2026:DHC:6411-DB

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

% *Date of Decision: 05.08.2026*

\# **CNR No. DLHC010116202026**

\+ W.P.(C) 3874/2026, CM APPL. 19016/2026 and CM APPL. 19017/2026

M/S WIZARD DIGITEK COMPUTERS PVT. LTD .....Petitioner

Through: Mr. Tanmay Mehta, Mr. S. Islam, Mr. Lalit valecha, Ms. Rashmi Gagoi, Ms. Aqsa khan, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Shubham Tyagi, SSC, CBIC with Ms. Navruti Ojha, Adv.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

ORDER (ORAL)

ANIL KSHETARPAL, J.:

1. At the outset, it deserves notice that the Impugned Order dated 29.12.2025 is appealable under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 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.

2. 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 an original adjudication order under Article 226 of the Constitution. Such self-imposed restraint is founded not upon any lack of jurisdiction, but upon settled principles governing the exercise of judicial discretion.

3. Questions involving appreciation of evidence, admissibility of material, correctness of factual findings and the sufficiency of reasons recorded by the adjudicating authority 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 dilute the efficacy of the appellate mechanism consciously provided by the statute.

4. 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.

[1] (2022) 16 SCC 447

5. The Supreme Court, in the aforesaid decision, 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 exercise of its extraordinary jurisdiction notwithstanding the availability of an efficacious statutory remedy.

6. In the backdrop of the aforesaid principles, the question which arises for consideration in the present Petition 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.

7. The challenge in the present Writ Petition arises from the Order-in-Original dated 29.12.2025 (hereinafter referred to as the 'Impugned Order') passed under Section 74 of the CGST Act pursuant to Show Cause Notice dated 28.06.2025 (hereinafter referred to as 'SCN'), whereby a demand of GST amounting to Rs.1,41,70,592/- for the period 2018-19 to 2023-24 and Rs.8,94,692/- for the period 2024-25, together with applicable interest and penalty, has been confirmed against the Petitioner. The proceedings originate from an investigation conducted by the Respondent Department during the course of which a search was carried out at the residential and business premises of one Mr. Kapil Arora, Proprietor of M/s Arora Communication. According to the Respondents, electronic data allegedly recovered from a laptop seized during the said search, read together with loose

papers and receipts (*kachcha parchis*) and statements recorded during the investigation, disclosed unaccounted transactions between the said entity and the Petitioner. Proceeding on the basis of the said material, the Respondent Department issued the SCN alleging suppression of taxable transactions and proposing recovery of tax, interest and penalty, which culminated in the passing of the Impugned Order.

8. Learned counsel representing the Petitioner submits that although an appellate remedy under Section 107 of the CGST Act is available, the present Petition falls within the well-recognised exception of violation of the principles of natural justice. It is contended that the Impugned Order has been passed without due consideration of the detailed reply submitted by the Petitioner and without properly dealing with the specific objections raised during the adjudication proceedings. It is further submitted that effective opportunity of personal hearing was not afforded to the Petitioner, that the hearing notices were not duly served, and that the adjudicating authority proceeded mechanically without considering the material placed on record.

9. Learned counsel further submits that the findings recorded in the Impugned Order rest substantially upon electronic data allegedly recovered from the premises of a third party, the authenticity and admissibility whereof have not been established in accordance with law. It is contended that the Petitioner was also denied an opportunity to cross-examine the persons whose statements have been relied upon by the Respondent Department. It is further urged that the period in question had already been subjected to statutory audit under Section

65 of the CGST Act and, therefore, initiation of fresh proceedings for substantially the same period on the basis of third-party material is impermissible. On the strength of the aforesaid submissions, it is contended that the Impugned Order suffers from patent violations of the principles of natural justice and jurisdictional infirmities warranting interference under Article 226 of the Constitution of India notwithstanding the availability of the statutory appellate remedy.

10. *Per contra*, learned counsel representing the Respondents has raised a preliminary objection regarding the maintainability of the present Petition. It is submitted that the Petitioner has an efficacious statutory remedy of appeal under Section 107 of the CGST Act and none of the recognised exceptions to the rule of alternative remedy are attracted in the facts of the present case. Learned counsel submits that the Petitioner actively participated in the adjudication proceedings, hearing notices were issued by the adjudicating authority, the authorised representative of the Petitioner appeared during the personal hearing and submitted a detailed written reply, which was duly considered before passing the Impugned Order.

11. It is further submitted that the proceedings are not founded solely upon any statement or electronic record but upon a cumulative appreciation of the investigation records, documentary evidence, electronic data, statements recorded under the CGST Act and other corroborative material collected during investigation. It is also contended that questions relating to the admissibility and evidentiary value of the electronic material, the effect of the forensic examination report, denial of cross-examination and the impact of the earlier

statutory audit pertain to the merits of the adjudication and are matters appropriately falling within the jurisdiction of the statutory appellate authority. Accordingly, it is submitted that the present Petition deserves to be dismissed on the ground of availability of an efficacious alternative remedy.

12. This Court has considered the submissions advanced by the learned counsel representing the parties and has perused the material placed on record. Upon a careful consideration of the rival submissions, this Court is of the opinion that the controversy in the present Petition essentially revolves around whether the grievances projected by the Petitioner disclose such a patent violation of the principles of natural justice or such manifest jurisdictional infirmity as would justify this Court entertaining the present Petition notwithstanding the availability of the statutory remedy of appeal under Section 107 of the CGST Act.

13. The first limb of the Petitioner's challenge is founded upon the alleged violation of the principles of natural justice. According to the Petitioner, the hearing notices were not duly served, no effective opportunity of personal hearing was afforded, the detailed reply submitted during the adjudication proceedings was not duly considered and, consequently, the Impugned Order stands vitiated. This Court is unable to accept the aforesaid submission.

14. A perusal of the record reveals that pursuant to the issuance of the SCN, the adjudicating authority fixed the matter for personal hearing on more than one occasion. It is the specific stand of the Respondents that personal hearings were scheduled on 06.12.2025,

12.12.2025 and 19.12.2025. The Respondents have further placed on record that Shri Rajeev Sachdeva, Chartered Accountant, appeared on behalf of the Petitioner during the personal hearing held on 19.12.2025 and submitted a detailed written reply dealing with the allegations contained in the SCN. The fact that the Petitioner, through its authorised representative, participated in the adjudication proceedings and filed a comprehensive reply has not been disputed.

15. In view of the aforesaid factual position, it cannot be said that the Petitioner was denied an opportunity of participating in the adjudication proceedings or was prevented from placing its defence before the adjudicating authority. The grievance of the Petitioner, in substance, is not one of absence of opportunity but of the manner in which the adjudicating authority appreciated the defence put forth by the Petitioner. Such a grievance, by itself, does not amount to a violation of the principles of natural justice so as to justify invocation of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

16. Equally unpersuasive is the submission that the Impugned Order has been passed without considering the reply submitted by the Petitioner. A perusal of the Impugned Order shows that the reply submitted by the Petitioner has, in fact, been noticed by the adjudicating authority. Whether every contention raised by the Petitioner has been dealt with in the manner suggested by the Petitioner, whether the reasons recorded by the adjudicating authority are adequate, or whether the conclusions ultimately drawn are sustainable, are all matters which pertain to the correctness of the

adjudication itself. Such questions are appropriately examined by the appellate authority in exercise of its jurisdiction under Section 107 of the CGST Act and do not, in the facts of the present case, constitute a ground to bypass the statutory remedy.

17. Learned counsel representing the Petitioner has also emphasised that the hearing notices were not duly served and, therefore, the proceedings stood vitiated. However, once it is not in dispute that the authorised representative of the Petitioner participated in the adjudication proceedings, appeared before the adjudicating authority and submitted a detailed reply on behalf of the Petitioner, the alleged irregularity in the mode or timing of service of the hearing notices, even assuming the same to exist, would not, by itself, establish such prejudice as would render the entire adjudication proceedings void. The Petitioner has neither pleaded nor demonstrated that it was prevented from placing any material before the adjudicating authority on account of the alleged defect in service.

18. This Court is, therefore, unable to hold that the facts of the present case disclose any such patent violation of the principles of natural justice as would justify entertaining the present Petition notwithstanding the efficacious statutory remedy available under Section 107 of the CGST Act. The challenge, insofar as it is founded upon the alleged denial of opportunity, essentially invites this Court to examine the adequacy of the adjudicating process and the sufficiency of the reasons recorded in the Impugned Order. Such an exercise would necessarily require this Court to enter into the merits of the adjudication, which is a matter falling squarely within the domain of

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the statutory appellate authority.

19. The remaining submissions advanced on behalf of the Petitioner relate to the evidentiary foundation of the Impugned Order. It has been contended that the findings recorded by the adjudicating authority are primarily based upon electronic data allegedly recovered from the premises of a third party, the said electronic material is inadmissible in the absence of certification under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 (hereinafter referred to as 'BSA'), the forensic examination report does not establish the authorship or authenticity of the electronic records, no opportunity of cross-examination was afforded in respect of the statements relied upon by the Department and the proceedings are impermissible since the relevant period had already been subjected to statutory audit under Section 65 of the CGST Act.

20. The aforesaid submissions, though elaborately advanced, do not persuade this Court to entertain the present Petition. A careful examination of each of the aforesaid contentions demonstrates that they substantially relate to the evidentiary foundation of the adjudication and the correctness of the findings recorded by the adjudicating authority. These are all issues which necessarily require an examination of the factual record as well as an appreciation of the evidence relied upon by the adjudicating authority.

21. It is equally the stand of the Respondents that the Impugned Order has not been founded solely upon any one piece of evidence. According to the Respondents, the adjudication is based upon a cumulative appreciation of the investigation records, documentary

material, electronic data allegedly recovered during the search proceedings, statements recorded under the provisions of the CGST Act and other corroborative material collected during investigation. The correctness of the aforesaid assertion, the evidentiary value to be attached to each of the materials relied upon by the Respondents, and the legality of the conclusions ultimately drawn by the adjudicating authority are all matters which fall squarely within the province of the statutory appellate authority.

22. This Court is of the considered opinion that adjudication of the aforesaid issues would necessarily require a detailed examination of the original record, the documents relied upon by both parties, the investigation material, the forensic examination report, the statements recorded during the enquiry and the findings returned by the adjudicating authority. Such an exercise is not ordinarily undertaken in proceedings under Article 226 of the Constitution where the statute itself provides a comprehensive appellate mechanism empowered to re-appreciate both facts and law.

23. The submission relating to denial of cross-examination also cannot, in the facts of the present case, persuade this Court to entertain the present Petition. The Petitioner contends that the findings recorded in the Impugned Order are founded upon statements of third parties and that failure to afford an opportunity of cross-examination has resulted in violation of the principles of natural justice. The Respondents, on the other hand, assert that the adjudication is not based solely upon such statements but upon a body of documentary and electronic evidence gathered during investigation. Whether the

statements constituted the sole basis of the adjudication, whether they were merely corroborative in nature, whether cross-examination was warranted in the facts of the present case and whether any prejudice has thereby been occasioned to the Petitioner are all questions intrinsically connected with the merits of the adjudication. These are issues which the appellate authority is fully competent to examine on the basis of the entire record.

24. Similar is the position with regard to the Petitioner's contention that the electronic material relied upon by the Respondents is inadmissible in the absence of compliance with Section 63 of the BSA, or that the forensic examination report does not authenticate the authorship, ownership or integrity of the electronic data. Whether the statutory requirements governing admissibility of electronic evidence stand complied with, whether the chain of custody has been satisfactorily established, whether the forensic examination sufficiently authenticates the electronic records and what evidentiary value is liable to be attached thereto are all matters which directly bear upon the merits of the adjudication. This Court does not consider it appropriate to pronounce upon any of the aforesaid issues in exercise of its writ jurisdiction, lest any observation made herein prejudices either party before the statutory appellate authority.

25. Equally, the submission founded upon the earlier statutory audit conducted under Section 65 of the CGST Act does not persuade this Court to entertain the present Petition. Whether the audit proceedings covered the very transactions forming the subject matter of the present adjudication, whether the subsequent proceedings have been initiated

on the basis of fresh material allegedly unearthed during investigation, whether there exists any overlap between the two proceedings, and whether the impugned demand results in duplication of liability are all matters which would require a detailed examination of the respective records and the scope of the proceedings undertaken by the Department. Such an enquiry necessarily involves disputed questions of fact and law which are more appropriately examined by the statutory appellate authority.

26. Viewed thus, this Court is unable to hold that the present case falls within any of the recognised exceptions to the rule of alternative remedy. The controversy projected before this Court substantially relates to the correctness of the adjudication, appreciation of evidence and legality of the conclusions recorded by the adjudicating authority. These are matters which fall within the exclusive domain of the statutory appellate mechanism and do not warrant invocation of the extraordinary jurisdiction of this Court under Article 226 of the Constitution.

27. As noticed hereinabove, this Court has consciously refrained from expressing any opinion on the merits of the rival contentions advanced by the parties. Nothing contained in the present judgment shall be construed as an expression on the correctness of the findings recorded in the Impugned Order or on the admissibility, authenticity or evidentiary value of any material relied upon during the adjudication proceedings. All questions of fact and law are left open to be urged before the statutory appellate authority, which shall consider the same independently and in accordance with law.

28. Consequently, the present Writ Petition, along with all pending applications, is dismissed, leaving it open to the Petitioner to avail the statutory remedy of appeal under Section 107 of the CGST Act, if so advised.

29. It is clarified that, in the event the Petitioner prefers an appeal under Section 107 of the CGST Act, the period during which the present Writ Petition remained pending before this Court shall not be reckoned for the purposes of limitation. The appellate authority shall consider the appeal in accordance with law, including the question of limitation, on its own merits and uninfluenced by any observations contained in the present judgment.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 05, 2026
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