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

CNR No. DLHC010270372025

+ **W.P.(C) 5893/2025 and CM APPL. 26867/2025**

M/S TRANSCORP INTERNATIONAL LIMITED

.....Petitioner

Through: Mr. Kumar Visalaksh, Mr. Udit
Jain and Mr. Vibhor Sharma
Advs.

versus

ADDITIONAL COMMISSIONER CGST & ANR.

.....Respondents

Through: Mr. Akash Verma, SSC-CBIC
with Ms. Aanchal Uppal and
Mr. Archit Dwivedi, Advs.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MS. JUSTICE SHAIL JAIN

ORDER

14.09.2026

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1. Through the present Writ Petition, the Petitioner assails the Order-in-Original dated 24.01.2025, FORM GST DRC-07 dated 29.01.2025 and the rectification order in FORM GST DRC-08 dated 03.02.2025.

2. Admittedly, the Petitioner has a statutory remedy of Appeal against the Order-in-Original under Section 107 of the Central Goods and Services Tax Act, 2017 ('CGST Act'). The rectification dated 03.02.2025 corrected the penalty reflected in FORM GST DRC-07, and the substantive findings in the Order-in-Original have remained unaltered.



3. Learned counsel representing the Petitioner, however, submits that two judgments of the Supreme Court, delivered subsequent to the passing of the Order-in-Original, have a material bearing on the matter. Reliance is placed upon ***Commissioner of Service Tax III, Mumbai v. Vodafone India Ltd.***¹, decided on 06.05.2025, and ***G.R. Infra Projects Limited Ratlam v. State of Madhya Pradesh***², decided on 19.08.2026.

4. In ***Vodafone India Ltd.*** (*supra*), the batch before the Supreme Court included Civil Appeal No.10885/2016 preferred by the Revenue against the Petitioner herein. The said Appeal concerned Money Transfer and Related Service rendered by the Petitioner during July, 2003 to September, 2007. CESTAT had held that the activities of the Petitioner fell within the Export of Service Rules, 2005 and that no service tax was payable. The Supreme Court held that CESTAT had rightly analysed the activities involved, found no perversity in its factual determinations and dismissed the Appeals preferred by the Revenue.

5. Thus, the finding in favour of the Petitioner in respect of its earlier money-transfer services under the erstwhile service-tax regime has been left undisturbed by the Supreme Court.

6. The present case, however, pertains to the subsequent period under the GST regime and require application, *inter alia*, of Sections 2(6), 2(13) and 13 of the Integrated Goods and Services Tax Act, 2017. The applicability and effect of the judgment in ***Vodafone India Ltd.***(*supra*) upon the Petitioner's present transactions with Western Union would, therefore, require consideration with reference to the

¹2025 INSC 914

² Civil Appeal No.11277/2026 SC



present contractual arrangement and the statutory provisions applicable thereto.

7. In ***G.R. Infra Projects Limited Ratlam*** (*supra*), the Supreme Court held that the factual foundation necessary for invoking Section 74 of the CGST Act must emanate from the Show Cause Notice itself and cannot subsequently be supplied by way of a Counter Affidavit. It was further held that a mechanical use of the expressions “fraud, wilful misstatement or suppression of facts”, without setting out the facts which led the authority to draw such an inference, would not suffice. The Show Cause Notice in ***G.R. Infra Projects*** (*supra*) on that basis was consequently set aside.

8. Learned counsel representing the Petitioner submits that the invocation of Section 74 in the present case suffers from the same defect. According to the Petitioner, a substantial part of the demand arises from information already disclosed in statutory returns and records and no positive act constituting fraud, willful misstatement or suppression of facts with intent to evade tax has been identified.

9. The SCN dated 01.08.2024 in the present case contains a separate part setting out the grounds on which Section 74 has been invoked. It, *inter alia*, alleges that material facts were not disclosed in the statutory returns, that the discrepancies were detected during audit and that the alleged non-disclosures were willful and intentional.

10. The Petitioner disputes both the factual foundation and the legal sufficiency of these allegations. This Court does not consider it appropriate, while relegating the Petitioner to the statutory remedy of Appeal, to express any final opinion on whether the allegations contained in the SCN satisfy the requirements of Section 74. That question is left open.



11. The Order-in-Original deals with six separate issues, including availment of input tax credit, reconciliation between GSTR-1 and GSTR-3B, credit pertaining to suppliers who allegedly failed to file GSTR-3B, reversal of common credit, supplies claimed as export of services and corporate guarantees.

12. The demand relating to export of services itself concerns three distinct streams, namely, Western Union, Cash-to-Master and VISA Worldwide. Examination of these issues would require consideration of the relevant agreements, returns, invoices, FIRCs and other documents placed on record. The statutory Appellate Authority is, therefore, the appropriate forum to undertake such examination.

13. Accordingly, this Court is not inclined to examine the merits of the individual demands in exercise of jurisdiction under Article 226 of the Constitution. All contentions of the parties are left open, including the effect of **Vodafone India Ltd.(supra)** upon the Western Union transactions, the Petitioner's challenge to the invocation of Section 74 in light of **G.R. Infra Projects Limited Ratlam(supra)**, the consequential plea of limitation, the applicability of Section 75(2) of the CGST Act, if attracted, and the contentions concerning the remaining heads of demand. The Appellate Authority shall consider the aforesaid contentions independently and in accordance with law.

14. Having regard to the fact that the Petitioner has been prosecuting the present Writ Petition before this Court, liberty is granted to the Petitioner to institute an Appeal under Section 107 of the CGST Act within four weeks from today. If such Appeal is filed within the aforesaid period, the same shall be entertained and decided on merits and shall not be rejected on the ground of limitation.

15. In order to enable the Petitioner to avail the aforesaid remedy,



no coercive steps pursuant to the impugned Order-in-Original shall be taken for a period of four weeks from today. Thereafter, the parties shall be governed by the orders passed by the Appellate Authority.

16. The Writ Petition, along with the pending application, is disposed of in the aforesaid terms.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 14, 2026/sp/ad