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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 15th May, 2025
+ **W.P.(C) 6481/2025, CM APPLs. 29538/2025 & 29539/2025**
SULENDER SHAH AND ANRPetitioners
Through: Mr. Abhay Gupta, Advocate

versus

ADDITIONAL COMMISSIONER / JOINT COMMISSIONER
CGST DELHI AND ANRRespondents
Through: Mr. R. Ramchandran, SSC with Mr.
Prateek Dhir, Advocate

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. No.29539/2025

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

W.P.(C) 6481/2025 & CM APPL. No. 29538/2025

3. The present petition has been filed by the Petitioners- Sh. Sulender Shah, who is a Chartered Accountant and Mr. Atul Aggarwal, who is a trader, under Article 226 of the Constitution of India, *inter alia*, assailing the Show Cause Notice dated 2nd August, 2023 and seeking stay of the adjudication proceedings.

4. This is the second writ petition filed by the very same Petitioners. The first writ petition was disposed of *vide* order dated 7th December, 2023 being **W.P.(C) No. 15766/2023** titled '**Sulender Shah & Anr. v. Additional Commissioner/Joint Commissioner CGST & Anr.**' in the following terms:



“6. In view of the above, the present petition is disposed of by directing the proper officer to issue summary of the notice and demands electronically in FORM GST DRC-01 & FORM GST DRC-02 as expeditiously as possible and preferably within a period of one week from today, if not already done. All pending applications are also disposed of.”

5. As per the above order dated FORM GST DRC-01 and FORM GST DRC-02 were to be issued to the Petitioners. The same were issued on 26th September, 2023 which according to the Petitioners was served on 7th December, 2023.

6. The grievances raised by the Petitioner are twofold, one that the FORM GST DRC-01 is not in accordance with law and secondly, it does not compute the tax/penalty against either of the Petitioners. It is submitted by Mr. Gupta, Id. Counsel for the Petitioners that on the basis of the Show Cause Notice which is challenged, the Institute of Chartered Accountants of India has started disciplinary proceedings against Mr. Sulender Shah, the Chartered Accountant.

7. A perusal of the Show Cause Notice would show that the allegation against the Petitioners was that various fake firms were floated by two persons, namely, Mr. Shubham Gupta and Mr. Vikas Gupta with whom both the Petitioners had business dealings.

8. This fact has, in fact, been admitted by the Petitioners in their own statements which have been recorded. Relevant portion of the said statements reads as under:

Mr. Sulender Shah

“That I have no personal contact with Shubham Gupta and I am not involved in any business with him whatsoever. I am also not their Chartered



Accountant and manages the accounts of the fake companies of Shubham Gupta. I am just linked to the business of M/s Rapipay Fintech Private Limited and enable services for business enhancement for the Customers as per the guidelines of RBI on commission basis. I have been falsely implicated in the said case and I have made no personal gains whatsoever it is.”

Mr. Atul Gupta

“2. I know Shubham Gupta as we studied from the same school and since he had not work or business, I had provided him some Links through which pursue some business and earn his Livelihood. I had no idea about how did he used those links for some illegalwork. I had no knowledge about what kind of business he was doing, it was only after I was arrested in 13-09-2021 the officers of the Goodself Department informed about the fake invoice businesses of Mr. Shubham Gupta for which I am falsely implicated. I had no Links with Mr. Shubham Gupta and just for the promotion of his business so that he could earn his livelihood referred some clients to him. Even the knowledge about the said process fake bills I invoices was gained by me when I was arrested and at the time of arrest I was told about the reason for my arrest.”

9. The allegations in the Show Cause Notice are serious in nature. In fact, both the Petitioners were also arrested as part of the investigation which took place in this matter. The adjudication, presently, is at the stage of Show Cause Notice and hearings must be underway.

10. The grounds on which the Petitioners pray for quashing of the Show is that the FORM GST DRC-01 and FORM GST DRC-02 do not comply with



law. A perusal of the same would show that both FORM GST DRC-01 and FORM GST DRC-02 come with the clear note to the following effect:

*“ (b) **Tax and other dues:-** Tax/Interest I Penalty has been imposed vide show cause notice having DIN 202308DNN100002174B dated 02.08.2023. (copy enclosed as Annexure)*

Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
As per annexure show notice DIN 202308DNN10002174B dated 02.08.2023												

11. Thus, the DRC-02 refers to the Show Cause notice for the purposes of computation. When there are a several persons involved in a maze of transactions, the fact that qua each of the noticees the exact amount is mentioned in the SCN is sufficient to inform the notice of the amount involved at the SCN stage. The adjudication being currently underway, this Court is not inclined to entertain the same especially considering the nature of the allegations against the Petitioners.

12. In writ jurisdiction, the Court cannot go into the veracity of the statements of the Petitioners which have been recorded by the Department and examine as to whether the same are true or false as the same would be a matter of adjudication. The scope of writ petition under Article 226 of the Constitution of India is limited which this Court is not inclined to exercise in this matter.

13. Accordingly, the petition is disposed of. Pending applications, if any, are also disposed of.



14. The proceedings in respect of the Show Cause notice shall proceed in accordance with law.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 15, 2025/SV/ck