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

\# **CNR No. DLHC010355432025**

\+ W.P.(C) 7867/2025 and CM APPL. 34760/2025

AMIT AGGARWAL FORMER DIRECTOR OF M/S INCLINE OVERSEAS PRIVATE LIMITED (STRUCK OFF)

.....Petitioner

Through: Mr. Nitin Gulati, Adv.

versus

ASSISTANT COMMISSIONER (ADJUDICATION), RANGE 135 CGST DELHI WEST, J.ANAKPURI DIVISION, DELHI

.....Respondent

Through: Mr. Shlok Chandra, SSC.

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

O R D E R

% 18.08.2026

1. At the outset, it is to be noted that a connected Writ Petition, bearing W.P.(C) No.8340/2025 captioned ***Amit Aggarwal Former Director of M/s Incline Overseas Private Limited (Struck Off) v. Assistant Commissioner (Adjudication), Range 135 CGST Delhi West, Janakpuri Division, Delhi***, filed by the Petitioner, was disposed of on 15.07.2025, by way of the following order:

> *"1. This hearing has been done through hybrid mode.*
>
> *2. The present petition challenges the impugned adjudication order dated 3 rd February, 2025 by which a demand has been raised against the Petitioner for a sum of Rs.1,21,50,000/-. The issue in this case is in respect of fraudulent availment of GST through non-existent firms.*
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> *3. In the present case, the Petitioner was a director of M/s Incline Overseas Private Limited (hereinafter "the Petitioner's firm") which is one of the noticees in the Show Cause Notice dated 1st August, 2024 (hereinafter "SCN"). As per the SCN, M/s. Citi Impex had availed*

Input Tax Credit (hereinafter "ITC") and passed on ITC on the strength of bogus invoices. The Petitioner's firm was one of the recipients of the said firm. The role of the Petitioner's firm is captured in paragraph 5.3 of the SCN as under:

"5.3. The noticee no. 3 M/s. Citi Impex (GSTN: 07DVPPM1307D1ZQ) has availed ITC of Rs.32,50,56,052/- in their GSTR 3B and have passed on ITC of Rs 32,67,19,000/- in their GTR-1M, on the strength of bogus invoices. The list of recipients and GST passed on M/s. Citi Impex (GSTN: 07DVPPM1307D1ZQ) to their recipients is as follows:

(Amt in Rs.)

S. No.	GSTIN	Trade Name	Taxable Value	Total ITC	Division
1	07AAECI9277L1ZW	Incline Overseas Private Limited	67500000	1,21,50,000	JANAKPURI

4. As is clear from the above order, the ITC passed on by M/s Citi Impex to their recipient, one of whom is the Petitioner is stated to be to the tune of Rs.1.21 crores. The total taxable value of goods is to the tune of Rs. 6.75 crores.

5. One of the grounds raised by the Petitioner is that in the DRC-07 dated 4th February, 2025, the wrong financial year is mentioned as 2017-18 instead of 2018-19. Secondly, it is argued that the Petitioner's firm was not in existence at that relevant time.

6. Mr. Chandra, ld. SSC has pointed out that in the DRC-06 dated 17th January, 2025, the correct financial year is mentioned and it is only a typographical error in the DRC-07. Mr. Chandra, ld. SSC also submits that under Section 161 of the Central Goods and Service Tax Act, 2017, any error of this nature can always be rectified by the Adjudicating Authority.

7. The Court has heard the parties and perused the documents placed on record. In the opinion of the Court, since the present matter relates to fraudulent availment of ITC and the impugned order is an appealable order, the Petitioner Firm ought to avail of its appellate remedy. Further, the grounds raised by the Petitioner can clearly be agitated before the Appellate Authority. This view is also supported by the decision of this Court in W.P.(C) 5737/2025 titled Mukesh Kumar Garg vs. Union of India & Ors., wherein it is clearly held that in case of fraudulent availment of ITC through bogus invoicing, writ petitions ordinarily are not to be entertained. The relevant findings 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."

8. The mere fact that there is a typographical or inadvertent error in the DRC-07 is not a sufficient reason, to entertain a writ petition. The Petitioner is accordingly relegated to the appellate authority.

9. In view of the submissions made by the ld. SSC, let the DRC-07 be

> *rectified within a period of one week. Thereafter, within 30 days the Petitioner shall file the appeal along with the pre-deposit.*
>
> *10. The limitation period for filing the appeal has already expired. If the same is filed within a period of 30 days after rectification of DRC-07 along with the pre-deposit, it shall be adjudicated on the merits and shall not be dismissed on the ground of limitation.*
>
> *11. The appeal shall be filed by the Petitioner by mentioning the financial year as 2018-19.*
>
> *12. Petition is disposed of in these terms. All pending applications, if any, are also disposed of."*

2. Now, by way of the present Writ Petition, the Petitioner, *inter alia*, prays for issuance of an appropriate writ for quashing and setting aside the Show Cause Notice dated 05.08.2024 and Adjudicating Order dated 16.01.2025 passed under Section 74 of the Central Goods and Services Tax Act, 2017.

3. In substance, the Petitioner claims that the proceedings pertaining to the Financial Year ('FY') 2017-18 are barred by limitation, and, could not have been validly initiated. However, in the Counter-Affidavit, the Respondent has clarified that the reference made to FY 2017-18 in the Order dated 16.01.2025 is merely a typographical error and the proceedings, in fact, pertains to FY 2018-19 and not 2017-18.

4. Learned counsel representing the Petitioner further submits that the Petitioner-Firm was registered on 28.08.2018.

5. Keeping in view the facts and circumstances of the case, this Court does not find it appropriate to interfere with the present Writ Petition, particularly, in view of the fact that, in the connected Writ Petition, the Petitioner has already been relegated to the statutory appellate remedy and the issues raised involve disputed questions of fact, which are appropriately to be adjudicated by the Competent Appellate Authority.

6. Consequently, the present Petition is also disposed of on the same terms as contained in the Order dated 15.07.2025 passed in the connected Writ Petition.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 18, 2026
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