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**IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 01<sup>st</sup> May, 2025*

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**W.P.(C) 5684/2025****SS ENTERPRISES**

.....Petitioner

Through: Ms. Shivani Sethi, Advocate.

versus

**OFFICE OF THE COMMISSIONER CENTRAL TAX DELHI  
WEST AND ANR**

.....Respondents

Through: Mr. Aakarsh Srivastava, Senior  
Standing Counsel with Mr. Anand  
Pandey and Ms. Anugya Gupta,  
Advocates.**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE RAJNEESH KUMAR GUPTA****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.

**CM APPL. 25947/2025 (for exemption)**

2. Allowed, subject to all just exceptions. Application is disposed of.

**W.P.(C) 5684/2025 & CM APPL. 25946/2025 (for stay)**3. The present petition has been filed by the Petitioner – SS Enterprises under Articles 226 and 227 of the Constitution of India, *inter alia*, assailing the Order-in-Original bearing no. 84/SPP/ADC/CGST/DSC/2024-25 dated 31st January, 2025 (hereinafter, '*impugned order*') passed by the Respondent No.1 - Additional Commissioner of Central Tax, CGST Delhi West Commissionerate.



4. *Vide* the impugned order, a penalty to the tune of Rs. 36,05,299/- has been imposed upon the Petitioner.
5. The case of the Petitioner is that the hearing notice was not received by the Petitioner. Moreover, the Petitioner submits that it is not connected to Ms. Aarti Kapoor.
6. A perusal of the impugned order would show that the Petitioner is alleged to have received the goods-less invoices from two firms, namely M/s. Shivaay Trading and Satyam Associates, which are firms stated to be belonging to Ms. Aarti Kapoor. The total availment of Input Tax Credit (hereinafter, '*ITC*') is alleged to be to the tune of Rs. 172 Crores through fake and fraudulent firms and goods-less invoices.
7. The allegation that the personal hearing notice was not received is belied by the Petitioner's own averment in the writ petition, which reads as under:

*"Because the notice for personal hearing was not properly issued and failed to adhere to the due process of law. **The notice for personal hearing dated 09.01.2025, was dispatched on 17.01.2025 and was received by the Petitioner only on 18.01.2025, late in the evening.** By the time the notice was received, the time granted for first two personal hearings i.e 13.01.2025 and 16.01.2025 had lapsed, leaving the Petitioner with only one final hearing date i.e. 21.01.2025, available for representation. This procedural lapse in serving the personal hearing notice to the Petitioner deprived the Petitioner's ability to defend itself and deprived it of a fair and reasonable opportunity to present its case, thus rendering the entire process leading to issuance of Impugned Order as unfair."*

8. As per the above averment, the notice was in fact received, well in time for appearance in the personal hearing on 21<sup>st</sup> January 2025. Further



submission on behalf of Ms. Shivani Sethi, Id. Counsel appearing for the Petitioner is that three personal hearings have not been given to the Petitioner. In fact, a perusal of Section 75(5) of the Central Goods and Service Tax Act, 2017 (hereinafter, ‘CGST Act’) would show that the said provision merely contemplates that the maximum adjournments shall be given for three times but does not in effect mean that three hearings have to be given. The relevant provision is set out below :

*“(5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:*

**Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.”**

9. The personal hearing notice having been received by the Petitioner and the Petitioner having not availed of the hearing, cannot now be permitted to raise a grievance in respect thereof, against the Department.

10. Mr. Aakarsh Srivastava, Id. Sr. Standing Counsel for the Respondents submits that the impugned order is an appealable order.

11. Accordingly, let the Petitioner file an appeal in respect of impugned order under Section 107 of the CGST Act to the Appellate Authority.

12. With the appeal, the Petitioner is permitted to file any documents that they wish to place on record.

13. There is grievance that the Relied-upon documents (‘RUDs’) are not with the Petitioner. It is accordingly directed that the Department shall make available to the Petitioner all the Relied Upon documents (hereinafter, ‘RUDs’) within two weeks on the following email address :-



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**Email ID : [shivani@mpaca.in](mailto:shivani@mpaca.in)**

14. Upon receiving the RUDs, the Petitioner is permitted to approach the Appellate Authority within 30 days. If the appeal is filed in the time period as specified above, the same shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

15. The petition is disposed of in these terms. Pending application(s), if any, also stand disposed of.

**PRATHIBA M. SINGH  
JUDGE**

**RAJNEESH KUMAR GUPTA  
JUDGE**

**MAY 01, 2025/nd/ck**