



\$~19, 26, 32, and 34 to 43 (13 cases)

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

- + W.P.(C) 10869/2024 CM APPL. 44744/2024
- + W.P.(C) 12024/2024 & CM Nos.50001/2024 & 50002/2024
- + W.P.(C) 11222/2024 & CM No.46448/2024
- + W.P.(C) 7754/2024 & CM No.32155/2024
- + W.P.(C) 9754/2024 & CM Nos.40010/2024 & 44242/2024
- + W.P.(C) 10591/2024 & CM No.43570/2024
- + W.P.(C) 10674/2024 & CM No.43909/2024
- + W.P.(C) 10724/2024 & CM No.44152/2024
- + W.P.(C) 10777/2024 & CM No.44356/2024
- + W.P.(C) 10813/2024 & CM No.44537/2024
- + W.P.(C) 10824/2024 & CM No.44562/2024
- + W.P.(C) 10827/2024 & CM No.44570/2024
- + W.P.(C) 10964/2024 & CM No.45241/2024

Counsel for the petitioners:

Mr. Rajesh Jain, Mr. Rishabh Jain & Mr. Ramashish, Advs. in item no.19.
Mr. A.K. Babbar, Mr. Bharat Kumar Tripathi & Mr. Rahul Chauhan, Advs. in item no.26&39.
Mr. Puneet Rai & Mr. Sanjay Sharma, Advs. in item No.32.
Mr. Rakesh Kumar, Adv. in item no.34.
Mr. Rajat Mittal & Mr. Suprateek Neogi, Adv. in item no.35.
Mr. Pulkit Verma & Mr. Sahil Sharma, Advs. in item no.36.
Mr. Amit Sharma, Mr. Arif Ahmed Khan, Mr. Akshay & Mr. Manoj Kumar Awasthi, Advs. in item no.37.
Mr. Vineet Bhatia, Mr. Rakesh Garg, Mr. Bipin Punia & Mr. Keshav Garg, Advs. in item no.40.
Mr. Venkat Prasad, Mr. Aayugsh Agarwala, Mr. Kunj Mehra & Mr. Prakash Jha, Advs. in item no.43.
Mr. Yogendra Aldak and Kunal Kapoor, Advocates for the Petitioner in item no.41-42.

Counsel for the respondents:

Mr. Rajeev Aggarwal, Mr. Shubham Goel & Mr. Udit Malik, Advs.
Mr. Niraj Kumar & Mr. Chaitanya Kumar, Advs. for UOI.
Mr. Karan Bhardwaj, Mr. Shubham Singh, Mr. Rajat & Mr. Saurabh Dahiya, Advs. for GNCTD.



Mr. Shubham Tyagi, Adv. for CBIC.
Mr. Sushil Raaja, Advs. for UOI.
Mr. R. Ramachandran, Adv.
Mr. Anurag Ojha, Mr. Shubham Kumar, Mr. Kumar Abhishek & Mr. Dipak Raj Singh, Advs.
Mr. Jagdish Chandra, Ms. Kriti Sinha & Mr. Shubham Kumar Mishra, Advs. for UOI.
Mr. Avishkar Singhvi, Mr. Vivek Kumar Singh, Mr. Naved Ahmed & Mr. Shubham Kumar, Advs. for GNCTD.
Mr. Kushagra Kumar & Mr. Pankaj Singh, Advs. for UOI.
Mr. Vivek Sharma, Adv. for UOI.
Mr. Udit Malik, ASC & Mr. Vishal Chanda, Advocate for GNCTD.
Mr Atul Tripathi, Adv.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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30.08.2024

1. These batch of petitions raising a common grievance regarding unreasoned orders passed under Section 73 of the Central Goods & Services Tax Act, 2017 / Delhi Goods & Services Tax Act, 2017 (hereafter the *CGST Act / DGST Act*), were listed on 29.08.2024. This Court has briefly considered the controversy involved in these petitions and passed the following order:

“1. The common issue that arises in these batch of petitions is that the orders passed under Section 73 of the Central Goods & Services Tax Act, 2017 / Delhi Goods & Services Tax Act, 2017 (hereafter *the CGST Act / DGST Act*), which are impugned in these petitions are unreasoned and have been passed without considering the response submitted by the petitioners to their respective Show Cause Notices (hereafter *the SCNs*). Further, these impugned orders have been issued during the last three days prior to the expiry of period of limitation for passing the said orders for the financial years 2017-18 and 2018-19.



2. We have noticed that a large number of such unreasoned orders were passed during the last days of expiry of extended period of limitation. We had thus, called upon the respondents to furnish the details of orders that were passed during the last few days of the extended period of limitation.

3. A copy of the affidavit has been handed over by Mr. Rajeev Aggarwal, learned counsel appearing for respondent no.1 in W.P.(C) No.10591/2024. The same indicates that some of the officers had during the last three days of limitation passed a large number of such orders. Illustratively, one of the officers had passed 526 such orders (246 orders on 29.12.2023; 203 orders on 30.12.2023 and 77 orders on 31.12.2023).

4. One of the common features of the impugned orders is that they merely reproduce the tabular statement of the demand proposed in the respective SCN and affirm the same by rejecting the response of the taxpayer as unsatisfactory.

5. It is contended on behalf of the petitioners that such orders are required to be set aside being *non est* and construed as no order in the eyes of law. The petitioners submit that this course would be apposite as the entire objective of issuing such orders is to overcome the period of limitation.

6. We do not consider it apposite to pass such a blanket order as only some of the officers have passed such large number of orders during the last two days prior to the expiry of the limitation period. *Prima facie*, we find merit in the contention of the learned counsel for the petitioners that granting further period of two years to the adjudicating authority to now complete the adjudication in these cases would effectively frustrate the entire object of stipulating a specified period for completion of the adjudicatory process.

7. Mr. Aggarwal submits that the matters may be remanded back to the adjudicating authority and the period for concluding the adjudication may be confined to a specified period.

8. He seeks time to obtain instructions to make an unambiguous statement in this regard.

9. It is also contended on behalf of the learned counsel for the petitioners that the problem has arisen on account of large number of the SCNs being issued for the initial three financial years. They



further submit that the said SCNs were generated through Artificial Intelligence and hence, were not properly vetted by the adjudicating officers. They submit that in many cases, the examination of the records indicates that it was not necessary to issue such SCNs. Illustratively, in one of the cases, it was stated that the taxpayer has paid the amount of tax demanded. Notwithstanding the liability having been discharged, a show cause notice was issued. If this is correct, then it would substantiate the contentions advanced by the learned counsel for the petitioners.

10. Mr. Aggarwal states that a specific direction may also be given to the adjudicating authority to review the SCNs and thereafter take the requisite steps within the stipulated period. He seeks time to obtain instructions in this regard as well.

11. At his request, list on 30.08.2024.”

2. Mr. Aggarwal, learned counsel appearing for the respondents states that the orders impugned in these petitions may be set aside and the matter be remanded for fresh adjudication. He states that he has also obtained written instructions to the following effect:

1. “That remanded matters shall be disposed off within six months by passing reasoned and speaking order.
2. That after remand back, show cause notices will be reviewed and if no infractions are found, the same shall be dropped and a communication in that behalf shall be sent to concerned dealer / assessee.”

3. The learned counsel for the parties are also agreeable that the matters be remanded keeping all rights and contentions of the parties open.

4. In view of the above, we set aside the orders impugned in these petitions and remand the matters for consideration afresh by the adjudicating authority.

5. The respondents are bound by the statement made by Mr. Aggarwal on their behalf as recorded above.

6. We also direct that the adjudicating authority shall not pass any



adverse order against any of the petitioners without affording them a reasonable opportunity to be heard. We also clarify that all rights and contentions of the petitioners are reserved and the disposal of the present petitions would not preclude them from raising such contentions as advised including those that may have been raised in the present petitions.

7. The petitions are disposed of in the aforesaid terms. Pending applications also stand disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 30, 2024

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Click here to check corrigendum, if any