2026:DHC:8461-DB

$~39, 51 & 54

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

% ***Date of Decision: 24.09.2026***

(39)

\# **CNR No. DLHC010458222026**

\+ W.P.(C) 14095/2026, CM APPL. 65964/2026, CM APPL. 65965/2026, CM APPL. 65966/2026

SIYA SETH PROPRIETOR - SPHERION SOLUTIONS

.....Petitioner

Through: Mr. Abhishek Garg, Mr. Yash Gaiha, Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER ADJUDICATION CGST DELHI NORTH & ORS. .....Respondents

Through: Mr. Akash verma, SSC-CBIC with Ms. Aanchal Uppal, Adv.

(51)

\# **CNR No. DLHC010459912026**

\+ W.P.(C) 14124/2026, CM APPL. 66212/2026, CM APPL. 66213/2026, CM APPL. 66214/2026

SPHERION SOLUTIONS PRIVATE LIMITED .....Petitioner

Through: Mr. Abhishek Garg, Mr. Yash Gaiha, Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER ADJUDICATION CGST DELHI NORTH & ORS. .....Respondents

Through: Mr. Akash verma, SSC-CBIC with Ms. Aanchal Uppal, Adv.

(54)

\# **CNR No. DLHC010460132026**

\+ W.P.(C) 14141/2026, CM APPL. 66249/2026, CM APPL. 66250/2026, CM APPL. 66251/2026

SIYA SETH PROPRIETOR - SPHERION SOLUTIONS

.....Petitioner

2026:DHC:8461-DB

Through: Mr. Abhishek Garg, Mr. Yash Gaiha, Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER ADJUDICATION CGST DELHI NORTH & ORS. .....Respondents

Through: Mr. Akash verma, SSC-CBIC with Ms. Aanchal Uppal, Adv.

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

J U D G M E N T (ORAL)

ANIL KSHETARPAL, J.:

1. The present batch of three (03) Writ Petitions raising identical issues and emanating from a common order dated 25.03.2026 [hereinafter referred to as 'Impugned Common Order'], shall stand disposed of by this common order.

2. Since the present Writ Petitions arise out of the Impugned Common Order, the facts are being noticed from W.P.(C) 14095/2026 captioned ***Siya Seth, Proprietor - Spherion Solutions v. Additional Commissioner, Adjudication, CGST Delhi North & Ors.***

3. At the outset, it is relevant to note that the Petitioners have a statutory remedy of appeal under Section 107 of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as 'CGST Act'] against the Impugned Common Order.

4. By way of W.P.(C) 14095/2026, the Petitioner seeks, *inter alia*,

the following reliefs:

> *"A. Issue appropriate Writ in the nature of Certiorari or any other appropriate writ/order/directions declaring that imposition of identical penalties under Section 122 (1) of the Central Goods & Services Tax Act, 2017 for the very same transactions, despite having identified and penalized the alleged mastermind under Section 122 (1A) of the Central Goods & Services Tax Act, 2017 results in imposition of duplicative, excessive and disproportionate penalties in violation of Doctrine of Proportionality.*
>
> *B. Issue appropriate Writ in the nature of Certiorari or any other appropriate writ/order/directions, declaring that in absence of any prescribed period of limitation under Section 127 of the Central Goods & Services Tax Act, 2017, the time limitation to issue an order under Section 127 of the CGST Act, imposing penalty under Section 122 of the CGST Act cannot exceed three years from the date of the alleged contravention.*
>
> *C. Issue appropriate Writ in the nature of Certiorari or any other appropriate writ/order/directions declaring that the proviso mandating pre-deposit of 10% on penalty under Section 107 (6) of the CGST Act is prospective in nature and cannot be applied retrospectively to transactions/offences pertaining to a period prior to its introduction, particularly when the same effectively restricts and impairs the statutory remedy of appeal available to a taxpayer against an order.*
>
> *D. Issue appropriate Writ in the nature of Certiorari or any other appropriate writ/order/directions for quashing the Impugned Order dated 25.03.2026 passed by Respondent No. 1, issued on 27.03.2026, imposing an unreasonable penalty upon the Petitioner to the tune of Rs. 51,35,040/-, under Section 122 (1) (vii) of the Central Goods & Services Tax Act, 2017 in a wholly arbitrary, unreasonable, mechanical manner, in violation of principles of natural justice and in complete disregard of reasonableness and proportionality in the adjudication proceedings.*
>
> *E. Issue appropriate Writ in the nature of Certiorari or any other appropriate writ/order/directions for quashing the Impugned Show Cause Notice dated 27.09.2025 drawn by Respondent No. 2, issued on 28.09.2025, pertaining to financial years 2021-22 to 2022-23, whereby it has been proposed to impose penalty to the tune of Rs. 51,35,040/- upon the Petitioner under Section 122 (1) (vii) of the Central Goods & Services Tax Act, 2017 in an exfacie illegal and arbitrary manner."*

5. A perusal of the record shows that the Adjudicating Authority has passed a detailed Impugned Common Order, after considering the

material collected during investigation and the responses furnished by the respective Noticees. The Impugned Common Order has been passed in respect of as many as 154 Noticees. The findings recorded therein disclose that Mr. Pankaj Jha had orchestrated a syndicate comprising 113 fake and non-existent firms for availing the benefit of Input Tax Credit ('ITC') through issuance of invoices without actual supply of goods.

6. During the search of the office premises of Mr. Pankaj Jha, the Department, apart from cash amounting to Rs.41.5 lakhs, found Pan cards of ten (10) different firms, two (02) Pen drives, Fifty-seven (57) cheque books of different firms/companies, Fifty-two (52) ink stamps of different firms, Thirty-nine (39) digital signature dongles, Eighteen (18) Keypad mobile phones along with other documents. Thereafter, the procedure was followed and statements of various persons were recorded and the allegations against the respective Noticees were examined in the adjudication proceedings.

7. Learned counsel representing the Petitioners submits that the present Writ Petitions deserve consideration, principally, on the following grounds:

i. that the Respondents have violated the principles of natural justice;

ii. that no period of limitation has been prescribed under Section 127 of the CGST Act;

iii. that the proceedings were not initiated by the Proper

Officer; and

iv. that once the alleged mastermind has been identified, the liability should be confined to such person under Section 122(1A) of the CGST Act and the Petitioners, at the highest, would fall within the category of persons contemplated under Section 122(3) of the CGST Act.

8. As regards the allegation of violation of principles of natural justice, learned counsel representing the Petitioners is unable to point out any specific instance of denial of an opportunity of hearing or non-consideration of a particular submission or document which would warrant interference by this Court in exercise of its writ jurisdiction.

9. Insofar as the Petitioner in W.P.(C) 14095/2026 is concerned, the record reflects that the statement of Siya Seth, Proprietor, was recorded on 02.01.2025 and 06.06.2025. The Petitioner also submitted a detailed reply to the Show Cause Notice. The contention that the material furnished by the Petitioner was not duly considered, as also the adequacy or otherwise of the opportunity afforded to the Petitioner, are matters which can appropriately be examined by the Appellate Authority upon a consideration of the record of the adjudication proceedings.

10. The Petitioners have also raised a contention that no period of limitation has been prescribed under Section 127 of the CGST Act. According to the Petitioners, in the absence of an express statutory period of limitation, the power under the said provision cannot be exercised beyond a reasonable period.

11. This contention would necessarily require examination in the context of the facts and circumstances in which the proceedings against the respective Petitioners were initiated and the Impugned Common Order was passed. The question as to what would constitute a reasonable period, in the absence of a prescribed period of limitation, is therefore also capable of examination by the Appellate Authority on the basis of the complete record.

12. The remaining contentions raised by learned counsel representing the Petitioners, namely, as to whether the proceedings were initiated by the Proper Officer and whether, in the facts of the present case, the Petitioners' liability is to be examined under Section 122(1), Section 122(1A) or Section 122(3) of the CGST Act, also involve an examination of the statutory provisions in the context of the factual findings recorded in the Impugned Common Order. These issues can equally be urged before and examined by the Appellate Authority in exercise of its appellate jurisdiction.

13. It is also significant that the Impugned Common Order is a common order passed against 154 Noticees and the issues sought to be raised by the Petitioners arise out of the same investigative proceedings. In the circumstances, permitting the Petitioners to bypass the statutory appellate remedy and inviting this Court to examine the various factual and legal contentions in the first instance would not be warranted.

14. This Court, therefore, finds no ground, at this stage, to entertain the present Writ Petitions notwithstanding the availability of the

statutory remedy of appeal under Section 107 of the CGST Act.

15. Learned counsel representing the Petitioners, however, points out that the Petitioners have been subjected only to a penalty under Section 122 of the CGST Act and submits that the requirement of pre-deposit, as applicable to the present proceedings, should not operate as an impediment to the exercise of the statutory right of appeal.

16. In this regard, the Petitioners shall be entitled to avail the benefit of the judgment passed by this Court in W.P.(C) 8414/2026 captioned ***Gaurav Jain and Anr. v. Joint Commissioner (Appeals-II), CGST Delhi Zone & Anr.***, subject to the applicability thereof to the facts of the present case and fulfilment of the conditions stipulated therein.

17. The present Writ Petitions, along with the pending applications, are accordingly disposed of in the above terms.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

SEPTEMBER 24, 2026
jai/s.godara/shah