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

+ W.P.(C) 1184/2026 & CM APPL. 5773/2026

SH. BHUPENDER KUMAR PROPRIETOR OF M/S
DABAS CONSTRUCTION CO.Petitioner

Through: Mr. Prajesh Vikram Srivastava, SPC
and Mr. Bhuvnesh Vikram, Advocate.

versus

THE COMMISSIONER, GST, WEST DELHI
& ANR.Respondents

Through: Mr. Akash Panwar, JSC.
Mr. Devvrat Yadav, SPC with
Mr. Kartik Sharma, GP.
Mr. Shrey Sharawat, SPC alongwith
Mr. Himanshu Sihag, Advocate for
R-2.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

% **11.05.2026**

1. It is the contention of learned counsel for the petitioner that there is violation of Section 75(6) and Section 75(7) of the CGST Tax Act, 2017, inasmuch as the show cause notice dated 29th December, 2023 did not mention the proposed demand towards interest and penalty.
2. As a sequel of above, his contentions are that the show cause notice is



contrary to the very statute and that being so, the respondent cannot recover the amount of penalty and interest from the petitioner having acted contrary to the statutory mandate.

3. As against the above, learned counsel for the respondents contends that the Sections are aptly clear and that where ITC has been wrongly availed or reversed belatedly, the liability towards interest and penalty would follow in accordance with law. According to him, the ITC availed by the petitioner for FY 2018-19 was hit by Section 16(4) of the CGST Act and ought to have been reversed earlier. However, the petitioner reversed/deposited the said ITC amount only in December 2023, i.e. after about four years. Therefore, according to them, interest and penalty are statutorily leviable.

4. The fact remains that under sub-sections (6) and (7) of Section 75, the statute mandates that the word “amount” refers to the amount of tax, interest and penalty mentioned in the show cause notice.

5. However, merely because the specific amount was not mentioned, that by itself will not render the show cause notice illegal and in such an eventuality, the remedy to the petitioner is that of preferring a statutory appeal.

6. However, we make it clear that the respondents in their show cause notice must propose the interest amount to be recovered, particularly the rate at which such interest shall be levied, the proposed penalty, etc.

7. In the aforesaid background, we deem it appropriate to dispose of the present petition, along with pending applications, if any, with liberty to the petitioner to take recourse to the remedy of appeal.

8. The appeal shall not be dismissed on the ground of limitation,



provided that the petitioner deposits the liability to the tune of 10%.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

MAY 11, 2026/Sk/yr

