



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 11045 of 2025(O&M)
Date of Decision: 24.09.2025.**

1. Bhawna Grover

.....Petitioner

Versus

Union of India and others

..... Respondents

AND

CWP No. 11190 of 2025(O&M)

2. Nakul Mittal

.....Petitioner

Versus

Union of India and others

..... Respondents

AND

CWP No. 11280 of 2025(O&M)

3. Manish Grover

.....Petitioner

Versus

Union of India and others

..... Respondents

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Vineet Kumar Jakhar, Advocate
for the petitioner (s) (in all writ petitions).

Mr. Sunish Bindlish, Advoate
Mr. Sagar Ratusaria, Advocate
Mr. Viney Kumar, Advocate
for respondents (in CWP No. 11045 of 2025).

Ms. Sidhi Bansal, Advocate
Ms. Ridhi Bansal, Advoate
for respondents (in CWP Nos. 11190 and 11280 of 2025).

LISA GILL, J.

1. This order shall dispose of CWP Nos. 11045, 11190 and 11280 of 2025. Common prayer in all the three writ petitions which are taken up together for hearing and adjudication with consent of learned counsel for the parties, reads as under:-

“Civil Writ Petition Under Article 226/227 of the Constitution of India for Issuance of writ in the nature of Certiorari: -

I. To quash the Show Cause Notice No. 40/2020-CE dated 28.09.2020 (Annexure P-1),

II. To quash the order in original number LUD-EXCUS-000-COM-010-24-25 dated 05.11.2024 (Annexure P-2)

AND

Further to issue a Writ in the nature of Mandamus directing the Respondents not to take any coercive action against the Petitioner during the pendency of the present petition.

AND/OR

Any other order, writ or direction as this Hon'ble Court may deem fit in accordance with the peculiar facts and circumstances of the case.”

2. Petitioner(s) namely Bhawna Grover, Manish Grover in CWP No. 11045 of 2025 and 11280 of 2025, respectfully are partners of the Firm(s) in question and petitioner-Nakul Mittal in CWP No. 11190 of 2025 is stated to be an employee of the Firm M/s Divya Upchar Sansthan (for short 'M/s DUS').

3. Brief facts necessary for adjudication of the matter are that show cause notice dated 28.09.2020, under Section 11A of Central Excise Act, 1944 read with Rule 25 of the Central Excise Rules, 2002 was served upon all the petitioners and M/s DUS and M/s God Grace Foundation (for short 'GGF'). M/s DUS is stated to be engaged in the business of promoting, trading and manufacture of ayurvedic medicines falling under Chapter 30 of First Schedule of Central Excise Direct Act 1985. M/s DUS is a partnership firm with Manish Grover and Bhawna Grover being its partners. There are other group companies like M/s GGF, which is a proprietorship firm with Manish Grover as the proprietor, M/s Jina Seekho Foundation (for short 'M/s JSF'), a proprietorship firm of Bhagwna Grover, M/s Jeena Sikho Lifecare Private Limited (for short 'M/s JSPL), a private limited firm with Manish Grover and Bhawna Grover as its directors. All the Firms are located at SCO No. 11-12, Kalgidhar Enclave, Baltana, Shimla Highway, Zirakpur, Punjab.

3.1. On the basis of intelligence received in the office of Directorate General of GST Intelligence (DGGI), Chandigarh, Zonal Unit to the effect that M/s DUS and its associate companies i.e., M/s GGF, M/s JSF, M/s JSPL are engaged in manufacture of ayurvedic medicines by way of packing-repacking and labelling-relabeling and clearing them clandestinely without payment of Central Excise Duty, searches were conducted at various premises of the said Firms on 13.04.2018. It came to light that there were

about fifty five (55) dealers of the firm situated all over India. It was found that M/s DUS was not registered with Central Excise Department as required under Central Excise Act, 1940 and that the companies were involved in evasion of Central Excise Duty by way of:

“1. Manufacturing and clearing goods falling under Chapter 30 of the First Schedule of the Central Excise Tariff Act, 1985 without payment of Central Excise duty as the process of packing-repacking and labelling relabelling of Ayurvedic Medicines amounted to manufacture as per Section 2(f) of the Central Excise Act, 1944 read with Chapter Note 6 of the Chapter 30 of the First Schedule of the Central Excise Tariff Act, 1985.

2. Collecting the Central Excise Duty and not depositing the same in the Government Exchequer as the manufactured finished goods were sold on Maximum Retail Price (MRP) as per Section 4A of the Central Excise Act, 1944 in respect of goods falling under Chapter 30 of the First Schedule of the Central Excise Tariff Act, 1985.”

3.2. Statement of Manish Grover was recorded on 13.04.2018 under Section 14 of Central Excise Act, 1944. He stated that he along with his wife Bhawna Grover were partners in the Firm(s) as mentioned in foregoing paras and Bhawna Grover was the proprietor of M/s GGF and M/s JSF. Details of the statement are succinctly mentioned in show cause notice dated 28.09.2020 in para 3.5.1 and is not being reproduced for the sake of brevity. Incriminating documents in physical and soft data during the search were found. Panchnama dated 13.04.2018, RUD No. 12 was prepared.

3.3. Statement of Jitendra Kumar, Branch Manager of M/s DUS was recorded during the search at M/s DUS at Mumbai. Detail of his statement is duly mentioned in para 3.7, 3.7.1 of show cause notice dated 28.09.2020. Same is again not reproduced for the sake of brevity, but it is to be noted that

Jitendra Kumar stated in regard to preparation of tax invoices in respect of goods received from head office prior to 2018, that no proper tax documents were prepared by head office for delivery of medicines to Mumbai branch. Goods so delivered were accompanied by *kachha* challans only and Nakul Mittal had instructed not to keep such challans once the goods were received. In accordance thereto, the challans were destroyed after receipt of goods but some of the *kachha* challans (all dated 27.11.2017) were available. Subsequent to January 2018, they were receiving goods from their head office on GST invoices. Details of total collection at Mumbai Branch was being reported to Nakul Mittal at Headquarters on daily basis.

3.4. During search, uncounted Indian Currency to the tune of Rs. 1,22,06,500/- was recovered from the residence of Manish Grover at Chandigarh and Rs.15,59,060/- was recovered and resumed from SCO No. 11-12, Kalgidhar Enclave, Baltana, Shimla Highway, Zirakpur, Punjab. It was found that there were 55 dealers of the companies situated all over India who were working on commission basis and they would place their orders to Nakul Mittal's account head and it was on his instructions that the required product, medicines kits, packages were issued to dealers. Invoices/bills thereof to the dealers were issued by Nakul Mittal. Statement of Manish Grover was recorded on 16.04.2018 (RUD No. 22) under Section 14 of the Central Excise Act, 1944 and again on 17.05.2018 (RUD No. 23) and subsequently on 09.08.2018 (RUD No. 24).

3.5. Manish Grover on 09.08.2018 *inter alia* stated that cash of Rs. 1,22,06,500/- recovered from his residence and office respectively may be adjusted against their Central Excise Duty liability and that M/s DUS had taken Central Excise Registration and had also deposited Rs.25,00,000/- of basic Central Excise Duty vide challan dated 09.08.2018. In anticipation of

Central Excise Duty Liability during period of investigation, Manish Grover deposited a sum of Rs.2,50,53,608/- as his Central Excise Duty Liability towards manufacture and sale of Ayurvedic medicines.

3.6. Nakul Mittal, however, did not appear pursuant to issuance of repeated summons. It was put to the noticees that M/s DUS or any of the associates companies were never registered under Central Excise Act 1944 and had not paid any Central Excise Duty on manufacturing done by way of packing, repacking, labelling, relabeling during packing of medicines in kit form and they indulged in surreptitious accounting of sales by booking only those supplied as sales where customers asked for the bills, thereafter, this sale was also shown as 10% of the sale value in their books of accounts and lastly a deposit of only 20% of the cash was made in bank accounts. All the products were MRP based and they were selling these to customers/patients on this price only. Invoices issued to customers/patients contained the remark 'including tax'. Therefore, the tax was collected but was not deposited by them in the government exchequer. Para 15 of show cause notice dated 28.09.2020 reads as under:-

“15. In view of the inquiries discussed supra, discussions in the foregoing paras and depositions, it appears that there are overwhelming evidences to support the following that:

1. M/s GGF and M/s DUS are engaged in the manufacture of Ayurvedic Medicines products falling under Chapter 30 the First Schedule to Central Excise Tariff Act, 1985 by way of packing-repacking and labelling-relabeling which is construed as 'manufacture' as per Section 2(f) of the Central Excise Act, 1944 read with Chapter Note 6 of Chapter 30 of the Central Excise Tariff.
2. They were not registered with the Central Excise department. Only during the investigations by the DGGI,

M/s DUS got itself registered with the Central Excise Department vide, Central Excise registration no. AALFD8539NCEO01 and also voluntarily deposited Central Excise duty of Rs. 2,50,53,608/- (RUD No. 32) as detailed in Para 6.4 of the Show Cause Notice, as its liability towards the manufacture and sale of Ayurvedic medicines in the form of 'Kits' in the Central Excise Registration of M/s DUS.

3. M/s GGF and M/s DUS have been manufacturing and clearing medicaments in 'Kit' form which are used in Ayurvedic systems and are sold under their brand name and not under the names specified in the authoritative books specified in the First Schedule to the Drugs and Cosmetics Act, 1940 (23 of 1940) or pharmacopeia, and therefore these were covered under Notification no. 01/2013-C.E.(N.T.) dated 01.03.2013 under Section 4A of the Central Excise Act, 1944 under M.R.P. valuation from 01.03.2013 onwards.

4. M/s GGF and M/s DUS have also been directing M/s Gagan Pharmaceuticals, the main manufacturer, to issue invoices in the name of his dealers/franchisees viz. M/s Naren Trading Co., M/s New Raj Enterprises, M/s Peace Media Broadcaster, M/s S. B. Marketing, M/s Vinayak Associates, M/s Wass Enterprises etc. directly and also, through its trading firm M/s SBS. However, these dealers/franchisees are receiving the medicines in 'Kit' form only indicating that in the Books of Accounts these sales are not being shown by M/s GGF and M/s DUS and these sales have to be taken into account by this office for assessing the Central Excise Duty liability of M/s GGF and M/s DUS.

5. On the basis of discussion held in above paras, the Central Excise duty is calculated as follows:

a) M/s GGF and M/s DUS is required to pay Central Excise Duty on clearance of goods which were re-packed or relabeled, as repacking and re-labeling of goods

amounts to manufacture as per Section Note of Chapter-30.

b) The abatement of 35% is applicable as per Notification No. 49/2008 dated 01.03.2008 as amended, only in the case where the valuation method as per Section 4A is followed for calculation of Central Excise Duty.

c) M/s GGF and M/s DUS are liable to pay Central Excise Duty @6% on the sales of non-classical items.”

3.7. Show cause notice dated 28.09.2020, contained the entire details and material especially from Clause 19.2 to Clause 36, against the petitioners which was being relied upon. Pursuant to this notice which was served upon the petitioners and M/s DUS and M/s GGF through speed-post, petitioners appeared before the Principal Commissioner through their counsel.

3.8. Principal Commissioner upon considering the facts and circumstances as well as the stand of petitioners found infractions on the part of petitioners as alleged. It was found from the evidence on record that M/s GGF and M/s DUS were manufacturing Ayurvedic medicines falling under Chapter of the First Schedule to Central Excise Tariff Act, 1985 as the process of packing, repacking and labelling and relabeling of Ayurvedic medicines amounted to manufacture in terms of Section 2 (f) of Central Excise Act, 1944 read with Chapter Note 6 of Chapter 30 of the Central Excise Tariff Act, 1985. It is observed in order dated 05.11.2024 that all the goods manufactured by noticees for the period of 01.03.2015 to 30.06.2017 are eligible for 35% abatement on the MRP in terms of S. No. 30 and 125 of Notification No. 49/2008-C.E.(N.T.), dated 24.12.2008 (as amended) which are medicaments except the goods as detailed therein and further that normal rate of duty on medicaments under ayurvedic, unani, siddha, homeopathic or biochemic system as specified under Central Excise Tariff Act 1985 is 6%

ad valorem for Chapter Heading 3004. Evidence on the basis of which MRP of the products and quantity of the goods cleared by the noticees have been ascertained was mentioned in detail in order dated 05.11.2024. Findings as recorded in order dated 05.11.2024 read as under:-

“4.20 Based on the above facts and by taking into consideration the discussions in previous paras, I find that M/s GGF, thus, has cleared finished goods manufactured by them during the period 01.03.2015 to 20.01.2016, valued at Rs. 14,83,70,040/- (abated value), involving Central Excise Duty of Rs. 89,02,203/- (Annexure-J to the SCN) which is liable to be recovered from them under Section 11A(4) of the Central Excise Act, 1944 read with Section 174(2) of Central Goods & Services Tax Act, 2017.

Further, I find that M/s DUS, thus, has cleared finished goods manufactured by them during the period 21.01.2016 to 30.06.2017, valued at Rs. 116,04,53,190/- (abated value), involving Central Excise Duty of Rs. 6,96,27,192/- (Annexure-J to the SCN) which is liable to be recovered from them under Section 11A(4) of the Central Excise Act, 1944 read with Section 174(2) of Central Goods & Services Tax Act, 2017

4.20.1 Central Excise Duty is leviable on the manufacturing activity i.e, packing-repacking, labeling-relabelling undertaken by M/s GGF and M/s DUS, as discussed above, under Section 3 of Central Excise Act, 1944 but by virtue of their acts and omissions, they did not pay the Central Excise Duty on the clearance of Ayurvedic Medicines in 'Kit form'. The same is held to be recoverable from them under Section 11A(4) of Central Excise Act, 1944 read with Section 174(2) of CGST Act, 2017.

4.20.2 Further from the evidences adduced hereinabove, the scrutiny of records recovered under Panchnamas dated 13.04.2018 and statements recorded during the investigations and record submitted to the Department by M/s GGF and M/s

DUS, it is established that that M/s GGF and M/s DUS have contravened various statutory provisions of the Central Excise Act, 1944 and the Central Excise Rules, 2002 with an intent to evade payment of Central Excise duty.

4.21 M/s God Grace Foundation and M/s Divya Upchar Sansthan have surreptitiously cleared finished goods without payment of Central Excise duty deliberately, willfully and with an intent to evade payment of Central Excise duty, and therefore, they, both, have contravened the statutory provisions of Rules 4, 5, 6, 8, 9, 10, 11 and 12 of the Central Excise Rules, 2002 and the provisions of the Central Excise Act, 1944 as follows:-

i. They contravened the provisions of Section 3(1) of Central Excise Act, 1944 read with Rules 4 and 8 of the Central Excise Rules, 2002 inasmuch as they have failed to pay Central Excise duty of Rs. 7,85,29,395/- on gross value of sales valued at Rs. 130,88,23,230/- [Abated Taxable Turnover as detailed under Annexure-), to the Show Cause Notice) during the period 01.03.2015 to 30.06.2017, as required under Rules 4 and 8 of the Central Excise Rules, 2002.

ii. They contravened the provisions of Rule 5 of Central Excise Rules, 2002 in as much as they failed to determine the proper rate of duty on the day of clearance as applicable in their case.

iii. They contravened the provisions of Rule 6 of the Central Excise Rules, 2002 inasmuch as they failed to determine the Central Excise duty payable on the said excisable goods (Ayurvedic Medicines) which they had cleared as required under Rule 6 of the Central Excise Rules, 2002 and which the assessee himself was liable to correctly assess.

iv. They contravened the provisions of Rule 9 of Central Excise Rules, 2002 read with Section 6 of the Central Excise Act, 1944 by engaging in the manufacture, production and

storage of any excisable goods without having applied for the Central Excise registration.

v. They contravened the provisions of Rule 10 of the Central Excise Rules, 2002 inasmuch as they failed to maintain true and correct accounts, as required under Rule 10 of the Central Excise Rules, 2002 [As detailed under Annexure- J to the Show Cause Notice] which they had manufactured and cleared without payment of Central Excise duty payable thereon, during the period 01.03.2015 to 30.06.2017.

vi. They contravened the provisions of Rule 11 of the Central Excise Rules, 2002 inasmuch as they failed to issue proper and valid Central Excise invoices in respect of the said finished goods as required under Rule 11 of the Central Excise Rules, 2002 for the said excisable goods which were cleared without payment of Central Excise duty.

vii. They contravened the provisions of Rule 12 of the Central Excise Rules, 2002 inasmuch as they failed to file the periodical returns showing the correct quantity and value of excisable goods manufactured & cleared and the duty payable & paid thereon, as required under Rule 12 of the Central Excise Rules, 2002.

4.22 I further observe that in the regime of self removal and self assessment procedure under Central Excise laws, every assessee is free from official controls with an attendant obligation to assess his Central Excise duty liability correctly, at the time of clearance of excisable goods from the factory premises and make payment of the same. Thus, the department has reposed abundant faith in the assessee believing that they would discharge their liabilities properly. However, M/s GGF and M/s DUS failed in their duties and responsibilities under the Central Excise Act, 1944 and the Rules made there under inasmuch as they wilfully & consciously removed excisable goods manufactured by them with a malafide intent to evade Central Excise duty. Since, the finished goods were cleared by

them on MRP., they had in fact collected all the leviable taxes and not deposited the same in the Government exchequer. This conscious and willful act of Mis GGF and M/s DUS would have gone unnoticed but for investigation initiated by the DGGI. Moreover, M/s GGF and M/s DUS masterminded the whole operation of tax evasion. The modus operandi adopted was aimed at showing sales in many firms and not obtaining the Central Excise Registration so that they would not have to comply with the provisions of the Central Excise Act, 1944. This was apparently done with a clear intent to evade payment of duty by Mis GGF and M/s DUS. Therefore, the extended period of limitation as envisaged under the proviso to Section 11A(4) of the Central Excise Act, 1944 has been rightly invoked in this case. All the goods so manufactured and cleared without payment of Central Excise duty are liable for confiscation and Shri Manish Grover was the person concerned with producing, keeping, storing, removing, selling, accounting, etc. of the excisable goods which he knew and had reason to believe that the same were liable for confiscation and therefore, I find that these acts of contravention constitute offences of the nature and type as described in clauses (a), (b), (c) & (d) of Rule 25 of Central Excise Rules, 2002, read with Section 11AC of Central Excise Act, 1944.

4.23 I further observe that Shri Manish Grover and Mrs. Bhawna Grover, Partners in M/s DUS, together carried out the business for both the firms. They were together in carrying out evasion of Central Excise duty. Though Sh. Manish Grover was the authorized signatory of M/s DUS, this fact cannot undermine the fact that the other partner Mrs. Bhawna Grover was also actively involved in the business. They incorporated a marketing firm M/s DUS, with both of them as partners with a mala-fide intent to evade Central Excise Duty. They removed the goods without payment of Central Excise duty by not registering M/s DUS with the Central Excise Department. All the goods so manufactured and cleared without payment of

Central Excise duty are held to be liable for confiscation and both being the partners are held to be responsible and concerned with producing, keeping, storing, removing, selling, accounting, etc. of the excisable goods which they knew and had reason to believe were liable for confiscation. Both the partners also tried to hamper the investigation proceedings by deliberately not cooperating with the department and tried to delay and divert the investigations by not producing proper records. Therefore through this entire act, they are held individually liable for a penalty under Rule 26 of the Central Excise Rules, 2002.

4.23.1 I further observe that Shri Nakul Mittal, Accountant, carried out the accounting of the firms of Shri Manish Grover. He was also hand-in-glove with Shri Manish Grover in carrying out evasion of Central Excise duty. As per the statements recorded, he was the key- person who always gave directions to other staff working at different locations of M/s DUS to destroy the records/invoices/kachaa challans in order to remove the goods without payment of Central Excise duty. All the goods so manufactured and cleared without payment of Central Excise duty are held to be liable for confiscation and Shri Nakul Mittal was responsible and concerned with producing, keeping, storing, removing, selling, accounting, etc. of the excisable goods which he knew and had reason to believe were liable for confiscation. Shri Nakul Mittal also tried to hamper the investigation proceedings by deliberately not cooperating with the department and tried to delay and divert the investigations by not appearing to tender statement. Therefore through these acts, he is held liable for a penalty under Rule 26 of the Central Excise Rules, 2002.

4.24 In view of discussion and findings above, Central Excise duty amounting to Rs. 89,02,203/- (Rs. Eighty Nine Lakhs Two Thousand Two Hundred Three Only) is held to be recoverable from M/s God Grace Foundation under Section 11A(4) of the Central Excise Act, 1944 along with interest under Section 11AA of the Central Excise Act, 1944 read with

Section 174 (2) of the Central Goods and Services Tax Act, 2017. Further for the aforesaid acts and omissions with intent to evade payment of duty to the Govt. exchequer, M/s GGF is also held liable to penal action under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of the Central Excise Rules, 2002 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017.

4.25 Central Excise duty amounting to Rs. 6,96,27,192/- (Rs. Six Crores Ninty Six Lakhs Twenty Seven Thousand One Hundred Ninty Two Only) is held to be recoverable from M/s Divya Upchar Sansthan under Section 11A(4) of the Central Excise Act, 1944 along with interest under Section 11AA of the Central Excise Act, 1944 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017. Further for the aforesaid acts and omissions with intent to evade payment of duty to the Govt. exchequer, M/s DUS is held liable to penal action under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of the Central Excise Rules, 2002 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017.”

3.9. Operative part of order dated 05.11.2024 reads as under:-

“4.26 In view of discussion and findings above, I pass the following order-

ORDER

a. Central Excise duty amounting to Rs. 89,02,203/- (Rs. Eighty Nine Lakhs Two Thousand Two Hundred Three Only) is confirmed and ordered to be recovered from M/s God Grace Foundation under the proviso to Section 11A(4) of the Central Excise Act, 1944 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017 by invoking the extended period of limitation along with interest under Section 11AA of the Central Excise Act, 1944 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017;

- b. for the goods listed in Annexure-A, D, G, H which were manufactured by the M/s God Grace Foundation valued Rs. 14,83,70,040/- (Rupees Fourteen Crores Eighty Three Lakhs Seventy Thousand Forty Only) and which were already cleared clandestinely by M/s God Grace Foundation, penalty of Rs. 89,02,203/- (Rs. Eighty Nine Lakhs Two Thousand Two Hundred Three Only) is imposed under Rule 25(1)(a) of the Central Excise Rules, 2002 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017;
- c. penalty amounting to Rs. 89,02,203/- (Rs. Eighty Nine Lakhs Two Thousand Two Hundred Three Only) is imposed upon the M's God Grace Foundation under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of the Central Excise Rules, read with Section 174 (2) of the Central Goods and Services Tax Act, 2017;
- d. Central Excise duty amounting to Rs. 6,96,27,192/- (Rs. Six Crores Ninty Six Lakhs Twenty Seven Thousand One Hundred Ninty Two Only) is confirmed and ordered to be recovered from M/s Divya Upchar Sansthan under the proviso to Section 11A(4) of the Central Excise Act, 1944 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017 by invoking the extended period of limitation along with interest under Section 11AA of the Central Excise Act, 1944 read with Section 174, (2) of the Central Goods and Services Tax Act, 2017;
- e. the amount of Rs. 2,50,53,608/- (Rs. Two Crores Fifty Lakhs Fifty Three Thousand Six Hundred Eight Only) already paid by M/s Divya Upchar Sansthan vide challan dated 09.08.2018, 13.08.2018, 01.10.2018, 04.10.2018, 08.10.2018, 29.10.2018 and 13.03.2019 during the course of investigations, is ordered to be appropriated against the Central Excise duty confirmed at (d) above;
- f. for the goods listed in Annexure-A, B, C, D, E, F, G and H which were manufactured by M/s Divya Upchar Sansthan valued Rs. 116,04,53,190/- (Rupees One Hundred Sixteen Crores Four Lakhs Fifty Three Thousand One Hundred Ninty

Only)and which were already cleared clandestinely by M/s Divya Upchar Sansthan, penalty amounting to Rs.6,96,27,192/- (Rs. Six Crores Ninty Six Lakhs Twenty Seven Thousand One Hundred Ninty Two Only) is imposed under Rule 25(1)(a) of the Central Excise Rules, 2002 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017;

g. penalty amounting to Rs. 6,96,27,192/- (Rs. Six Crores Ninty Six Lakhs Twenty Seven Thousand One Hundred Ninty Two Only) is imposed upon M/s Divya Upchar Sansthan under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of the Central Excise Rules, 2002 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017;

h. In view of omissions and commissions discussed hereinabove, Penalty amounting to Rs. 7,85,29,395/-(Rs. 6,96,27,192/- + Rs.89,02,203/-)is imposed upon Shri Manish Grover, Prop. of M/s GGF &Partner of M/s DUS and mastermind of this convulated scheme to defraud the revenue and evade Central Excise duty under Rule 26 of the Central Excise Rules, 2002 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017.

i. In view of omissions and commissions discussed hereinabove, Penalty amounting to Rs. 6,96,27,192/ is imposed upon Smt Bhawna Grover, Partner of M/s DUS and active collaborator of her husband Sh. Manish Grover's scheme to defraud the revenue and evade Central Excise duty under Rule 26 of the Central Excise Rules, 2002 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017.

j. In view of omissions and commissions discussed hereinabove, Penalty amounting to Rs. 7,85,29,395/-(Rs. 6,96,27,192/- + Rs. 89,02,203/-) is imposed upon Shri Nakul Mittal, Accountant, M/s DUS and M/s GGF, under Rule 26 of the Central Excise Rules, 2002 read with Section 174 (2) of the Central Goods and Services Tax Act, 2017 for his active role in evasion of Central Excise duty, including unaccounted sales.”

4. Aggrieved therefrom, present writ petitions have been filed by Bhawna Grover, Manish Grover and Nakul Mittal.

5. Mr. Vineet Kumar Jakhar, learned counsel representing all the petitioners vehemently argued that impugned order has been incorrectly passed. Present writ petitions have been filed by petitioners in their personal capacity only whereas in respect to the firms in question, remedies as available in accordance with law have been availed of. It was submitted that imposition of penalty upon each of the petitioners under Rule 26 of the Central Excise Rules, 2002 read with 174 (2) of Central Goods and Services Tax Act, 2017, are absolutely illegal and arbitrary being in complete violation of principles of natural justice. It was contended that petitioners should have been given separate notice in respect to such penalty. Moreover, petitioners Bhawna Grover and Nakul Mittal were never heard by the authority before levying such heavy penalty upon them in their individual capacity. These proceedings are quasi criminal in nature therefore the authority should have given an opportunity of personal hearing to petitioners in this respect. Moreover, penalty imposed suffers from vice of arbitrariness and is clearly disproportional. Insofar as petitioner Bhawna Grover is concerned, it was contended that she is merely a sleeping partner in the firms and entire operations were carried out by her husband Manish Grover and she was not aware of the same. Thus, she cannot be held personally liable and the penalty as above imposed upon her is absolutely illegal. In respect to petitioner Nakul Mittal, it was contended that he was a mere employee of the firm, thus saddling him with the penalty in question is clearly illegal and arbitrary. It was thus prayed that all the three writ petitions be allowed as prayed for.

6. Learned counsel for respondent in all the writ petitions has vehemently opposed the same while refuting the arguments raised on behalf of petitioners. It was submitted that due opportunity of hearing was afforded to all the petitioners, therefore they cannot raise the ground of violations of principles of natural justice and there is no question of issuing a separate notice or giving a separate opportunity of hearing in respect to imposition of penalty. Moreover, present writ petitions should not be entertained as impugned order dated 05.11.2024 is appealable in terms of Section 35-B of Central Excise Act, 1944. It was further submitted that petitioners have concealed the factum of filing of a DB Civil Writ Petition No. 8526 of 2022 by petitioner Manish Grover, Bhawna Grover along with M/s DUS before the High Court of Rajasthan challenging show cause notice dated 28.09.2020. The said writ petition was dismissed by the High Court of Rajasthan on 07.08.2023 being not maintainable on account of lack of territorial jurisdiction.

7. It was contended that petitioners have tried their level best to scuttle and delay proceedings inasmuch as earlier CWP No. 24415 of 2024 was filed for permission to cross-examine some of the witnesses including Nakul Mittal. This writ petition was dismissed on 23.09.2024 finding no ground to interfere. It is recorded in order dated 23.09.2024 that an attempt was being made by petitioners to delay proceedings. Present writ petition, it was submitted should thus be dismissed.

8. We heard learned counsel for parties at length and have carefully perused all the files.

9. It is undeniable that order dated 05.11.2024 is indeed an appealable order in terms of Section 35-B of the Central Excise Act, 1944 which provides for an appeal to be filed within three months from the date of

its communication. Copy of this order was duly served upon the petitioners through registered AD/speed post as has been mentioned in the order itself. Admittedly, as per case of petitioner's themselves, remedies in accordance with law have been availed, in so far as the firm(s) are concerned. Though, learned counsel for petitioners vociferously argued that there is violation of principles of natural justice, therefore the present writ petition should be entertained, we do not find any such extraordinary or exceptional ground or any jurisdictional error which calls for interference of this Court in exercise of jurisdiction under Article 226 of the Constitution of India at this stage. It is apparent from a bare reading of order dated 05.11.2024 that show cause notice was duly issued to all the three petitioners who were duly represented by the same counsel namely Mr. Gurminder Singh Phull. Written submissions were submitted on behalf of all petitioners. Petitioners-Bhawna Grover and Manish Grover, even took a stand that Nakul Mittal was an informant in this case and his statement cannot be relied upon without cross-examination, whereas no such statement of Nakul Mittal was ever recorded during investigation as he did not appear before Investigating Agency inspite of repeated summons. It bears reiteration that even as on today all petitioners including Nakul Mittal are represented by the same counsel. We do not find any merit in the argument that as penalty imposed is irrational and erroneous, this by itself is sufficient ground for interference by this Court.

10. At this stage, it is relevant to refer to judgment of Hon'ble the Supreme Court in **United Bank Of India vs Satyawati Tondon & Ors, AIR 2010 Supreme Court 3413**. While dealing with a matter under SARFAESI Act, Hon'ble the Supreme Court held that High Court should ordinarily not entertain a petition under Article 226 of the Constitution of

India, if an effective alternative remedy is available. Relevant portion of said decision reads as under:-

“17. There is another reason why the impugned order should be set aside. If respondent No.1 had any tangible grievance against the notice issued under Section 13(4) or action taken under Section 14, then she could have availed remedy by filing an application under Section 17(1). The expression ‘any person’ used in Section 17(1) is of wide import. It takes within its fold, not only the borrower but also guarantor or any other person who may be affected by the action taken under Section 13(4) or Section 14. Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective. Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, High Court must insist that before availing remedy under Article 226 of the Constitution, a person must

exhaust the remedies available under the relevant statute.”

11. It is thus clearly held by Hon’ble the Supreme Court that rule of non-interference in the wake of alternate remedy applies with greater vigour in matters invoking recovery of taxes, cess, fees and other types of public money. Learned counsel for respondents during the course of hearing has referred to acknowledgement of show cause notices dated 07.10.2020 by all the petitioners. Reference was also made to record of personal hearing dated 29.08.2020 before Principal Commissioner.

12. Learned counsel for petitioners was unable to point out any jurisdictional error or any other exceptional or extraordinary ground which calls for interference in these writ petitions filed in April 2025 for challenging order dated 05.11.2024 at this stage. All arguments as raised before us are very well within the realm of consideration by the Appellate Authority as provided.

13. No other argument was raised.

14. All the writ petitions are accordingly dismissed with liberty to petitioners to avail the remedy(ies) as may be available to them in accordance with law. It is clarified that there is no expression of opinion on the merits of the matter and observations in the present decision are for limited purpose of deciding present writ petitions.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

September 24, 2025.

s.khan

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.