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

Date of Decision: 13th November 2025

\+ **W.P.(C) 17249/2025 & CM APPL. 71042/2025**

PERFECT INDUSTRIES .....Petitioner

Through: Ms. Divya Prabha Singh and Mr. Akshay Allagh, Advs.

versus

GOODS AND SERVICE TAX OFFICER , DELHI DEPARTMENT OF TRADE AND TAXES, & ANR. .....Respondents

Through: Mr. Urvi Mohan, Adv. for GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The Petitioner- M/s Perfect Industries has filed the present petition under Articles 226 and 227 of the Constitution of India, *inter alia*, assailing the impugned order dated 30th December, 2023 passed by the Sales Tax Officer Class II/AVATO, Ward 63, Zone 6, Delhi (*hereinafter, 'impugned order'*). The present petition also challenges the Show Cause Notice dated 28th September, 2023 passed by the Sales Tax Officer Class II/Avato Ward 63, Zone 6, Delhi for the tax period July 2017 to March 2018 (*hereinafter, 'impugned SCN*').

3. Additionally, the present petition also challenges the *vires* of the following Notifications:

- ***Notification No.09/2023-Central Tax*** dated 31st March, 2023***;***
- ***Notification No.09/2023-State Tax*** dated 22nd June, 2023***;***
- ***Notification No. 56/2023- Central Tax*** dated 28th December, 2023***;***

and

- ***Notification No. 56/2023- State Tax*** dated 11th July, 2024

(hereinafter, 'the impugned notifications').

4. 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 22nd 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 11th July, 2024 after the expiry of the limitation in terms of the Notification No.13 of 2022 (State Tax).*
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> *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 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.*
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> *2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 respectively.*
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> *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").*
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> *4. We have heard Dr. S. Muralidhar, the learned Senior counsel appearing for the petitioner.*
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> *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.*
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> *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 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 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."

5. The abovementioned writ petition and various other writ petitions have been disposed of by this Court on subsequent dates, either remanding the matters of relegating the parties to avail of their appellate remedies, depending upon the fact situation. All such orders are subject to further orders of the Supreme Court in respect of the validity of the ***Notification No. 56/2023-Central Tax*** in ***S.L.P No 4240/2025*** titled ***M/s HCC-SEW-MEIL-AAG JV v.***

Assistant Commissioner of State Tax & Ors.

6. However, in cases where the challenge is to the parallel State Notifications, some of the cases 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.***

7. In the present case, the submission of the Petitioner, on facts, is that the impugned SCN dated 28th September, 2023, from which the impugned order arises, was uploaded on the *'Additional Notices Tab'*. The personal hearing was fixed on 7th November, 2023. However, the Impugned SCN was not brought to the knowledge of the Petitioner, due to which no reply was filed. Thereafter, the impugned order was issued on 30th December, 2023. It is submitted that the same was also uploaded on the *'Additional Notices Tab'*. Hence, the impugned order was not brought to the knowledge of the Petitioner, and was passed without providing the Petitioner with an opportunity to challenge the case on merits.

8. The Court has heard the parties. In fact, this Court in ***W.P.(C) 13727/2024*** titled ***'Neelgiri Machinery through its Proprietor Mr. Anil Kumar V. Commissioner Delhi Goods And Service Tax And Others'***, under similar circumstances where the SCN was uploaded on the *'Additional Notices Tab'* had remanded the matter in the following terms:

> *"6. Be that as it may, intention is to ensure that the Petitioner is given an opportunity to file its reply and is heard on merits and that orders are not passed in default. Since there is no clarity on behalf of the Department, this Court follows the order dated 9th September, 2024 in Satish Chand Mittal (Trade Name National Rubber Products) vs. Sales Tax Officer SGST, Ward 25-Zone 1 as also order dated 23rd December,*

2024 in Anant Wire Industries vs. Sales Tax Officers Class II/Avato, Ward 83 & Anr (W.P.(C) 17867/2024; DHC) where the Court under similar circumstances has remanded back the matter to ensure the Noticee/Petitioners get a fair opportunity to be heard. The order of the Court in Sathish Chand Mittal (Supra) reads as under:

"4. It is the petitioner's case that he had not received the impugned SCN and, therefore, he had no opportunity to respond to the same. For the same reason, the petitioner claims that he had not appear for a personal hearing before the Adjudicating Authority, which was scheduled on 17.10.2023 and later rescheduled to 30.11.2023 as per the Reminder.
5. The petitioner also states that the impugned SCN, the Reminder and the impugned order are unsigned.
6. Mr. Singhvi, the learned counsel appearing for the respondent, on advance notice,fairly states that the principal issue involved in the present case is squarely covered by the decisions of this Court in M/s ACE Cardiopathy Solutions Private Ltd. v. Union of India & Ors.: Neutral Citation No. 2024:DHC:4108-DB as well as in Kamla Vohra v. Sales Tax Officer Class II/ Avato Ward 52 : Neutral Citation No.2024:DHC:5108- DB.
7. He states that possibly, the petitioner did not had the access of the Notices as they were projected on the GST Portal under the tab 'Additional Notices & Orders'. He submits that the said issue has now been addressed and the 'Additional Notices & Orders' tab is placed under the general menu and adjacent to the tab 'Notices & Orders'.
8. In view of the above, the present petition is allowed and the impugned order is set aside.
9. The respondent is granted another opportunity to reply to the impugned SCN within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass such order, as it deems fit, after affording

the petitioner an opportunity to be heard. 10. The present petition is disposed of in the aforesaid terms. 11. All pending applications are also disposed of."

7. The impugned demand orders dated 23rd April, 2024 and 5th December, 2023 are accordingly set aside. In response to show cause notices dated 04th December, 2023 and 23th September, 2023, the Petitioner shall file its replies within thirty days. The hearing notices shall now not be merely uploaded on the portal but shall also be e-mailed to the Petitioner and upon the hearing notice being received, the Petitioner would appear before the Department and make its submissions. The show cause notices shall be adjudicated in accordance with law.
8. The petitions are disposed of in the above terms. The pending application(s), if any, also stand disposed of."

9. There is no doubt that after 16th January 2024, changes have been made to the GST portal and the '*Additional Notices Tab'* has been made visible. However, in the present case, the impugned SCN was issued on 28th September, 2023 and the same does not appear to have come to the notice of the Petitioner.

10. Under such circumstances, considering the fact that the Petitioner did not get a proper opportunity to be heard, and no reply to the impugned SCN has been filed by the Petitioner, the matter deserves to be remanded back to the concerned Adjudicating Authority.

11. Accordingly, the impugned order is set aside. The Petitioner is granted time till 15th December, 2025, to file the reply to impugned SCN. Upon filing of the reply, the Adjudicating Authority shall issue a notice for personal hearing to the Petitioner. The personal hearing notice shall be communicated

to the Petitioner on the following mobile no. and e-mail address:

- ***Email ID: akshayallagh@gmail.com***
- ***Mobile: 9811118257***

12. The reply filed by the Petitioner to the impugned SCN along with the submissions made in the personal hearing proceedings shall be duly considered by the Adjudicating Authority and fresh order with respect to the impugned SCN shall be passed accordingly.

13. However, it is made clear that the issue in respect of the validity of the impugned notifications is left open. Any order passed by the Adjudicating Authority shall be subject to the outcome of 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.***

14. All rights and remedies of the parties are left open. Access to the GST Portal, shall be provided within one week, to the Petitioner, to enable uploading of the reply as also access to the notices and related documents.

15. The present writ petition is disposed of in above terms. All the pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

NOVEMBER 13, 2025
dj/sm