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

Date of Decision: 30th October, 2025

\+ **W.P.(C) 15532/2025 & CM APPL. 63556/2025**

M/S ACME INDIA .....Petitioner

Through: Ms. Richa Singh, Adv.

versus

DEPT OF TRADE AND TAXES (DELHI GST) .....Respondent

Through: Ms. Vaishali Gupta, Panel Counsel (Civil) GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the Show Cause Notice dated 17th May, 2024 *(impugned SCN)* as also the consequent impugned order dated 28th August, 2024 passed by the office of Sales Tax Officer Class II/ AVATO, Delhi *(hereinafter, 'the impugned order')* for the Financial Year 2019-20.

3. The impugned order has raised a total demand of Rs. 1,79,45,652/- against the Petitioner, in which tax amount is Rs. 92,88,903/- interest is Rs. 77,27,858/- and penalty is Rs. 9,28,891/-.

4. The present petition further challenges the *vires* of ***Notifications No.9/2023(Central)*** dated 31st March, 2023 *and* ***56/2023-Central Tax*** dated 28th December, 2023 *(hereinafter, 'impugned notification').*

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5. The challenge in the present petition is similar to a batch of petitions wherein *interalia*, the impugned notification was 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 22nd April 2025, the parties were heard at length *qua* the validity of the impugned notification 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 11th 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).*
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> *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.*

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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 21st 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

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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 SLP-4240-2025.*
>
> *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

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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."

6. The abovementioned writ petition and various other writ petitions have been disposed of by this Court on subsequent dates, either remanding the matters or relegating the parties to avail of their appellate remedies, depending upon the factual situation. All such orders are subject to further orders of the Supreme Court.

7. As observed by this Court in the order dated 22nd April 2025 as well, since the challenge to the above mentioned notification is presently under consideration before 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 challenge made by the Petitioner to the impugned notification in

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the present proceedings shall also be subject to the outcome of the decision of the Supreme Court.

8. However, in cases where the challenge is to the parallel State Notifications, the same have been retained for consideration by this Court. The lead matter in the said batch is ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

9. On facts, it is submitted by ld. Counsel for the Petitioner that in the present case, the impugned SCN dated 17th May, 2024 was duly replied to by the Petitioner *vide* reply dated 18th June, 2024. Thereafter, a reminder notice dated 26th July, 2024, for personal hearing, was also issued to the Petitioner. However, no personal hearing has been availed of by the Petitioner. Thus, it is the case of the Petitioner that the impugned order has been passed without hearing the Petitioner.

10. The Court has heard the parties and has perused the records. It is noticed that the impugned order arises from impugned SCN dated 17th May, 2024. A reply is seen to have been filed by the Petitioner on 26th July, 2024. An opportunity of personal hearing was given, but the same was not availed of by the Petitioner. The impugned order has thereafter been passed on 28th August, 2024.

11. Under these circumstances, the Court is of the opinion that the impugned order in the present petition does not warrant interference of this Court under writ jurisdiction.

12. Accordingly, the present petition is disposed of with liberty granted to the Petitioner to file an appeal under Section 107 of the Central Goods and Service Tax Act, 2017, before the Appellate Authority by 30th November, 2025, along with the requisite pre-deposit.

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13. The access to the portal shall be made available to the Petitioner within one week to download any documents which he may require. If the appeal is filed by 30th November 2025, along with pre-deposits, it shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

14. It is further made clear that the decision of the Appellate Authority shall be subject to the decision of 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.*** and of this Court in ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

15. Accordingly, the present writ petition is disposed of in above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

OCTOBER 30, 2025
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