contravened the provisions of Section 16 of the CGST Act. The Show Cause Notice proposed recovery of the allegedly inadmissible ITC along with interest under Section 50 and penalty under Section 74 of the CGST Act.

16. The Petitioner had, prior thereto, also been subjected to proceedings before the State GST authorities. In respect of financial year 2017-18, a notice dated 23.09.2023 was issued under Section 73 of the CGST/DGST Act alleging wrongful availment of ITC from M/s ASA Nand Nathu Ram. The Petitioner submitted its reply dated 21.11.2023. According to the Petitioner, the said proceedings culminated in an order dated 13.12.2023 whereby the allegation/demand was dropped.

17. In respect of financial year 2018-19, another notice dated

20.12.2023 was issued by the State GST authorities in respect of ITC allegedly availed from M/s ASA Nand Nathu Ram, M/s N.S. Traders and M/s Bala Ji Traders. The Petitioner submitted its reply dated 06.01.2024. The allegations concerning M/s N.S. Traders and M/s Bala Ji Traders were dropped, whereas the demand concerning M/s ASA Nand Nathu Ram was confirmed by order dated 29.04.2024. The Petitioner states that proceedings challenging the said order are pending before this Court.

18. In respect of financial year 2019-20, the State GST authorities issued a further notice dated 29.05.2024 under Section 73 in respect of several suppliers, including M/s ASA Nand Nathu Ram. The Petitioner states that the allegations in respect of the other suppliers were dropped, whereas the demand concerning M/s ASA Nand Nathu Ram was confirmed by order dated 29.08.2024. According to the Petitioner, the said order was based substantially upon the communication of the Deputy Commissioner, Anti-Evasion.

19. The Petitioner further refers to proceedings undertaken by the State GST authorities for financial year 2020-21, in which a notice dated 22.11.2024 was issued in respect of, *inter alia*, M/s ASA Nand Nathu Ram. The Petitioner states that the said proceedings subsequently culminated in an order dated 27.02.2025.

20. In the meantime, the Central GST proceedings proceeded on the basis of the Demand-cum-Show Cause Notice dated 06.06.2024, the summary of which was uploaded on the GST portal on 02.08.2024. The Petitioner submitted a response to the pre-notice intimation/DRC-

01A on 28.05.2024, raising, inter alia, an objection regarding the earlier proceedings undertaken by the State GST authorities and asserting that the conditions for availment of ITC under Section 16 had been fulfilled.

21. The Petitioner also raised objections regarding the nature of the evidence relied upon by the Department and sought an opportunity to cross-examine the persons whose statements were relied upon. The Petitioner also referred to the proceedings undertaken against other taxpayers and requested that the proposed demand not be confirmed without considering the material placed on record.

22. Thereafter, the adjudication proceedings culminated in the Impugned Order-in-Original. The order records the allegations contained in the Show Cause Notice and proceeds to examine the alleged availment and utilisation of ITC by the recipient entities. In paragraph 8 of the Impugned Order, the adjudicating authority has recorded the "Record of the Personal Hearing". It has been stated that personal hearing opportunities were granted to the concerned Noticees and that some Noticees appeared and made oral as well as written submissions, which were considered. In respect of the remaining Noticees, the adjudicating authority records that neither the Noticees nor their authorised representatives appeared and that the matter was accordingly proceeded with ex parte.

23. The adjudicating authority thereafter examined the allegations concerning the receipt of goods and the availment and utilisation of ITC. In paragraph 12 of the Impugned Order, specific reference has





been made to Section 16(2)(b) of the CGST Act and it has been held that the recipient entities had not received the goods physically and had instead received goods-less invoices.

24. The adjudicating authority further proceeded to examine the applicability of Section 74(1) of the CGST Act. In paragraph 14, it has been held that the alleged availment and utilisation of ITC without actual receipt of goods was by reason of fraud, wilful misstatement or suppression of facts, and that the ingredients for invocation of Section 74(1) stood satisfied. In paragraph 15, the adjudicating authority dealt with the liability towards interest under Section 50 of the CGST Act. Thereafter, the order proceeds to deal with the penal consequences arising from the alleged availment and utilisation of inadmissible ITC.

25. Ultimately, by the Impugned Order, the demand of inadmissible ITC was confirmed against the recipient entities, including the Petitioner, along with applicable interest under Section 50 and penalty under Section 74(1). The amounts already deposited by the respective Noticees were ordered to be appropriated against their respective liabilities.

26. The Petitioner has approached this Court assailing the aforesaid order.

CONTENTIONS OF THE PARTIES:

27. Contentions on behalf of the Petitioner:

27.1. It was submitted that the impugned proceedings are without jurisdiction in view of Section 6(2)(b) of the CGST Act. It is

contended that the State GST authorities had already initiated proceedings in respect of the same ITC allegedly availed from M/s ASA Nand Nathu Ram and, therefore, the Central GST authorities could not have initiated another proceeding concerning the same subject matter.

27.2. It was further submitted that the proceedings before the State GST authorities had, in respect of certain financial years, already culminated in orders. Particular emphasis is placed upon the order dated 13.12.2023 for financial year 2017-18, whereby the allegation concerning the ITC availed from M/s ASA Nand Nathu Ram is stated to have been dropped. Reliance is also placed upon the subsequent orders passed by the State GST authorities in respect of financial years 2018-19 and 2019-20.

27.3. It was next submitted that the Impugned Order could not have confirmed the demand on a ground different from that contained in the Show Cause Notice. According to the Petitioner, the Show Cause Notice proceeded on the allegation of non-receipt of goods and alleged contravention of Section 16(2)(b), whereas the order is stated to have proceeded on the premise that the supplier had not discharged the tax liability to the Government, thereby attracting Section 16(2)(c).

27.4. It was submitted that the Petitioner had specifically requested an opportunity of personal hearing and had sought time to submit a detailed response. According to the Petitioner, the Impugned Order was nevertheless passed without granting an effective opportunity of

hearing.

27.5. It was further contended that the reply furnished by the Petitioner to the DRC-01A was not duly considered. The Petitioner also challenges the clubbing of different financial years in one proceeding and contends that such clubbing defeats the statutory scheme governing limitation and adjudication. Reliance has also been placed upon Section 75(4) of the CGST Act and the principles of natural justice.

27.6. The Petitioner has also relied upon the judgment of this Court in ***Amit Gupta v. Union of India***[1], in support of the submission that Section 6(2)(b) of the CGST Act is intended to prevent parallel proceedings by different GST authorities in respect of the same subject matter.

27.7. The Petitioner has further relied upon various decisions concerning the requirement of a personal hearing, the impermissibility of confirming a demand on grounds travelling beyond the Show Cause Notice, the consideration of replies furnished by the assessee and the consequences of clubbing different periods in a single proceeding.

ANALYSIS & FINDINGS

28. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

29. At the outset, it is necessary to notice that the Petitioner seeks to invoke the extraordinary jurisdiction of this Court against an Order-in-

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Original whereby a demand towards allegedly inadmissible ITC, together with interest and penalty, has been adjudicated under Section 74 of the CGST Act.

30. The statutory scheme provides a remedy of appeal against an adjudication order of this nature. The question, therefore, is whether the objections raised by the Petitioner constitute circumstances warranting exercise of the extraordinary jurisdiction under Article 226 of the Constitution, notwithstanding the availability of the statutory appellate remedy.

31. The Petitioner has principally founded its challenge upon Section 6(2)(b) of the CGST Act and the alleged violation of principles of natural justice. These objections, no doubt, require consideration. However, the mere description of an objection as one of "jurisdiction" or "natural justice" does not, by itself, require this Court to exercise its writ jurisdiction in every case. The Court is required to examine the substance of the objection and the nature of the adjudication which is under challenge.

32. In the present case, the challenge under Section 6(2)(b) proceeds on the premise that the proceedings initiated by the State GST authorities and the proceedings initiated by the Central GST authorities necessarily concern the same subject matter merely because both proceedings involve ITC allegedly availed from M/s ASA Nand Nathu Ram.

33. The expression "same subject matter" occurring in Section 6(2)(b) is of central significance. The statutory provision does not





prohibit every subsequent proceeding merely because the same assessee has earlier been subjected to proceedings by another GST authority. The bar operates where the subsequent proceedings are in respect of the same subject matter.

34. The question whether two proceedings concern the same subject matter cannot, therefore, be determined merely by identifying a common supplier or by observing that the proceedings relate to ITC. The relevant proceedings have to be examined with reference to the tax period, the particular transactions and invoices involved, the precise ITC forming the subject matter of the demand, the allegations made in the respective notices and the liability which each authority has sought to determine.

35. The Supreme Court, while considering the scope of Section 6(2)(b) of the CGST Act in ***M/s Armour Security (India) Ltd. v. Commissioner, CGST Delhi East Commissionerate***[2], has explained that the statutory bar is attracted where proceedings are initiated on the same subject matter. The Court has also explained the significance of the issuance of a Show Cause Notice as the formal initiation of proceedings and has emphasised that the subject matter has to be identified with reference to the particular tax liability, deficiency or obligation arising from the alleged contravention.

36. Applying the aforesaid principle, the mere fact that the State proceedings and the Central proceedings refer to M/s ASA Nand Nathu Ram does not, by itself, establish that the entirety of the

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proceedings initiated by the Central authorities is barred under Section 6(2)(b).

37. The State proceedings referred to by the Petitioner were initiated separately for different financial years. The proceedings for financial year 2017-18 were initiated by notice dated 23.09.2023; the proceedings for financial year 2018-19 by notice dated 20.12.2023; and the proceedings for financial year 2019-20 by notice dated 29.05.2024. The Central Show Cause Notice, on the other hand, was dated 06.06.2024, the summary whereof was uploaded on 02.08.2024.

38. The chronology itself demonstrates that the question of applicability of Section 6(2)(b) cannot be answered merely by stating that the State authorities had at some earlier stage initiated proceedings. The relevant question is whether, on the date of initiation of the Central proceedings, the liability which was sought to be determined against the Petitioner in those proceedings had already become the subject matter of proceedings initiated by the State authorities.

39. In respect of financial year 2017-18, the Petitioner relies upon the order dated 13.12.2023 whereby, according to the Petitioner, the demand relating to M/s ASA Nand Nathu Ram was dropped. In respect of financial year 2018-19, the proceedings culminated in an order dated 29.04.2024 whereby the demand relating to M/s ASA Nand Nathu Ram was stated to have been confirmed. In respect of financial year 2019-20, the State proceedings were initiated by notice dated 29.05.2024 and, according to the Petitioner, culminated in an





order dated 29.08.2024.

40. The aforesaid chronology, at the very least, demonstrates that the question whether the liability adjudicated upon by the Central authorities was precisely the same liability which had already been subjected to proceedings by the State authorities involves an examination of the respective Show Cause Notices, the tax periods, the invoices and the precise ITC amounts involved therein.

41. Such an exercise is essentially factual in nature. It is also relevant that the Central proceedings were initiated under Section 74 of the CGST Act on the allegation that ITC had been availed and utilised on the strength of invoices without actual receipt of goods or services and that such availment was accompanied by fraud, wilful misstatement or suppression of facts.

42. The State proceedings, as placed before this Court, were initiated under Section 73 of the CGST Act. The fact that a proceeding is under Section 73 while another is under Section 74 is not, by itself, conclusive for determining the question of "same subject matter". At the same time, the difference in the statutory provision invoked is a relevant circumstance while examining the precise nature of the liability sought to be determined in each proceeding.

43. The Court, therefore, cannot accept the submission that the mere commonality of the supplier, namely M/s ASA Nand Nathu Ram, is sufficient to establish that the Central proceedings are wholly barred by Section 6(2)(b).

44. More importantly, the challenge to the Impugned Order is not confined to the question of jurisdiction under Section 6(2)(b). The Petitioner seeks adjudication by this Court on the correctness of the findings concerning actual receipt of goods, the admissibility of ITC, the applicability of Section 74, the evidence relied upon by the Department, the consideration of the reply, the requirement of personal hearing and the computation of the liability.

45. These are matters which are ordinarily required to be examined in the statutory appellate proceedings. The appellate authority is competent to examine the complete adjudication record and determine whether the demand confirmed against the Petitioner is supported by the material on record and whether the statutory requirements for invocation of Section 74 have been satisfied.

46. The contention that the Impugned Order has travelled beyond the Show Cause Notice also does not, on a reading of the Impugned Order placed before this Court, warrant interference at this stage.

47. The principal allegation recorded in the Impugned Order is that the recipient entities had availed ITC on the strength of invoices without actual receipt of goods. In paragraph 12 of the Impugned Order, specific reliance has been placed upon Section 16(2)(b) of the CGST Act and the finding is that the recipient entities had not physically received the goods and had instead received goods-less invoices.

48. It is true that the Petitioner alleges that the Impugned Order has also proceeded on the basis of non-payment of tax by the supplier and

thereby invoked Section 16(2)(c). However, the Impugned Order, as placed before us, does not rest exclusively upon such a finding. The finding regarding non-receipt of goods and availment of ITC on goods-less invoices constitutes an independent basis expressly recorded in paragraph 12 of the order.

49. Likewise, the invocation of Section 74(1) is based upon the adjudicating authority's conclusion that the alleged availment and utilisation of ITC without actual receipt of goods was accompanied by fraud, wilful misstatement or suppression of facts. Thus, the challenge that the entire demand has been confirmed on a wholly new and unrelated factual foundation is not borne out, at least on the face of the Impugned Order.

50. Whether the aforesaid findings are factually and legally sustainable, whether the material relied upon establishes actual non-receipt of goods, and whether the ingredients necessary for invoking Section 74 are satisfied are matters which can appropriately be considered in the statutory appellate proceedings.

51. The next contention concerns the alleged denial of personal hearing.

52. Section 75(4) of the CGST Act contemplates grant of an opportunity of hearing where a request is received in writing from the person chargeable with tax or where an adverse decision is contemplated against such person.

53. In the present case, the Impugned Order specifically contains a





section dealing with the record of personal hearing. It records that personal hearing opportunities were granted to the Noticees and that some of them appeared and made oral as well as written submissions, which were considered. It further records that the remaining Noticees did not appear either personally or through their authorised representatives and that the matter was thereafter proceeded with *ex parte*.

54. The Petitioner disputes the effectiveness of the opportunity so afforded and submits that its request for time and personal hearing was not duly considered. This contention would require examination of the notices issued for personal hearing, their mode of service, the dates fixed, the response of the Petitioner thereto and the complete adjudication record.

55. Significantly, the Impugned Order does record the grant of opportunities of personal hearing. There is also an apparent chronological inconsistency in paragraph 8.1 of the Impugned Order, where one of the dates of hearing is recorded as 23.12.2025, although the order is stated to have been passed on 12.02.2025. Such an inconsistency cannot, by itself, establish that no hearing opportunity was granted. At the highest, it calls for verification of the underlying adjudication record.

56. In these circumstances, particularly when the Impugned Order records that opportunities of personal hearing were granted, we are not inclined to set aside the adjudication proceedings in exercise of Article 226 merely on the basis of the aforesaid apparent date discrepancy.

57. The Petitioner has also contended that its reply to the DRC-01A dated 28.05.2024 was not considered.

58. The Impugned Order records in paragraph 7 that replies filed by the Noticees were considered. The adjudicating authority has thereafter dealt with the allegations concerning the availment of ITC, receipt of goods, the statements recorded during investigation, the applicability of Section 16, the invocation of Section 74 and the liability towards interest and penalty.

59. The question whether the Petitioner's individual submissions, including the objection regarding the earlier State GST proceedings, were adequately appreciated is again a matter which can be examined by the appellate authority on the basis of the complete record.

60. The writ jurisdiction is not ordinarily intended to substitute the statutory appellate examination of the merits of an adjudication order, particularly where the order has been passed after issuance of a Show Cause Notice and the adjudicating authority has recorded its reasons.

61. The Petitioner has also questioned the clubbing of different financial years in the impugned proceedings and contends that the same affects limitation.

62. The objection concerning limitation is necessarily dependent upon the identification of the particular tax periods and the precise transactions forming the subject matter of the demand. The Impugned Order records the period covered by the proceedings and the basis on which the Department invoked Section 74. Whether the statutory





requirements for invoking the extended period contemplated under Section 74 were satisfied in respect of the particular liability of the Petitioner is a matter which can be examined by the appellate authority on the basis of the complete Show Cause Notice and the adjudication record.

63. The mere fact that the proceedings concern more than one financial year does not, by itself, render the proceedings void. The material question would be whether the demand pertaining to each relevant period has been separately identifiable, whether the statutory period of limitation is satisfied and whether the conditions for invoking Section 74 are fulfilled. These are matters capable of examination in appeal.

64. The Petitioner has placed reliance upon the orders passed by the State GST authorities, particularly the order dated 13.12.2023 in respect of financial year 2017-18.

65. The fact that an earlier State proceeding in respect of a particular period may have culminated in an order does assume relevance while considering Section 6(2)(b). However, the consequence of that order cannot be determined in isolation from the precise allegations, tax period, ITC amount and transactions involved in the Central proceedings.

66. As noticed hereinabove, the statutory bar under Section 6(2)(b) is attracted where proceedings are initiated on the same subject matter. The mere fact that the Petitioner had earlier faced proceedings concerning ITC allegedly availed from the same supplier does not,

without identification of the precise liability, establish that the entire Central proceeding is rendered without jurisdiction.

67. The Petitioner is, therefore, not precluded from raising the aforesaid objection before the statutory appellate authority. On the contrary, the appellate authority would be in a better position to examine the complete record of the State proceedings along with the Central Show Cause Notice and determine whether, to the extent of any particular liability, the statutory bar under Section 6(2)(b) is attracted.

68. The present case is also distinguishable from a situation where a subsequent authority is shown, on the face of the record, to have initiated proceedings in respect of an identical liability which was already the subject matter of a pending proceeding before another competent GST authority. Here, the Petitioner has placed before us proceedings pertaining to different financial years, involving different notices and different stages of adjudication. The exact identity of the liabilities has not been established merely by reference to the common supplier.

69. It is also relevant that the proceedings for financial year 2020-21, referred to by the Petitioner, were initiated by notice dated 22.11.2024, whereas the Central Show Cause Notice was dated 06.06.2024. Thus, the subsequent initiation of State proceedings for that financial year cannot, in any event, invalidate the earlier Central initiation.

70. Likewise, the State order stated to have been passed on





27.02.2025 in respect of financial year 2020-21 was passed after the Central Order-in-Original dated 12.02.2025. Such subsequent adjudication cannot retrospectively render the Central proceedings without jurisdiction.

71. This Court is conscious of the fact that the Petitioner's principal grievance is founded upon the statutory bar contained in Section 6(2)(b). A jurisdictional objection of this nature is undoubtedly capable of being examined in writ jurisdiction in an appropriate case. However, the present case involves determination of the precise identity of the tax liability forming the subject matter of the respective State and Central proceedings. That determination requires examination of the respective notices, replies, orders and underlying transaction-wise material.

72. The existence of an efficacious statutory appellate remedy assumes significance in such circumstances. The Petitioner has not demonstrated, on the material placed before this Court, a case where the Central proceedings are ex facie wholly without jurisdiction or where the Impugned Order is liable to be set aside solely on account of an undisputed violation of natural justice.

73. The challenge based upon Section 6(2)(b), therefore, cannot be accepted merely on the basis of the broad assertion that the same supplier was involved in the earlier State proceedings. The statutory provision requires identity of the subject matter and not merely identity of an assessee, supplier or broad factual background.

74. Similarly, the challenge on the ground that the Impugned Order

travels beyond the Show Cause Notice is not established on the face of the record. The finding regarding non-receipt of goods and availment of ITC on goods-less invoices, which forms a substantial basis of the Impugned Order, is expressly recorded with reference to Section 16(2)(b).

75. The allegations concerning fraud, wilful misstatement and suppression of facts are relevant to the invocation of Section 74 and do not, by themselves, constitute a new and unrelated demand. Whether the material relied upon by the adjudicating authority is sufficient to establish those ingredients is a matter for the appellate forum.

76. The Petitioner's objections concerning the evidentiary value of the statements recorded during investigation and its request for cross-examination also involve examination of the evidentiary record. The Petitioner would be entitled to urge all such grounds before the competent appellate authority in accordance with law.

77. The Court is also unable to accept the submission that the mere assertion of violation of natural justice warrants setting aside the Impugned Order when the order itself records that opportunities of personal hearing were granted. The Petitioner may demonstrate before the appellate authority, on the basis of the underlying record, that the opportunity was illusory or that its request for hearing was not properly dealt with. At this stage, however, the material placed before this Court does not justify bypassing the statutory remedy.

78. The Petitioner's reliance upon the judgments concerning





personal hearing, consideration of replies and the scope of an adjudicating authority's jurisdiction does not alter the aforesaid conclusion. Those principles are undoubtedly applicable to adjudication under the CGST Act. The question before us, however, is whether the present record establishes such a fundamental breach as would warrant interference under Article 226 notwithstanding the statutory remedy. In the facts of the present case, the same has not been established.

79. There is yet another aspect which merits notice. The Petitioner seeks, in substance, adjudication by this Court of the correctness of the demand of Rs.47,93,104/-, the entitlement to ITC, the factual question of receipt of goods, the evidentiary value of statements and investigation material, the applicability of Section 74, the computation of interest and the consequential penalty.

80. Such an exercise would require this Court to enter into disputed questions arising from the investigation and adjudication record. The statutory appellate mechanism is specifically designed to undertake such examination. There is no justification for this Court to assume the role of the appellate authority in the present proceedings.

81. This Court is, therefore, of the view that the Petitioner has not made out a case warranting interference with the Impugned Order-in-Original in exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India.

82. The challenge to the Demand-cum-Show Cause Notice also cannot survive independently once the adjudication proceedings have

culminated in a reasoned Order-in-Original. The Petitioner has an efficacious remedy against the adjudication order and can urge therein all grounds relating to jurisdiction, Section 6(2)(b), limitation, the alleged discrepancy between the Show Cause Notice and the order, natural justice, consideration of its replies, evidentiary material and computation of liability.

83. It is clarified that this Court has not adjudicated upon the ultimate correctness of the demand raised against the Petitioner. In particular, this Court has not expressed any final opinion on the question whether, in respect of any particular financial year or particular transaction, the proceedings initiated by the Central authorities are barred by Section 6(2)(b). That question is left open for consideration by the competent appellate authority on the basis of the complete record.

84. Likewise, no final opinion is being expressed on the Petitioner's contention regarding the admissibility of ITC, actual receipt of goods, applicability of Section 16(2)(b) or Section 16(2)(c), invocation of Section 74, limitation, interest or penalty.

85. The observations made herein are confined to the question whether the present case warrants exercise of writ jurisdiction against the Impugned Order in view of the statutory appellate remedy available to the Petitioner.

CONCLUSION:

86. In view of the aforesaid discussion, the present Writ Petition is

dismissed.

87. The Petitioner shall be at liberty to avail the statutory remedy available to it against the Impugned Order-in-Original, in accordance with law. All contentions available to the Petitioner, including those relating to Section 6(2)(b) of the CGST Act, the earlier proceedings before the State GST authorities, limitation, natural justice, the alleged variance between the Show Cause Notice and the Impugned Order, admissibility of ITC, interest and penalty, are left open for consideration by the Competent Authority in accordance with law.

88. It is clarified that the dismissal of the present Writ Petition shall not be construed as an expression of opinion on the merits of the aforesaid contentions. The Competent Statutory Authority shall consider the same independently and in accordance with the applicable provisions of law.

89. The pending application also stands closed.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER 01, 2026
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