



\$~73

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

*Date of decision: 21<sup>st</sup> January, 2026*

+ **W.P.(C) 843/2026 & CM APPL. 4124/2026**

**ANIL KUMAR**

SON OF SHRI REWAR MAL

E-5, BUDH NAGAR, INDERPURI, CENTRAL DELHI,  
DELHI, 110012

TRADE NAME: N.S. SUPER MART

NAME: MR. ANIL KUMAR

SON OF SHRI REWAR MAL

[THROUGH ITS AUTHORIZED SIGNATORY]

**.....PETITIONER**

Through: Ms. Priyanka Rathi and  
Mr. Ashwini Chandrasekaran,  
Advs.

versus

**SALES TAX OFFICER CLASS II/AVATO WARD 103  
ZONE 9 DELHI**

DEPARTMENT OF TRADE AND TAXES, GNCTD, 10TH  
FLOOR,

VYAPAR BHAWAN, I.P. ESTATE, NEW DELHI – 110002

**.....RESPONDENT**

Through: Appearance not given

**CORAM:**

**HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE**

**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**JUDGMENT (ORAL)**



**NITIN WASUDEO SAMBRE, J.**

1. Heard. By consent, the matter has been taken up for final disposal at this stage.

2. The prayer of the present petition reads as under:

*“(i) To issue a writ of Certiorari or any other appropriate writ, quashing the Show Cause Notice With Reference No. ZD071223082410T dated 15.12.2023 issued by the Ld. Respondent;*

*(ii) To issue a writ of Certiorari or any other appropriate writ, quashing the Impugned Order bearing reference number ZD070424006580R dated 03.04.2024 passed by the Ld. Respondent;*

*(iii) To issue order(s), direction(s), writ(s) or any other relief(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice;*

*(iv) Pass any other order(s) as this Hon'ble Court may deem fit and more appropriate in order to grant relief to the petitioner.”*

3. Ms. Priyanka Rathi, learned counsel for the petitioner submits that the impugned show cause notice dated 15<sup>th</sup> December, 2023, which proposes a tax demand of Rs.10,91,910/- on account of (a) alleged excess Input Tax Credit on account of mismatch in GSTR-2A and GSTR-3B; (b) non-reversal of Input Tax Credit relating to exempt supplies; and (c) Input Tax Credit claimed in respect of dealers whose registrations had been cancelled, was uploaded on the GST portal under the “Additional Notices and Orders” tab. It is submitted that such mode of uploading did not come to the knowledge of the petitioner and, consequently, the petitioner remained unaware of the



issuance of the said notice.

4. Learned counsel further submits that on account of such non-service of the impugned show cause notice, the petitioner was deprived of an opportunity to file an effective and proper reply thereto. Despite the aforesaid defect in service, the impugned order-in-original dated 3<sup>rd</sup> April, 2024 was passed solely on the ground of non-prosecution, without affording the petitioner a reasonable opportunity of being heard. It is contended that it is a settled position of law that where a notice or order is served merely by uploading the same under the “*Additional Notices*” tab, resulting in absence of knowledge to the assessee, such notice and the consequential order are vitiated and liable to be set aside.

5. In support of the aforesaid contention, it is urged that on the additional tab, the show cause notice and the reminder were sent and as such there was no substantial service of notice on the petitioner which resulted in denial of opportunity of hearing.

6. It is claimed that the petitioner is willing to appear before the respondent by submitting their reply if an opportunity is given and the respondent be directed to pass a reasoned order after granting personal hearing.

7. It is further urged that the issue is squarely covered by the Division Bench Judgment of this Court in paragraph no. 4 of judgment passed in **W.P.(C) 2727/2025, Neelgiri Machinery vs. Commissioner Delhi GST**. The paragraph no. 4 of the said judgment is reproduced hereinbelow:

*“4. The challenge in the present petition is similar to a batch*



of petitions wherein, *inter alia*, the impugned notifications were challenged. **W.P.(C) No. 16499/2023** titled **DJST Traders Private Limited v. Union of India & Ors.** was the lead matter in the said batch of petitions. On 22<sup>nd</sup> April, 2025, the parties were heard at length *qua* the validity of the impugned notifications and accordingly, the following order was passed:

“4. Submissions have been heard in part. The broad challenge to both sets of Notifications is on the ground that the proper procedure was not followed prior to the issuance of the same. In terms of Section 168A, prior recommendation of the GST Council is essential for extending deadlines. In respect of Notification no.9, the recommendation was made prior to the issuance of the same. However, insofar as Notification No. 56/2023 (Central Tax) the challenge is that the extension was granted contrary to the mandate under Section 168A of the Central Goods and Services Tax Act, 2017 and ratification was given subsequent to the issuance of the notification. The notification incorrectly states that it was on the recommendation of the GST Council. Insofar as the Notification No. 56 of 2023 (State Tax) is concerned, the challenge is to the effect that the same was issued on 11<sup>th</sup> July, 2024 after the expiry of the limitation in terms of the Notification No. 13 of 2022 (State Tax).

5. In fact, Notification Nos. 09 and 56 of 2023 (Central Tax) were challenged before various other High Courts. The Allahabad Court has upheld the validity of Notification no. 9. The Patna High Court has upheld the validity of Notification no. 56. Whereas, the Guwahati High Court has quashed Notification No. 56 of 2023 (Central Tax).

6. The Telangana High Court while not delving into the vires of the assailed notifications, made certain observations in respect of invalidity of Notification No. 56 of 2023 (Central Tax). This judgment of the Telangana High Court is now presently under



*consideration by the Supreme Court in S.L.P No 4240/2025 titled M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors. The Supreme Court vide order dated 21<sup>st</sup> February, 2025, passed the following order in the said case:*

*“1. The subject matter of challenge before the High Court was to the legality, validity and propriety of the Notification No. 13/2022 dated 5-7-2022 & Notification Nos. 9 and 56 of 2023 dated 31-3-2023 & 8-12-2023 respectively.*

*2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 respectively.*

*3. These Notifications have been issued in the purported exercise of power under Section 168 (A) of the Central Goods and Services Tax Act. 2017 (for short, the "GST Act").*

*4. We have heard Dr. S. Muralidhar, the learned Senior counsel appearing for the petitioner.*

*5. The issue that falls for the consideration of this Court is whether the time limit for adjudication of show cause notice and passing order under Section 73 of the GST Act and SGST Act (Telangana GST Act) for financial year 2019-2020 could have been extended by issuing the Notifications in question under Section 168-A of the GST Act.*

*6. There are many other issues also arising for consideration in this matter.*

*7. Dr. Muralidhar pointed out that there is a cleavage of opinion amongst different High Courts of the country. 8. Issue notice on the SLP as also on the prayer for interim relief, returnable on 7-3-2025.”*

*7. In the meantime, the challenges were also pending before the Bombay High Court and the Punjab and Haryana High Court. In the Punjab and Haryana High*



*Court vide order dated 12th March, 2025, all the writ petitions have been disposed of in terms of the interim orders passed therein. The operative portion of the said order reads as under:*

*“65. Almost all the issues, which have been raised before us in these present connected cases and have been noticed hereinabove, are the subject matter of the Hon'ble Supreme Court in the aforesaid SLP.*

*66. Keeping in view the judicial discipline, we refrain from giving our opinion with respect to the vires of Section 168-A of the Act as well as the notifications issued in purported exercise of power under Section 168-A of the Act which have been challenged, and we direct that all these present connected cases shall be governed by the judgment passed by the Hon'ble Supreme Court and the decision thereto shall be binding on these cases too.*

*67. Since the matter is pending before the Hon'ble Supreme Court, the interim order passed in the present cases, would continue to operate and would be governed by the final adjudication by the Supreme Court on the issues in the aforesaid SLP4240-2025.*

*68. In view of the aforesaid, all these connected cases are disposed of accordingly along with pending applications, if any.”*

**8. The Court has heard ld. Counsels for the parties for a substantial period today. A perusal of the above would show that various High Courts have taken a view and the matter is squarely now pending before the Supreme Court.**

**9. Apart from the challenge to the notifications**



itself, various counsels submit that even if the same are upheld, they would still pray for relief for the parties as the Petitioners have been unable to file replies due to several reasons and were unable to avail of personal hearings in most cases. In effect therefore in most cases the adjudication orders are passed ex-parte. Huge demands have been raised and even penalties have been imposed.

10. Broadly, there are six categories of cases which are pending before this Court. While the issue concerning the validity of the impugned notifications is presently under consideration before the Supreme Court, this Court is of the prima facie view that, depending upon the categories of petitions, orders can be passed affording an opportunity to the Petitioners to place their stand before the adjudicating authority. In some cases, proceedings including appellate remedies may be permitted to be pursued by the Petitioners, without delving into the question of the validity of the said notifications at this stage.

11. The said categories and proposed reliefs have been broadly put to the parties today. They may seek instructions and revert by tomorrow i.e., 23rd April, 2025.”

The aforementioned judgment was further followed in *Etemad Cargo vs. Assistant Commissioner*, (2025) 31 Centax 189 (Del.) Centax 176 (Del.).

8. As against above, the petitioner's contentions are resisted by the learned counsel for the respondent on two forms:

(a) That the reasons furnished by the petitioner in support of the prayer clause is the failure of the professional advisor which





is a Chartered Accountant, in taking appropriate steps including that of intimating the petitioner about issuance of show cause notice and the reminder.

(b) An alternate remedy of appeal is provided.

9. Having gone through the set of documents and the pleadings in the writ petition and upon appreciating the findings recorded in the matter of *Neelgiri Machinery (supra)*, we are of the view that the petitioner has made out a case for remand for the following reasons:

(a) That the show cause notice and the reminders were uploaded on “*Additional Notice*” tab.

(b) The fact remains that the said tab was not open for operation for the petitioner and as such, there is a reason to believe that the petitioner was not served with the show cause notice as well as the reminder thereto.

10. Rightly so has been claimed by counsel for the petitioner that the issue is covered by the Division Bench judgment in the matter of *Neelgiri Machinery* which is further followed in *Etemad Cargo (supra)*.

11. That being so, we deem it appropriate to allow the present writ petition. Accordingly, we quash and set aside the impugned order-in-original dated 3<sup>rd</sup> April, 2024.

12. We permit the petitioner to submit its reply to the aforesaid show cause notice within a period of four weeks from today along with the written submissions.

13. The petitioner shall appear before the respondent for personal hearing on 23<sup>rd</sup> February, 2026. We expect the respondent to pass a reasoned order upon granting personal hearing to the petitioner within





2026:DHC:517-DB



a period of three months thereof.

14. Accordingly, the petition stands partly allowed and stands disposed of along with pending applications, if any.

15. Copy of this order be uploaded on the website.

**NITIN WASUDEO SAMBRE, J**

**AJAY DIGPAUL, J**

**JANUARY 21, 2026**  
**gs/ryp**