



\$~50

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 26th May, 2025
+ **W.P.(C) 7186/2025 & CM APPL. 32365/2025 & CM APPL. 32366/2025**
STANDARD CARTONS PVT LTDPetitioner
Through: Ms. Shivani Sethi, Adv.

versus

OFFICE OF THE COMMISSIONER CENTRAL TAX DELHI
WEST AND ORSRespondents
Through: Mr Shlok Chandra, Sr Standing
Counsel with Mr. Ujjwal Jain, Mr.
Dhanunjay, Advs. for R-1&2.
Mr. Ruchesh Sinha, SSC.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 32366/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 7186/2025 & CM APPL. 32365/2025

3. The present petition has been filed under Articles 226 and 227 of the Constitution of India challenging the impugned order dated 31st January, 2025 (*hereinafter, 'impugned order'*) whereby a penalty has been imposed upon the Petitioner in the following terms:

“xii. a) I impose penalty of Rs.1,03,80,024/- upon M/s Standard Cartons Pvt Ltd (GSTIN07AAECS1153P1Z3), B-101, Okhla Industrial Area, Phase-1, South Delhi, Delhi- 110020 under Section 122(1)(vii) along with



Section 122(2)(b) of the CGST Act, 2017 read with the corresponding provisions of the SGST Act, 2017 and Section 20 of the IGST Act, 2017 for receiving invoices or bills without actual supply of goods or services from the firms of Late Mrs. Aaurti Kapoor in violation of the provisions of this Act or Rules made thereunder.

b) I impose penalty of Rs.1,03,80,024/- each upon Shri Vinod Pahwa and Shri Deepak Pahwa under Section 122(I)(vii) along with Section 122(2)(b) of the CGST Act, 2017 read with the corresponding provisions of the SGST Act, 2017 and Section 20 of the IGST Act, 2017 taking benefit of the receipt of ITC fraudulently on the basis of the invoices or bills procured without supply of goods or services from the firms of Late Mrs. Aaurti Kapoor.”

4. This is the second writ petition being filed by the Petitioner. The impugned order herein arises out of a show cause notice dated 2nd August, 2024 (*hereinafter*, ‘SCN’) which was addressed to several noticees and allegations of fake availment of Input Tax Credit (ITC) were raised therein.

5. A perusal of the impugned order would show that the Petitioner is alleged to have received goods-less invoices from two firms, namely M/s. Shivaay Trading and Satyam Associates, which are firms stated to be belonging to Mrs. Aaurti Kapoor. The total availment of Input Tax Credit (*hereinafter*, ‘ITC’) is alleged to be to the tune of Rs. 172 Crores through the fake and fraudulent firms and goods-less invoices.

6. The impugned order further shows that there are 34 parties to whom SCN has been issued. In the impugned order itself, the allegation is that one Mrs. Aaurti Kapoor, who is connected to all these firms had passed on the ITC to various entities, such as the Petitioner.

7. The submission made today by the Id. Counsel for Petitioner is that



despite the directions for furnishing the Relied Upon Documents (*hereinafter*, ‘RUDs’), the same were not furnished to the Petitioner until the filing of a contempt petition. It is further submitted that in the RUDs, the statement of one Mr. Vinod Pahwa would show that he does not have any connection with the Petitioner. Thus, there is no document which connects the Petitioner to Mr. Vinod Pahwa or to Mrs. Aaurti Kapoor. Ld. Counsel for the Petitioner, therefore, submits that the order deserves to be quashed.

8. On the other hand, Id. Counsel for the Respondent-Department has pointed out that the GSTR-1M of the various firms of Mrs. Aaurti Kapoor would show that the said firms had made outwards supplies by issuing mere invoices without any supply of goods, only to pass on the ITC.

9. One such firm is M/s Satyam Associates which had raised an invoice on Standard Cartons Pvt. Ltd. at B-101, Okhla Industrial Area, Phase-1, Delhi-110020 for a taxable value of Rs.5,76,66,800/- with CGST of Rs.51,90,012 and SGST of Rs.51,90,012, totalling to Rs.1,03,80,024/-. It is noted that the address of the Petitioner is the same as in the memo of parties *i.e.*, B-101, Okhla Industrial Area, Phase-1, Delhi-110020,

10. In view of this, this Court is of the opinion that the question as to whether there is a connection between the Petitioner and Mrs. Aaurti Kapoor or her firms, would be a factual issue. Moreover, after delivery of the SCN, the Petitioner chose not file any reply on merits. It had filed a writ petition before this Court being ***W.P.(C) 15360/2024*** in which the SCN was challenged and the following order was passed on 4th November, 2024:

“W.P.(C) 15360/2024

1. In the absence of any jurisdictional challenge which stands mounted to the Show Cause Notice [“SCN”], we find no justification to interfere with those proceedings



as initiated.

2. The only other grievance which is raised is that the documents which had been relied upon have not been provided to the writ petitioner and thus, constraining his right to file an effective response to the impugned SCN.

3. The said grievance may be duly examined by the concerned respondent with it being ensured that all the documents relied upon are duly provided to the writ petitioner.

4. Subject to the aforesaid observation, this writ petition stands disposed of.”

11. The grievance of the Petitioner is that despite this order dated 4th November, 2024, the RUDs were not supplied to the Petitioner and the same were furnished only on 14th May, 2025.

12. In the opinion of this Court, the Petitioner has all along been aware of the proceedings before the Adjudicating Authority. The same SCN dated 2nd August, 2024 was challenged by one M/s SS Enterprises in petition being ***W.P.(C) 5684/2025*** in which the Petitioner therein was relegated to avail of the appellate remedy in accordance with law.

13. The contentions that the Petitioner wishes to raise can always be raised in appeal, in as much as this Court has already taken a view in ***W.P.(C) 5737/2025*** titled ***Mukesh Kumar Garg vs. Union of India & Ors.*** that where cases involving fraudulent availment of ITC are concerned, considering the burden on the exchequer and the nature of impact on the GST regime, writ jurisdiction ought not to be ordinarily exercised in such cases. The relevant portions of the said judgment are set out below:

“11. The Court has considered the matter under Article 226 of the Constitution of India, which is an exercise of extraordinary writ jurisdiction. The



allegations against the Petitioner in the impugned order are extremely serious in nature. They reveal the complex maze of transactions, which are alleged to have been carried out between various non-existent firms for the sake of enabling fraudulent availment of the ITC.

12. The entire concept of Input Tax Credit, as recognized under Section 16 of the CGST Act is for enabling businesses to get input tax on the goods and services which are manufactured/supplied by them in the chain of business transactions. The same is meant as an incentive for businesses who need not pay taxes on the inputs, which have already been taxed at the source itself. The said facility, which was introduced under Section 16 of the CGST Act is a major feature of the GST regime, which is business friendly and is meant to enable ease of doing business.

13. It is observed by this Court in a large number of writ petitions that this facility under Section 16 of the CGST Act has been misused by various individuals, firms, entities and companies to avail of ITC even when the output tax is not deposited or when the entities or individuals who had to deposit the output tax are themselves found to be not existent. Such misuse, if permitted to continue, would create an enormous dent in the GST regime itself.

14. As is seen in the present case, the Petitioner and his other family members are alleged to have incorporated or floated various firms and businesses only for the purposes of availing ITC without there being any supply of goods or services. The impugned order in question dated 30th January, 2025, which is under challenge, is a detailed order which consists of various facts as per the Department, which resulted in the imposition of



demands and penalties. The demands and penalties have been imposed on a large number of firms and individuals, who were connected in the entire maze and not just the Petitioner.

15. The impugned order is an appealable order under Section 107 of the CGST Act. One of the co-noticees, who is also the son of the Petitioner i.e. Mr. Anuj Garg, has already appealed before the Appellate Authority.

16. Insofar as exercise of writ jurisdiction itself is concerned, it is the settled position that this jurisdiction ought not be exercised by the Court to support the unscrupulous litigants.

17. Moreover, when such transactions are entered into, a factual analysis would be required to be undertaken and the same cannot be decided in writ jurisdiction. The Court, in exercise of its writ jurisdiction, cannot adjudicate upon or ascertain the factual aspects pertaining to what was the role played by the Petitioner, whether the penalty imposed is justified or not, whether the same requires to be reduced proportionately in terms of the invoices raised by the Petitioner under his firm or whether penalty is liable to be imposed under Section 122(1) and Section 122(3) of the CGST Act.

18. The persons, who are involved in such transactions, cannot be allowed to try different remedies before different forums, inasmuch as the same would also result in multiplicity of litigation and could also lead to contradictory findings of different Forums, Tribunals and Courts.”

14. The Petitioner has further confirmed that the RUDs have now been received on 14th May, 2025. Considering the nature of this matter which involves allegations of availment of fraudulent ITC, this Court is not inclined



to entertain the writ petition. Under such circumstances. The Petitioner is free to avail of its remedies under Section 107 of the Central Goods and Service Tax Act, 2017. If the Petitioner wishes to file an appeal, it may do so by 15th July, 2025 along with the requisite pre-deposit. Upon the said appeal being filed, it shall be adjudicated on merits and shall not be dismissed as being barred by limitation.

15. The Respondent-Department also undertakes that the rectified DRC-07 would be uploaded on the GST Portal within a period of one week.

16. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 26, 2025

Rahul/ss