Ambika Traders Through Proprietor Gaurav Gupta vs Additional Commissioner, Adjudication DGGSTI, CGST Delhi North

Fraudulent availment of Input Tax Credit – Determination of tax under Sections 74, 16, 50, 122 and 155 of the CGST Act, 2017 – consolidated show cause notice for multiple financial years – denial of cross-examination and challenge to adjudication or

Date of Order: July 29, 2025
Case Law No: GIB-DHC-2025-09-DB
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CASE DESCRIPTION / SUMMARY

Facts:
A search was conducted on 03.08.2021 at the premises of the petitioner, a metal scrap dealer. Investigation by DGGI revealed that the petitioner had allegedly availed fraudulent ITC from several non-existent supplier firms and passed on such ITC through fake invoices. A show cause notice dated 29.05.2023 was issued for the period 2017-18 to 2021-22 proposing recovery of ₹83,76,32,528/- under Section 74 along with interest and penalty, which was confirmed by the adjudication order dated 23.01.2025.

Court Decision:
The Court held that the impugned adjudication order was a detailed order passed after granting multiple opportunities of hearing and after considering the replies filed by the petitioner. The contention that the replies were not considered was rejected.

The Court further held that issuance of a consolidated show cause notice for multiple financial years under Section 74 of the CGST Act is permissible as the provisions use the expressions “for any period” and “for such periods”. In cases involving fraudulent availment or utilisation of ITC, transactions across several years may have to be examined together to establish the pattern of fraud.

The Court also held that denial of cross-examination in show cause notice proceedings does not automatically vitiate the adjudication, as the right of cross-examination is not an unfettered right and depends on the facts of each case.

Since the adjudication order was appealable under Section 107 of the CGST Act and involved

disputed questions of fact, the Court declined to exercise writ jurisdiction and relegated the petitioner to the statutory appellate remedy.

Cases Referred by Court:

· Vallabh Textile Through Its Authorized Representative v. Additional/Joint Commissioner, CGST Delhi East Commissionerate & Ors.

· Sushil Aggarwal v. Principal Commissioner of Customs

· Telestar Travels Pvt. Ltd. v. Special Director of Enforcement, (2013) 9 SCC 549

· Shamshad Ahmad v. Tilak Raj Bajaj, (2008) 9 SCC 1

· HIM Logistics Pvt. Ltd. v. Principal Commissioner of Customs, 2016 SCC OnLine Del 1236

· Flevel International v. Central Excise, 2015 SCC OnLine Del 12173

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