$~84

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

***Date of Decision: 09th October, 2025***

\+ **W.P.(C) 15495/2025 & CM APPL. 63400/2025**

M/S WELCUT INDUSTRIES .....Petitioner

Through: Mr. Aditya Jain, Mr. Anshuman Jindal and Mr. Soumyadip Chakraborty, Advs.

versus

COMMISSIONER, CGST, DELHI, NORTH COMMISSIONERATE AND ANR. .....Respondents

Through: Mr. Ruchesh Sinha, Sr. St. Counsel, CGST with Ms. UpasnaVashishta, Adv.

**CORAM:**
**JUSTICE PRATHIBA M. SINGH**
**JUSTICE SHAIL JAIN**

**<u>Prathiba M. Singh, J.</u> (Oral)**

1. This hearing has been done through hybrid mode.

**<u>CM APPL. 63401/2025 (for exemption)</u>**

2. Allowed subject to all just exceptions. Accordingly, the application is disposed of.

**<u>W.P.(C) 15495/2025 & CM APPL. 63400/2025</u>**

3. The challenge in this case is, *inter alia*, to the impugned Order-in-Appeal dated 23rd May, 2025 *(hereinafter, 'the impugned order')* where a total demand to the tune of Rs.27,000/- has been raised against the Petitioner.

4. The said impugned order is an appealable order before the GST

Appellate Tribunal. However, the GST Appellate Tribunal, which has been constituted, is not yet functioning.

5. In view thereof, let the Petitioner deposit 10% of the demanded amount in terms of the Circular dated 11th July, 2024. The relevant portion of the said circular is extracted below:

> *"3. In cases where the first appellate authority has confirmed the demand issued by the adjudicating authority, partially or fully, the taxpayers cannot file appeal against the said appellate order at present due to non-operation of GST Appellate Tribunal as yet. As per Section 112 of the CGST Act, every person has statutory remedy of appeal against the order passed by the first appellate authority or by a revisional authority, before the Tribunal. As per section 78 of CGST Act, the recovery proceedings are to be initiated, if the amount payable as per the order issued under the said act is not paid by the concerned person within the said period of three months from the date of service of the said order. <u>It may further be noted that if any person files an appeal in accordance with the requirement of sub-section (8) of section 112 of the CGST Act (i.e., on payment of prescribed pre-deposit), the recovery proceedings for the balance amount is deemed to be stayed till disposal of the appeal as per sub-section (9) of section 112 of the CGST Act. However, as the taxpayers are not able to file appeal under section 112 in Appellate Tribunal against the orders of appellate authority and therefore, are not able to make the pre-deposit under sub-section (8) of section 112 of CGST Act, in some cases, the tax officers are taking a view that there is no stay against recovery as per sub-section (9) of section 112 of CGST Act.</u> In some cases, taxpayers have either paid or are willing to pay the requisite amount of pre-deposit as per sub-section (8) of section 112 of CGST Act either by crediting in their electronic liability register against the demand so created, or by depositing the said amount through FORM DRC-03. However, tax officers are still resorting to recovery*

*proceedings after completion of period stipulated under section 78 of CGST Act.*

*4. In order to facilitate the taxpayers to make the payment of the amount of pre-deposit as per sub-section (8) of section 112 of CGST Act, and to avail the benefit of stay from recovery of the remaining amount of confirmed demand as per sub-section (9) of section 112 of CGST Act, it is hereby clarified that in cases where the taxpayer decides to file an appeal against the order of the appellate authority and wants to make the payment of the amount of pre-deposit as per sub-section (8) of section 112 of CGST Act, he can make the payment of an amount equal to the amount of pre-deposit by navigating to Services >> Ledgers>> Payment towards demand, from his dashboard. The taxpayer would be navigated to Electronic Liability Register (ELL) Part-II in which he can select the order, out of the outstanding demand orders, against which payment is intended to be made. The amount so paid would be mapped against the selected order and demand amount would be reduced in the balance liability in the aforesaid register. The said amount deposited by the taxpayer will be adjusted against the amount of pre-deposit required to be deposited at the time of filing appeal before the Appellate Tribunal.*

*5. The taxpayer also needs to file an undertaking/ declaration with the jurisdictional proper officer that he will file appeal against the said order of the appellate authority before the Appellate Tribunal, as and when it comes into operation, within the timelines mentioned in section 112 of the CGST Act read with Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019. On providing the said undertaking and on payment of an amount equal to the amount of pre-deposit as per the procedure mentioned in para 4 above, the recovery of the remaining amount of confirmed demand as per the order of the appellate authority* ***will stand stayed*** *as per provisions of sub-section (9) of section 112 of CGST Act."*

6. The said deposit shall be made by the Petitioner by 15th November, 2025, subject to which the impugned order of the Appellate Authority shall remain stayed.

7. Thereafter, upon the Appellate Tribunal becoming functional, an appeal may be filed by the Petitioner and the deposit made by the Petitioner shall then be considered as the pre-deposit made for such appeal.

8. The petition is disposed of in said terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH**
**JUDGE**

**SHAIL JAIN**
**JUDGE**

**OCTOBER 9, 2025/**ssc/ss