$~5

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

\+ **W.P.(C) 3455/2025 & CM APPL.16171/2025**

SHREE SUDERSHAN ASSOCIATES INDIA PRIVATE LIMITED THROUGH ITS AUTHORIZED REPRESENTATIVE MR VIJAY KUMAR JAIN & ANR.
.....Petitioners

Through: Mr. Dharnendra Kumar Rana, Ms. Priyanka Singla and Mr. Tanmay Mangal, Advs.

versus

THE COMMISSIONER CGST DELHI WEST & ORS. .....Respondents

Through: Mr. Shlok Chandra Sr standing Counsel with Mr Ujjwal Jain & Mr. Dhanunjay Advs. for R-1 & 2. (M: 9999670588)
Ms. Vaishali Gupta, Panel Counsel, Civil, GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 27.05.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed under Article 226 of the Constitution of India, *inter alia*, challenging the impugned Order-in-Original dated 30th January, 2025 passed by the Additional Commissioner of Central Tax, Central GST Department, in which a demand has been raised against the Petitioner on the ground of wrongful availament of Input Tax Credit (hereinafter "*ITC*").

3. Submission on behalf of the Petitioners is that this very issue has already been adjudicated *vide* proceedings initiated in the show cause

notice dated 15th June, 2022, in which the order dated 24th August, 2022 has been passed and a demand of Rs. 22,95,006/- was raised. The said show cause notice and the corresponding order had been passed by the Delhi GST Department.

4. It is submitted that the issue of wrongful availment of ITC has already been raised in four other show cause notices, for the same period and on the same grounds, by the Delhi GST Department. The said show cause notices are stated to have been adjudicated and the matters are now pending in appeal.

5. It is also submitted by ld. Counsel for the Petitioners that the present impugned Order-in-Original is violative of Section 6(2)(b) of the Central Goods and Services, Act 2017 (hereinafter "*CGST Act*"). As per Section 6 (2)(b), where a proper officer under the State GST Act has initiated proceedings in respect of a subject matter, then the proper officer under CGST Act shall not initiate any proceedings on the same subject matter. The Section 6(2)(b) of the CGST Act reads as under:

> *"6. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.—*
>
> *(1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.*
>
> *(2) Subject to the conditions specified in the notification issued under sub-section (1),—*

[...]

(b) ***where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.***

[...]"

6. It is submitted by the ld. Counsel for the Petitioners that once the proceedings *qua* wrongful availment of ITC has been initiated by the DGST Department the same cannot be adjudicated for the second time by the CGST Department.

7. Heard ld. Counsel for the parties. This matter is also connected with ***W.P.(C) 16228/2024*** titled ***Shree Sudershan Associates India Private Limited Through Its Authorized Representive Mr Vijay Kumar Jain. vs. Good And Servies Tax Council Through The Secretary GST Council Secretariat & Ors.*** On 6th May, 2025, the Court had passed the following order:

> *"9. It is also contended on behalf of the Petitioner that the present proceedings are a duplication for the same cause of action and the same period which is impermissible. Hence, the entire proceedings are liable to be quashed and set aside for being barred by res judicata.*
>
> *10. Heard. Since the challenge in the present petition has been raised inter alia upon the Notification No. 56/2023-State Tax dated 11th July, 2024, the same shall be considered by this Court on merits.*
>
> *11. No coercive steps shall be taken against the*

Petitioner in the meantime.

12. List for final hearing on 11th September, 2025 along with W.P.(C) 9214/2024 titled Engineers India Limited v. Union of India &Ors."

8. Considering the aforesaid, no coercive action to be taken against the Petitioner.

9. In the meantime, let the counter affidavit be filed within six weeks. Rejoinder thereto be filed within two weeks thereafter.

10. List on 11th September, 2025.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 27, 2025/*dk/msh*