



Lawgics

By Nidhi, Advocate



Judgment No.: 201
Dt.: 23-05-2025

<https://chat.whatsapp.com/le4VxuhvToe76Us7e5>
CLICK TO JOIN
WHATSAPP GROUP

Judgment Deals With

The Delhi High Court dismissed the writ petition involving fraudulent ITC claims, directing the petitioner to pursue appellate remedy u/s 107 of the CGST Act.

Section/Rule	Section 107
Authority	Delhi High Court
Case Name	Banson Enterprises & Anr. VS Assistant Commissioner CGST & Ors.
Dated	15th May, 2025
Citation	W.P. (C) 6503/2025

Brief facts of the case:

The petition challenges the **Order-in-Original dated 02.02.2025** based on a **Show Cause Notice (SCN) dated 03.08.2024**. A **search** was conducted, and statements were recorded including that of one Director admitting to the issuance of fake invoices during the Central Excise period. It was alleged that the Petitioner **issued goods-less invoices** to enable fraudulent **Input Tax Credit (ITC)** claims amounting to Rs. **1.85 crore**.

Contentions of the Petitioner:

SCN was issued by unauthorized officer, thus, violates Rule 142(1)(a) of CGST Rules. **No pre-consultation** as required under Rule 142(1A) of CGST Rules was issued. **Consolidated SCN for multiple financial years** was issued and challenge to such consolidated action is pending in a separate matter (Quest Infotech case).

Contentions of the Department:

The **impugned order is appealable**, hence writ is not maintainable. The **Petitioner's Director admitted** to allegations. **Natural justice was followed** as the Petitioner received the SCN, filed a reply, and availed of personal hearing. Reliance must be made on SC judgments and Allahabad HC rulings emphasizing **alternate remedy u/s 107 CGST Act**.

Findings and Decision of the Court:

The Court refused to interfere under **writ jurisdiction**, citing:

- No breach of fundamental rights or principles of natural justice.
- Availability of a **statutory remedy (appeal)** under **Section 107 CGST Act**.

The Court noted that the Allegations involve **serious misuse of ITC**, requiring **fact-based adjudication**, not suited for writ jurisdiction. Thus, the Petitioner was granted **liberty to file appeal**, and if filed with pre-deposit, the **appeal shall not be dismissed on limitation**.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.