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

+ **W.P.(C) 6842/2025 & CM APPLs. 31010/2025, 31011/2025**
ETEMAD CARGO THROUGH ITS SURVIVING PARTNER
UMESH CHANDRA MISHRAPetitioner
Through: Mr. Gaurav Gupta, Adv.
(M:9811013940)
versus

ASSISTANT COMMISSIONER, WARD 206, ZONE
11, DELHIRespondent
Through: Ms. Vaishali Gupta, 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– Etemad Cargo Through Its Surviving Partner Umesh Chandra Mishra under Articles 226 of the Constitution of India, *inter alia*, assailing the Show Cause Notice dated 2nd November, 2020 (hereinafter, '*the SCN*') for the tax period April 2019 to March 2020, as also the consequent order dated 9th December, 2020 passed by the office of Assistant Commissioner, Ward 206, Zone 11, Delhi (hereinafter, '*the impugned order*').
3. The submission of the Id. Counsel for the Petitioner is that the SCN dated 2nd November, 2020, from which the impugned order arises, was uploaded on the '*Additional Notices Tab*'; therefore, the same did not come to the knowledge of the Petitioner. A reminder notice dated 18th August, 2020 was also issued to the Petitioner, however the same was uploaded on



the 'Additional Notices Tab'. The submission on behalf of the Petitioner is that the impugned order dated 9th December, 2020 was passed without providing the Petitioner a personal hearing and in the absence of a reply on behalf of the Petitioner.

4. 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 *vide* '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 (W.P.(C) 12589/2024; DHC) 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.”*

5. 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 SCN was issued on 2nd November, 2020 and the same was not brought to the notice of the Petitioner. Under such



circumstances, considering the fact that the Petitioner did not get a proper opportunity to be heard and no reply to the SCN having been filed by the Petitioner, following the decision of this Court in *W.P.(C) 13727/2024*, the matter deserves to be remanded back to the concerned Adjudicating Authority

6. Accordingly, the impugned order is set aside. The Petitioner is granted time till 10th July 2025, to file the reply to 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 e-mail address and mobile number:

Email ID:ggupta.adv@gmail.com

Mobile No.:9811013940

7. The reply filed by the Petitioner to the 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 SCN shall be passed accordingly.

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

9. 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/dj/ck