

(2026) 03 DEL CK 0498

In the Delhi High Court

Case No : Writ Petition (C) No. 5581 Of 2025

M/s Technosys Integrated Solutions Pvt Ltd

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 16-03-2026

Acts Referred:

Central Goods and Services Tax Act, 2017 — Section 2(119), 73, 74, 74(3), 74(4), 75(3), 107, 122(1)(xvii)

Central Goods and Services Tax Rules, 2017 — Rule 109A

Citation : (2026) 03 DEL CK 0498

Hon'ble Judges : Nitin Wasudeo Sambre, J;Ajay Digpaul, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ajay Digpaul, J

1. The petitioner, M/s Technosys Integrated Solutions Pvt. Ltd., is a private limited company registered under the Goods and Services Tax "GST" laws and is stated to be engaged in the supply/installation of CCTV surveillance systems.
2. The petitioner was subjected to GST audit for the period from FY 2017-18 to FY 2021-22. An intimation in Form ADT-01 dated 20.03.2023 was issued by the Audit Wing of Central Goods and Services Tax "CGST" in that regard.
3. Pursuant thereto, an Observation Memo dated 06.11.2023 came to be issued upon scrutiny/verification of the petitioner's records during audit, and the said Observation Memo indicated a GST liability of ₹ 49,52,923/-.
4. On 07.11.2023, as per the petitioner, the said amount of ₹ 49,52,923/- through DRC-03, which was made during audit, was paid without contest.
5. Thereafter, on 16.11.2023, an email was issued from the office of respondent no. 3 calling for copies of contracts. Subsequently, Audit Report No. 728/2023-24 dated 23.01.2024 was issued. The petitioner filed a reply dated 05.02.2024 to

the Audit Report.

6. In the meantime, Form DRC-01A dated 31.01.2024, bearing Reference No. 464, was issued to the petitioner with reference to Audit Para VII, and according to the petitioner's own Show Cause Notice "SCN" reply, audit paras I to VI stood settled and the dispute thereafter proceeded in respect of audit para VII. A reply to the said DRC-01A was also filed by the petitioner.

7. Thereafter, SCN No. 09/2024-25 along with SCN in Form DRC- 01 dated 09.04.2024, later followed by a corrigendum dated 13.11.2024, was issued to the petitioner. As noticed in the SCN, it was proposed that: firstly, a GST demand of ₹ 18,67,69,338/- on the allegation that the petitioner had wrongly availed the benefit of Notification No. 11/2017- CT (Rate) dated 28.06.2017 by treating its supplies as works contract services taxable at 12% for the period FY 2017-18 to FY 2021-22; secondly, a further GST demand of ₹ 1,30,00,000/- on account of alleged non-payment of GST at 28%; and lastly, penalties under Section 74 and Section 122(1)(xvii) of the Central Goods and Services Tax Act, 2017 "CGST Act".

8. The petitioner submitted a detailed reply to the said SCN on 09.05.2024 before the adjudicating authority.

9. In its reply dated 09.05.2024, the petitioner stated, inter alia, that it was engaged in providing works contract services relating to the installation of security cameras and CCTV systems. It submitted that the audit had earlier culminated in the Observation Memo dated 06.11.2023 and that it had already responded to both the Audit Report and DRC-01A and they denied any suppression or wilful misstatement. It further contended that it was entitled to the concessional rate of 12% under Sl. No. 3(vi) of Notification No. 11/2017-CT (Rate) dated 28.06.2017 on the basis that its supplies constituted works contract services rendered to government agencies. The petitioner also asserted in the said reply that CCTV installations qualified as works contract within the meaning of Section 2(119) of the CGST Act.

10. A personal hearing was thereafter held before the adjudicating authority.

11. Thereafter, Order-in-Original "OIO" No. DE/GST/ADC (JR) 224/2024- 25 dated 31.01.2025 came to be passed with reference to SCN No. 09/2024-25 dated 10.04.2024 and corrigendum dated 13.11.2024. The said OIO dated 31.01.2025 confirmed the entire demand proposed in the SCN, namely: GST of ₹ 18,67,69,338/- on the issue relating to alleged wrongful availment of the 12% rate under Notification No. 11/2017-CT (Rate); GST of ₹ 1,30,00,000/- on the allegation of non-payment of GST at 28%; and penalty under Section 74 as well as Section 122(1)(xvii) of the CGST Act, resulting in a total penalty of 200%.

12. After the passing of the said OIO, multiple Form GST DRC-07 summaries came to be issued with reference to the order dated 31.01.2025. For FY 2017-18, DRC-07 summaries were issued on 03.02.2025, 04.02.2025 and 05.02.2025.

13. It is in these circumstances that the present writ petition came to be filed before this Court, wherein the petitioner has sought quashing of the impugned OIO dated 31.01.2025 and dispensation of the requirement of pre-deposit on the ground that an amount of ₹ 49,52,923/- had already been paid on 07.11.2023 during the course of audit as part of admitted liability.

14. When the present matter was taken up on 30.04.2025 for the first time, this Court crystallised the grounds raised in the petition and identified the specific issue that arose for consideration in the matter. Inasmuch as the said order narrows the scope of adjudication, the relevant paras thereof are reproduced below for the sake of clarity:

"4.The broad grounds raised by Mr. Abhishek A Rastogi, Id. Counsel for the Petitioner are as under:

(i) In the Audit Observation Memo dated 6th November 2023, the differentiation of contract of works service taxed at 12% and the second category of service tax for supply of goods at 18% was not raised in the Observation Memo.

(ii) Moreover, multiple years have been clubbed in the Show Cause Notice and common demands have been raised.

(iii) That penalty has been imposed under Section 75(3) of the Central Goods and Service Tax Act, 2017 (hereinafter, 'CGST Act') despite the penalty under Section 74 of the CGST Act having already been imposed.

5. Heard. There are matters before this Court in which the question of multiple years being clubbed in the Show Cause Notice has been considered by this Court and the same is part-heard. The said matters are listed on 20th May, 2025.

6. In so far as the categorisation of the goods and services is concerned, that would be an issue which would have to be raised in an appeal. However, insofar as consolidation of multiple years is concerned, since the issue is part heard, the Court adjourns the matter to 20th May, 2025."

15. Although the order dated 30.04.2025 crystallises the controversy which arises for consideration, it would also be apposite to briefly mention the major grounds urged, as further elaborated in the written submissions dated 09.02.2026. Broadly, the petitioner challenges the impugned proceedings on the ground that the SCN and the OIO impermissibly consolidate multiple financial years into a single adjudicatory exercise, even though, according to the petitioner, the present matter does not concern fraudulent availment or utilisation of Input Tax Credit "ITC", but arises out of an interpretational dispute as to the nature of the supplies effected by it and the rate of tax applicable thereto. The petitioner's case is that each financial year ought to have been dealt with separately and that the passing of a common order has resulted in prejudice by collapsing distinct causes of action, returns, limitation periods and legal defences.

16. The petitioner has further urged that the reliance sought to be placed by the respondents on the decisions of this Court in *Ambika Traders through Proprietor Gaurav Gupta v. Additional Commissioner* 2025 SCC OnLine Del 6913 and *Mathur Polymers v. Union of India & Ors.* 2025 SCC OnLine Del 6892 is misconceived in the facts of the present case. As per the petitioner, both the said decisions were rendered in the context of allegations relating to fraudulent availment or utilisation of ITC extending across financial years, whereas the present case, as submitted, does not involve fake invoices, circular trading, non-existent suppliers or clandestine credit chains, but raises a pure issue of classification and rate applicability. It is on this basis that the petitioner contends that the ratio of the said judgments cannot be mechanically applied to the present dispute.

17. It is also urged on behalf of the petitioner, with reference to the written submissions, that several Benches of the Bombay High Court, after considering the very judgments of this Court relied upon by the respondents, have consciously taken a different view in matters not involving ITC fraud, including *Milroc Good Earth Developers v. Union of India & Ors.* (2025) 36 CENTAX 97, *Rite Water Solutions (India) Ltd. v. Joint Commissioner, CGST & Central Excise, Nagpur & Ors.* 2025:BHC-NAG:13213-DB, *M/s Paras Stone Industries v. Union of India & Ors.* 2026:BHC-NAG:339-DB and *AR Traders, through its proprietor Shri Abdul Rashid v. Joint Commissioner, CGST & Central Excise, Nagpur* 2026:BHC-NAG:732-DB. The petitioner specifically relies upon *Milroc Good Earth Developers* to contend that the Bombay High Court distinguished *Ambika Traders* on the footing that the facts before the Delhi High Court related to wrongful availment of ITC over subsequent years, whereas the matter before it arose in a different factual and legal setting. It is also pointed out that the Bombay High Court took note of the withdrawal of the Special Leave Petition against *Ambika Traders* with an observation that the said decision would not apply to the facts of other cases, and independently examined the expressions “for any period” and “for such period(s)” in support of year-wise adjudication in non-fraud cases.

18. Heard Mr. Abhishek A. Rastogi, learned Counsel for the petitioner and Ms. Anushree Narain, learned Senior Standing Counsel and perused the documents on record.

19. At the outset, this Court makes it clear that it is not entering into the merits of the controversy as to whether there was, in fact, any fraudulent availment of ITC. That issue lies squarely within the domain of the statutory appellate authority. An efficacious alternative remedy is available to the petitioner by way of an appeal under Section 107 of the CGST Act and Rule 109A of CGST Rules, 2017, which has admittedly not been exhausted. It is well settled that where such an alternative statutory remedy exists, the writ court ordinarily ought not to undertake an examination on merits. This principle stands clearly laid down by the Hon^{ble} Supreme Court in a catena of decisions, including *Whirlpool Corporation v. Registrar of Trademarks, Mumbai* (1998) 8 SCC 1 and *Harbanslal Sahnia v. Indian Oil Corpn. Ltd.* (2003) 2 SCC 107.

20. This Court shall also deal with the submission advanced by Mr. Rastogi that the decision of this Court in *Ambika Traders* (Supra) does not govern the present case on the ground that the said judgment arose in the context of fraudulent availment or utilisation of ITC extending across financial years.

21. As already observed hereinabove, this Court is not delving in the present proceedings to determine whether fraud is, in fact, made out and therefore will not undertake the adjudication on that point. However, insofar as the submission seeks to confine *Ambika Traders* only to cases involving allegations of fraudulent availment or utilisation of ITC across financial years, this Court is unable to agree. In this context, we deem it important to reproduce the relevant para of the said judgment:

"43. Insofar as the issue of consolidated notice for various financial years is concerned, a perusal of section 74 of the CGST Act would itself show that at least insofar as fraudulently availed or utilised ITC is concerned, the language used in section 74(3) of the CGST Act and section 74(4) of the CGST Act is "for any period" and "for such periods" respectively. This contemplates that a notice can be issued for a period which could be more than one financial year. Similar is the language even in section 73 of the CGST Act. The relevant provisions read as under:

"73. Determination of tax, pertaining to the period up to financial year 2023-2024, not paid or short paid or erroneously refunded or input-tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.—(1) and (2)...

(3) Where a notice has been issued for any period under sub- section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input- tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

...

74. Determination of tax, pertaining to the period up to financial year 2023-2024, not paid or short paid or erroneously refunded or input-tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.—(1) and (2)...

(3) Where a notice has been issued for any period under sub- section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input- tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person

chargeable with tax.

(4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.”

22. The aforesaid extract from Ambika Traders leaves no manner of doubt that this Court, in the said judgment, contemplated and accepted consolidation of SCNs covering multiple financial years under both Section 73 and Section 74 of the CGST Act.

23. This Court has also considered the reliance placed by Mr. Rastogi on the judgments rendered by the Bombay High Court, which may have taken a view that departs, in certain respects, from that expressed in Ambika Traders. However, so far as this Court is concerned, it remains bound by the view taken in Ambika Traders and must proceed accordingly. It is also relevant to note that Special Leave Petition (C) No. 23774/2025 was preferred against the decision in Ambika Traders before the Hon’ble Supreme Court and, after some hearing, the same came to be dismissed as not pressed.

24. Mr. Rastogi also submitted that petitions involving a similar issue are presently pending before the Hon’ble Supreme Court and requested that this Court defer the matter for a few more weeks. However, this submission cannot take the matter any further. Mere pendency of proceedings before the Supreme Court does not efface the binding nature of the judgment presently holding the field. In this regard, the Hon’ble Supreme Court in Union Territory of Ladakh v. Jammu & Kashmir National Conference 2023 SCC OnLine SC 1140, has held as under:

“35. We are seeing before us judgments and orders by High Courts not deciding cases on the ground that the leading judgment of this Court on this subject is either referred to a larger Bench or a review petition relating thereto is pending. We have also come across examples of High Courts refusing deference to judgments of this Court on the score that a later Coordinate Bench has doubted its correctness. In this regard, we lay down the position in law. We make it absolutely clear that the High Courts will proceed to decide matters on the basis of the law as it stands. It is not open, unless specifically directed by this Court, to await an outcome of a reference or a review petition, as the case may be. It is also not open to a High Court to refuse to follow a judgment by stating that it has been doubted by a later Coordinate Bench. In any case, when faced with conflicting judgments by Benches of equal strength of this Court, it is the earlier one which is to be followed by the High Courts, as held by a 5-Judge Bench in National Insurance Company Limited v. Pranay Sethi (2017) 16 SCC 680. The High Courts, of course, will do so with careful regard to the facts and

circumstances of the case before it.”

25. We, therefore, find no cause to interfere with the impugned OIO and grants liberty to the petitioner to avail of such remedies as may be available to it in accordance with law.

26. This Court once again makes it clear that it has not examined or expressed any opinion on the merits of the case and that all rights and contentions of the parties in that regard are left open.

27. For all the aforesaid reasons, the present writ petition, along with pending applications is dismissed.