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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 20th May, 2025

+ **W.P.(C) 5901/2025 & CM APPL 26895/2025**
M/S AMBIENCE METCORP PRIVATE LIMITED THROUGH ITS
DIRECTOR SH SANDEEP AGARWALPetitioner

Through: Mr. R.P. Singh, Mr. Nirmal Dixit, Mr.
Rahul Ranjan, Mr. Anant Vijay & Mr.
Harshit Garg, Advs.

versus

CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
THROUGH ITS CHAIRMAN & ANR.Respondents

Through: Mr Aakarsh Srivastava, Senior
Standing Counsel with Mr. Anugya
Gupta & Mr. Anand Pandey, Advs.
Mr. Urvi Mohan, Adv. for GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

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 following:
 - (i) Show Cause Notice dated 24th May, 2024 (hereinafter, '*impugned SCN*')
 - (ii) Order dated 29th August, 2024 passed by the office of Sales Tax Officer Class II/ AVATO, Delhi (hereinafter, '*impugned demand order*'); and
 - (iii) Order dated 28th February, 2025 *vide* which application to rectify order dated 29th August, 2024 was rejected (hereinafter, '*impugned rectification order*')



3. The petition also challenges the *vires* of **Notification No. 56/2023-Central Tax** dated **28th December, 2023** and **Notification No. 9/2023-Central Tax** dated **31st March, 2023** (hereinafter ‘*impugned notifications*’).

4. The validity of the impugned notifications was under consideration before this Court in a batch of petitions with the lead petition being **W.P.(C) 16499/2023** titled ‘**DJST Traders Pvt. Ltd. vs. Union of India and Ors.**’. 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).

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.

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 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. Thereafter, on 23rd April, 2025, this Court, having noted that the validity of the impugned notifications is under consideration before the Supreme Court, had disposed of several matters in the said batch of petitions after addressing other factual issues raised in the respective petitions. Additionally, while disposing of the said petitions, this Court clearly observed that the validity of the impugned notifications therein shall be subject to the



outcome of the proceedings 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.*

6. Firstly, ld. Counsel for the Petitioner today submits that he does not wish to press the challenges to the impugned notifications. On facts, however, the submission of the Petitioner is that a rectification application was filed on 30th September, 2024 seeking rectification of the impugned demand order. However no hearing was given to the Petitioner in the rectification application and the same has been rejected vide the impugned rectification order.

7. Ld. Counsel for the Petitioner points out that in terms of the proviso 3 to Section 161 of the Central/Delhi Goods and Services Tax Act, 2017 the Petitioner ought to have been afforded hearing while deciding the rectification application. The relevant portion of the said provision reads as under:

“Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.”

8. The Petitioner in this regard relies on the decision of this Court in *W.P.(C) 4506/2025* titled *‘HVR Solar Private Limited v. Sales Tax Officer Class II AVATO Ward 67 & Anr’ (2025: DHC:2476-DB)* wherein the matter was relegated on the grounds that a proper hearing was not provided in the rectification application therein.

9. Heard. The Court has perused the records. It is noticed that the detailed reply has been filed to the impugned Show Cause Notice. The impugned demand order is also a reasoned order. However, it is noticed that the impugned rectification order while dismissing the rectification application



only states that the application filed by the Petitioner is found to be ‘*unsatisfactory*’ without recording any reasons to substantiate its finding. The same is extracted below:

Office of Sales Tax Officer Class II / AVATO		
Jurisdiction: Ward 54:Zone 3:Delhi, State/UT: Delhi		
Reference No: ZD070225068939U	Date: 28/02/2025	
To	ANNEXURE A-2 47	
GSTIN/ Temp. ID : 07AAFCA4608J2ZP		
Name: AMBIENCE METCORP PRIVATE LIMITED		
Address of the taxpayer: A 92 B, LAJPAT NAGAR II, NEW DELHI, New Delhi, 110024,		
Application Reference No: AD0709240105066	Date: 30/09/2024	
Act/ Rules Provisions :		
DRC 07 was issued after considering of reply filed/ non filed by the taxpayer/AR which was duly uploaded on the GST portal. The application for rectification of DRC 07 along with supported documents if any, have been examined and it seems that there is no need to rectify the order against the DRC 07 for A.Y. 2019-20 by this office in respect of aforesaid firm, hence the present application for rectification against DRC 07 is hereby rejected.		
Order of rejection of application for rectification		
With reference to the application referred to above regarding rectification of order (details of which is mentioned in table below), the said application has not been found satisfactory for the reasons attached in annexure		
Accordingly, the application is rejected.		
Details of the order intended to be rectified		
Sr.No	Description	Particulars
1	Order Reference Number	ZD070824105163N
2	Date of Order	29/8/2024

10. A perusal of the above extract reveals that impugned rectification order is cryptic and non-speaking in nature. Further considering the fact that hearing, in terms of proviso 3 to Section 161 of the CGST/DGST Act, has not been provided, following the decision in *HVR Solar Private Limited (Supra)*,



this Court is inclined to set aside the impugned rectification order.

11. Ordered accordingly. The matter is relegated back to the concerned Adjudicating Authority for the Petitioner to be provided a proper hearing in the rectification application. The notice for the personal hearing shall be provided to the Petitioner in the following email and mobile number:

- **Email:** usrlegaladvisors@gmail.com
- **Mob. No.:** 9990174008

12. Upon the hearing being held, the Adjudicating Authority shall pass a fresh order in the rectification application upon duly considering the submissions made by the Petitioner during the said hearing.

13. All the rights and remedies of the parties are left open. Access to the GST Portal, if not already available, shall be provided to the Petitioner to enable access to the notices and related documents.

14. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 20, 2025

Rahul/Ar.