



2024:DHC:5262-DB



\$~112

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 11.07.2024*+ **W.P.(C) 9425/2024, CM Nos.38661/2024 & 38662/2024**

NEERAJ KUMAR (TRADE NAME) M/S ABM

PNEUMATICS AND HYDRAULIC SEALS

.....Petitioner

Through: Mr. Wahaj Ahmad Khan, Adv.

Versus

PROPER OFFICER SGST WARD -19 ZONE -2Respondent

Through: Mr. Udit Malik & Mr. Vishal Chanda,
Advs. for R-1&2.Mr. Avishkar Singhvi, Mr. Shubham
Kumar, Mr. Vivek Kumar Singh & Mr.
Naved Ahmad, Advs. for GNCTD.**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J. (ORAL)**

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 30.12.2023 (hereafter *the impugned order*) passed under Section 73 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) pursuant to the show cause notice dated 28.09.2023 (hereafter *the impugned SCN*).

2. The petitioner also impugns the Notification No. 9/2023-Central Tax dated 31.03.2023 (hereafter *the impugned notification*), whereby the time limit specified under Section 73(10) of the CGST Act for passing an order under Section 73(9) of the CGST Act, *inter alia*, for the year 2017-18 was extended up to 31.12.2023. The impugned notification was issued in exercise of power

Signature Not Verified

Digitally Signed
By: KAMLA KAWAT
Signing Date: 22.07.2024
13:25:47**W.P.(C) 9425/2024****Page 1 of 3**



conferred under Section 168A of the CGST Act.

3. The petitioner further claims that the impugned SCN is barred by limitation.

4. The petitioner is the sole proprietor of a concern named ABM Pneumatics & Hydraulic Sales and is registered with the GST Authorities since 01.07.2017. The petitioner was assigned the Goods and Services Tax Identification Number – 07ARTPK8063B1ZK.

5. The learned counsel for the petitioner submitted that the impugned SCN was uploaded on the portal in the category of ‘Additional Notices and Orders’ which were not easily accessible. It is contended that the show cause notices were required to be placed under the heading of ‘Notices and Orders’ but the same was not done.

6. The learned counsel for the parties submit that the issue involved in the present petition is covered by earlier decisions of this Court, including in ***ACE Cardiopathy Solutions (P.) Ltd. v. Union of India: Neutral Citation No.2024:DHC:4108-DB***.

7. In the said decision, this Court had rejected the contention that uploading of a notice under the heading ‘Additional Notices’ would be sufficient service in terms of Section 169 of the CGST Act. The relevant extract of the said decision is set out below: -

“4. Learned counsel for respondent submits that in terms of Section 169 of the Central Goods and Services Tax Act, 2017, uploading of a notice on the portal is sufficient compliance with regard to intimation to the taxpayer.

5. We are unable to accept the contention of the learned counsel, reference may be had to the judgment of the High Court of



2024:DHC:5262-DB



Madras in W.P. No.26457/2023, titled *M/s East Coast Constructions and Industries Ltd. vs. Assistant Commissioner (ST)* dated 11.09.2023, wherein the High Court of Madras has noticed that communications are placed under the heading of “View Notices and Orders” and “View Additional Notices and Orders”. The Madras High Court had directed the respondents to address the issue arising out of posting of information under two separate headings. As per the petitioner, the Menu “View Additional Notices and Orders” were under the heading of “User Services” and not under the heading “View Notices and Orders”.

8. The GST Authorities have since addressed the issue and have re-designed the portal to ensure that ‘View Notices’ tab and ‘View Additional Notices’ tab was placed under one heading. However, it is not disputed that the impugned SCN was issued before the GST portal was re-designed.

9. In view of the above, the present petition is allowed and the impugned order is set aside.

10. The matter is remanded to the adjudicating authority for consideration afresh. The petitioner is at liberty to file a response to the impugned SCN within a period of two weeks from date.

11. The concerned authority shall adjudicate the impugned SCN after considering the petitioner’s response and after affording the petitioner an opportunity to be heard.

12. The present petition is disposed of in the aforesaid terms. All pending applications also stand disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 11, 2024/‘gsr’