ARUN KUMAR JAIN & ORS. v. ADDITIONAL COMMISSIONER, CGST DELHI WEST COMMISSIONERATE & ORS.

Challenge to penalties under Sections 74, 76(2) & 122(1) of CGST Act for alleged fraudulent ITC; issues on pre-deposit under Section 107(6) and penalty on non-taxable persons.

Date of Order: August 13, 2026
Case Law No: GIB-DHC-2026-93
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

Common adjudicatory proceedings concerned allegations that companies had fraudulently availed and utilised ITC on invoices without corresponding supply of goods. The individuals connected with those companies were proceeded against for penalties under Sections 74, 76(2) and 122(1), although no tax demand was proposed against them in their individual capacities.

The petitioners challenged the adjudication order and also raised issues concerning the requirement of pre-deposit for pursuing statutory appeals. The SCNs had been issued in 2020, whereas the proviso to Section 107(6) was substituted with effect from 01.10.2025.

COURT OBSERVATION

The Court held that an appeal under Section 107 was maintainable against the impugned order and that the appellate remedy was governed by Section 107(6) as it stood when the respective SCNs were issued, since the adjudicatory proceedings had commenced before the amendment effective from 01.10.2025.

On the question of Section 122(1), the Court noted that its applicability to a person who is not a taxable person was pending before the Supreme Court. Therefore, judicial propriety required the Court not to express an opinion on that issue; the remaining factual and legal grounds could appropriately be examined in statutory appeal.

FINAL VERDICT

The writ petitions were disposed of by relegating the petitioners to the statutory appellate remedy under Section 107. All grounds were left open before the Appellate Authority. The pre-deposit requirement was directed to be governed by Section 107(6) as it stood on the dates of issuance of the respective SCNs.

CASE REFERRED BY COURT

- Gaurav Jain & Anr. v. Joint Commissioner (Appeals-II), CGST Delhi Zone & Anr. — High Court of Delhi — 31.07.2026.

Mukesh Kumar Garg v. Union of India & Ors. — Supreme Court of India — 04.08.2025.