

2026:DHC:9479-DB

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

% ***Judgment reserved on: 15.10.2026***
Judgment pronounced on: 28.10.2026
Judgment uploaded on: 28.10.2026

CNR No. DLHC011076182025

\+ W.P.(C) 50/2026, CM APPL. 128/2026 & CM APPL. 129/2026

MANOJ KUMAR PROP M K STEEL TRADERS .....Petitioner
Through: Mr. A.K. Babbar, Mr. B.K. Tripathi and Mr. Ankur Sethi, Advs.

versus

ADDITIONAL COMMISSIONER, CENTRAL GOODS AND SERVICES TAX & ANR. .....Respondents
Through: Mr. Akash Verma, SSC.

CNR No. DLHC011099162025

\+ W.P.(C) 2528/2026, CM APPL. 12259/2026 & CM APPL. 12260/2026

MANOJ KUMAR PROP M K STEEL TRADERS .....Petitioner
Through: Mr. A.K. Babbar, Mr. B.K. Tripathi and Mr. Ankur Sethi, Advs.

versus

ADDITIONAL COMMISSIONER, CENTRAL GOODS AND SERVICES TAX & ANR. .....Respondents
Through: Mr. Akash Verma, SSC.

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. With the consent of learned counsel representing the parties, the connected Writ Petitions, being W.P.(C) 50/2026 and W.P.(C)

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2528/2026, are taken up together for consideration and disposal by way of this common judgment, as both arise out of proceedings initiated by the Goods and Services Tax authorities in relation to allegations concerning the availment and passing on of ineligible Input Tax Credit (hereinafter referred to as 'ITC') through invoices allegedly not supported by genuine supplies of goods.

2. Both Writ Petitions assail separate orders-in-original dated 04.02.2025 passed by the Additional Commissioner, Central Goods and Services Tax, despite the availability of a statutory remedy of appeal under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act'). While the two proceedings arise from the same investigation, the demands raised against the Petitioner and the objections urged in the respective Writ Petitions are distinct and are, therefore, considered separately to the extent necessary.

FACTUAL MATRIX

3. The proceedings against the Petitioner form part of an investigation into the activities of various firms allegedly involved in the availment and passing on of ineligible ITC by using invoices which did not correspond to genuine receipt and supply of goods. The show-cause notices bearing No. 107/2024-25 dated 01.08.2024, forming the basis of the respective proceedings, refer to a search conducted under Section 67(2) of the CGST Act at the premises of Shri Mohit Jain. During the search, stamps, letterheads and invoices pertaining to multiple firms were allegedly seized. The documents and material gathered during the investigation were relied upon by the

Department to allege that multiple firms had been registered and operated for the purpose of availing and passing on ineligible ITC through invoices unsupported by genuine supplies of goods.

4. The investigation further proceeded on the allegation that Shri Mohit Jain had registered multiple firms and that a network of firms had been created to facilitate the availment and passing on of ineligible ITC. According to the Department, the transactions reflected in the invoices did not correspond to genuine receipt or supply of goods and were part of an arrangement intended to defraud the revenue.

5. During the pendency of the investigation, the statement of the Petitioner, Shri Manoj Kumar, was recorded on 19.05.2023. As recorded in the proceedings, the Petitioner stated that he used to assist in the distribution of invoices which were not backed by actual supplies of goods and were made available through brokers, against commission.

6. The investigation also disclosed, according to the Department, a chain of transactions involving several firms. In particular, it was alleged that M/s Metal Tech had availed ITC amounting to Rs.2,94,04,610/- on the strength of invoices received from M/s Shree Shyam Enterprises, which, in turn, had received inward supplies from various other firms. The Department's case was that the interconnected transactions involving these firms formed part of a web created to facilitate the availment and passing on of ineligible ITC, thereby defrauding the revenue.





7. The record placed before this Court reflects that DRC-01 dated 02.08.2024 was issued in respect of each of the financial years forming the subject matter of the two Writ Petitions, along with the respective show-cause notice bearing No. 107/2024-25 dated 01.08.2024. The proceedings culminated in separate orders-in-original dated 04.02.2025, after the replies submitted by the noticees had been examined by the Adjudicating Authority.

8. By the order impugned in W.P.(C) 50/2026, the Petitioner has been called upon to pay an amount of Rs.6,14,568/-. By the order impugned in W.P.(C) 2528/2026, a demand of Rs.2,93,53,860/- has been raised against the Petitioner. Against various other notices than the Petitioner, the amounts demanded are separate. Aggrieved by the respective orders, the Petitioner has approached this Court by way of the present Writ Petitions.

CONTENTIONS OF THE PETITIONER

9. Learned counsel appearing for the Petitioner contends that, notwithstanding the availability of a statutory appeal under the CGST Act, the present Writ Petitions warrant consideration because the objections raised concern the validity of the show-cause notices and the legality of the consequential orders.

10. In W.P.(C) 50/2026, the principal contention is that the show-cause notice issued under Section 74 of the CGST Act is non-speaking and omits vital particulars necessary to justify the invocation of the said provision against the Petitioner. It is submitted that the notice does not adequately disclose the factual basis on which the requisite statutory ingredients are alleged to be attracted in the Petitioner's case

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and that the proceedings founded upon such a notice cannot be sustained.

11. In W.P.(C) 2528/2026, learned counsel raises a distinct objection concerning the imposition of penalty. It is contended that the show-cause notice dated 01.08.2024, accompanied by DRC-01 dated 02.08.2024, did not propose recovery of penalty from the Petitioner. Nevertheless, the order-in-original dated 04.02.2025 directs the Petitioner to pay penalty. According to learned counsel, such a penalty could not have been imposed in the absence of a proposal to that effect in the show-cause notice.

12. Learned counsel has also placed reliance upon the judgment of the Supreme Court in ***M/s G.R. Infra Projects Limited, Ratlam v. The State of Madhya Pradesh & Ors.***, Civil Appeal No. 11277/2026. It is submitted that the invocation of Section 74 of the CGST Act cannot be sustained by the mere use of expressions such as ‘fraud’, ‘wilful misstatement’ or ‘suppression of facts’, without disclosing the factual particulars which led the proper officer to arrive at such a conclusion. On this basis, learned counsel seeks interference with the impugned orders in the exercise of jurisdiction under Article 226 of the Constitution of India.

ANALYSIS & FINDINGS

13. This Court has considered the submissions advanced by learned counsel for the parties and examined the nature of the objections raised in the two Writ Petitions.





14. At the outset, the availability of an efficacious statutory remedy of appeal against the orders dated 04.02.2025 is not disputed. The issue, therefore, is whether the objections urged by the Petitioner furnish sufficient ground for this Court to exercise its writ jurisdiction notwithstanding the alternative remedy provided under the CGST Act.

15. The jurisdiction of this Court under Article 226 of the Constitution of India is wide. The existence of an alternative statutory remedy does not, by itself, bar the exercise of such jurisdiction. However, where the statute provides a mechanism for challenging orders passed by the adjudicating authority, the writ court ordinarily exercises restraint in entertaining a petition which can appropriately be examined by the statutory appellate forum. The existence of an alternative remedy is, therefore, a material consideration in deciding whether interference is warranted at this stage.

W.P.(C) 50/2026

16. The show-cause notice forming the subject matter of W.P.(C) 50/2026 is a common notice issued to various noticees in connection with the investigation into the alleged availment and passing on of ineligible ITC through invoices unsupported by genuine supplies of goods. The notice, as placed before this Court, runs into nearly 80 pages of the paper book and sets out the Department's case concerning the alleged manner in which the network of firms was utilised for the generation and passing on of ineligible ITC.

17. The Petitioner contends that vital particulars necessary to sustain proceedings under Section 74 of the CGST Act are missing from the notice. However, upon perusal of the notice, this Court finds

that it contains a detailed account of the alleged transactions and the manner in which invoices unsupported by genuine supplies of goods were allegedly used to avail and pass on ineligible ITC. The alleged modus operandi, involving multiple firms and interconnected transactions, has been set out in the notice.

18. In these circumstances, the contention that the notice omits vital details cannot be accepted as a sufficient ground, in itself, for this Court to interfere with the impugned order in the exercise of writ jurisdiction. The fact that the notice is common to several noticees does not, by itself, render it deficient. What is material for the present purpose is that the notice sets out the Department's allegations concerning the alleged arrangement and the manner in which ineligible ITC was purportedly availed and passed on.

19. It is also relevant that the Adjudicating Authority passed the order dated 04.02.2025 after considering the reply submitted by the Petitioner. The Petitioner remains at liberty to challenge the findings recorded in the impugned order and to urge before the statutory appellate authority that the notice, the material relied upon by the Department or the conclusions drawn by the Adjudicating Authority do not satisfy the requirements of Section 74 of the CGST Act.

20. Having regard to the detailed nature of the notice and the availability of the statutory appellate remedy, this Court does not consider it appropriate to exercise writ jurisdiction to interfere with the order impugned in W.P.(C) 50/2026. The question whether the allegations and material set out in the notice ultimately establish the

Petitioner's liability is left open for consideration by the competent appellate authority in accordance with law.

W.P.(C) 2528/2026

21. In W.P.(C) 2528/2026, the Petitioner has placed on record the show-cause notice forming the basis of the impugned order. The notice identifies the roles attributed to the various noticees, including the Petitioner, in the transactions under investigation. The proceedings also refer to the statement of the Petitioner recorded on 19.05.2023, as well as the reply submitted by him during the adjudication proceedings.

22. Learned counsel for the Petitioner has specifically contended that the show-cause notice did not propose the imposition of penalty upon the Petitioner, whereas the order-in-original dated 04.02.2025 directs payment of penalty. The objection raises a question concerning the scope of the notice and the legality of the consequential penalty. In particular, it requires examination of whether the notice, read as a whole and in the context of the applicable statutory provisions, contained a proposal which could lawfully sustain the penalty imposed by the Adjudicating Authority.

23. The aforesaid question can be examined by the statutory appellate authority in an appeal against the impugned order. The appellate authority would be competent to consider the terms of the show-cause notice, the reply submitted by the Petitioner, the statement recorded during the investigation, the findings in the order-in-original and the relevant provisions of the CGST Act, and to determine whether the imposition of penalty is legally sustainable.





24. Accordingly, this Court does not consider it appropriate to determine the issue concerning the penalty in the present writ proceedings, particularly when the statutory remedy of appeal is available to the Petitioner. The Petitioner may specifically raise this objection before the appellate authority, which shall examine the same in accordance with law and on its own merits.

25. It is clarified that the decision to relegate the Petitioner to the statutory appellate remedy does not amount to an acceptance of the Department's position on the imposition of penalty. No final opinion is expressed on whether the show-cause notice contained an adequate proposal for imposition of penalty or whether the penalty imposed by the impugned order is sustainable in law.

RELIANCE ON ***M/s G.R. Infra Projects Limited*** (supra)

26. Learned counsel for the Petitioner has relied upon the judgment of the Supreme Court in ***M/s G.R. Infra Projects Limited*** (supra). This Court has carefully considered the said judgment and the principle enunciated therein concerning the invocation of Section 74 of the CGST Act.

27. The Supreme Court held that the mechanical use of expressions such as ‘fraud’, ‘wilful misstatement’ or ‘suppression of facts’, without setting out the particulars which persuaded the assessing officer to conclude that the assessee had employed any such surreptitious device, are insufficient to sustain proceedings under Section 74 of the CGST Act. The factual basis for invoking the provision must be discernible from the show-cause notice itself.

28. The principle laid down by the Supreme Court underscores that the mere use of statutory expressions cannot substitute for the disclosure of the material facts forming the basis for invoking Section 74. The application of that principle to a particular case, however, requires consideration of the contents of the notice under challenge and the nature of the allegations set out therein.

29. In the present case, the notices arise out of an investigation into an alleged network of firms and set out the Department's case concerning the manner in which ineligible ITC was allegedly availed and passed on through invoices unsupported by genuine supplies of goods. As noticed above, the notice forming the subject matter of W.P.(C) 50/2026 runs into nearly 80 pages and contains details of the alleged transactions and modus operandi. The notice forming the subject matter of W.P.(C) 2528/2026 identifies the roles attributed to the various noticees, including the Petitioner.

30. It is further noted that the proceedings concern allegations against a large number of noticees, stated to be as many as 158, including Shri Mohit Jain, who is alleged to have masterminded the creation of the network of multiple firms. The number of noticees involved, by itself, does not establish the liability of any individual noticee.

31. Having regard to the contents of the notices and the nature of the objections raised, this Court is not persuaded that the judgment in ***M/s G.R. Infra Projects Limited*** (supra) furnishes sufficient ground to interfere with the impugned orders in the exercise of writ jurisdiction. The Petitioner would be entitled to urge before the statutory appellate

authority that the allegations and material set out in the respective notices do not satisfy the requirements of Section 74 or otherwise fail to sustain the demands raised against him.

32. The above conclusion does not dilute the principle laid down by the Supreme Court or amount to a final finding that the requirements of Section 74 stand satisfied in either case. It is confined to the question whether the objections urged in the present Writ Petitions warrant bypassing the statutory appellate remedy. For the reasons set out above, this Court finds no sufficient ground to do so.

CONCLUSION

33. In view of the foregoing discussion, this Court is not inclined to interfere with the orders-in-original dated 04.02.2025 in the exercise of writ jurisdiction. The Petitioner is, accordingly, relegated to the statutory remedy of appeal available under the CGST Act in respect of each of the Impugned Orders.

34. It is clarified that this Court has not expressed any final opinion on the merits of the demands raised against the Petitioner, the applicability of Section 74 of the CGST Act, the sufficiency of the material relied upon by the Department, or the legality of the penalty imposed in W.P.(C) 2528/2026. The Petitioner shall be at liberty to urge the grounds available to him in law before the competent appellate authority, which shall consider the same independently and in accordance with law.

35. In the event the Petitioner files an application under Section 14 of the Limitation Act, 1963, seeking exclusion of the period during

which the present Writ Petitions remained pending, the same shall be considered by the competent appellate authority in accordance with law.

36. With the aforesaid observations, W.P.(C) 50/2026 and W.P.(C) 2528/2026 are disposed of. All pending applications also stand disposed of.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER, 28 2026
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