



\$~66

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

+ **W.P.(C) 4081/2025**

MS VIJAY TRADERS

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Priyanshu, Mr.
Suprateek Neogi, Advocates

versus

**SALES TAX OFFICER CLASS II AVATO WARD 47 ZONE 3
DELHI & ANR.**

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

%

01.04.2025

CM APPL. 18937/2025 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 4081/2025 & CM APPL. 18938/2025

1. The Petitioner has filed the present writ petition under Article 226 of the Constitution of India with the following prayers:

“A. Issue a writ of certiorari and/or any other appropriate writ(s) or directions in the nature thereof setting aside and quashing the DRC-01 dated 23.09.2023 bearing reference no. ZD070923026760D along with an attached Show Cause Notice for FY 2017-18 and the proceedings emanating therefrom, including, DRC-07 dated 22.12.2023 bearing Reference No. ZD071223126303X along-with an attached Order for FY 2017-18;



B. Alternatively to (A), issue a writ of certiorari and/or any other appropriate writ(s) or directions in the nature thereof setting aside and quashing DRC-07 dated 22.12.2023 bearing Reference No. ZD071223126303X along-with an attached Order for FY 2017-18 and consequently direct the Respondents to give the Petitioner an opportunity for filing a detailed response to the SCN dated 23.09.2023 and an opportunity for personal hearing;

C. Alternatively to (A) and (B), issue a writ of mandamus directing the Respondents to permit the Petitioner to file a statutory appeal u/s 107 of the CGST/ SGST Act, 2017 after condonation of delay, if so determined by this Court.

D. Issue any other order or direction that this Hon'ble Court may deem fit to pass under the facts and circumstances of the present case.”

2. Learned Counsel for Petitioner submits that Petitioner never received the Show Cause Notice dated 23.09.2023 and accordingly could not respond to the same. He submits that the Show Cause Notices are normally uploaded on the portal under the heading of 'Notices', however, in the instant case it appears that the Show Cause Notice was uploaded on the portal in the category of 'Additional Notices' which were not easily accessible, and accordingly skipped the attention of the Petitioner. He prays that one opportunity be granted to the Petitioner to respond to the Show Cause Notice and an opportunity of a personal hearing be also given. He relies on a Division Bench judgment of this Court in Kamla Vohra v. Sales Tax Officer Class II, [W.P. (C) No.9261/2024 dated 10th July, 2024] wherein it was held that uploading of notices under the heading of 'Additional Notices'



would not be sufficient service of notice in terms of Section 169 of the CGST Act. He further relies on the judgment of ACE Cardiopathy Solutions (P.) Ltd. v. Union of India, [W.P. (C) No. 6758/2024 dated 10th May, 2024].

3. The relevant portion of the judgment, Kamla Vohra v. Sales Tax Officer Class II (Supra) reads as under:

“3. The impugned SCN was uploaded on the portal in the category of ‘Additional Notices’ which the petitioner claims was not easily accessible. It is contended that the show cause notices were required to be placed under the heading of ‘Notices’ but the same was not done.

4. 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: [2024] 163 taxmann.com 17 (Delhi).

5. In the said decision, this Court had rejected the contention that uploading of the notices 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 Madras in W.P. No. 26457/2023, titled M/s East Coast Constructions and Industries Ltd. v. Assistant Commissioner (ST) dated 11-9-2023, 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”.

6. The GST Authorities had addressed the issue and had re-designed the portal to ensure that ‘View Notices’ tab and ‘View Additional Notices’ tab were placed under one heading. The impugned SCN was issued before the portal was re-designed.

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

8. The matter is remanded to the concerned authority to adjudicate the SCN afresh. The petitioner is at liberty to file a response to the impugned SCN within a period of two weeks from date.

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

4. After having perused the aforesaid judgments, this Court is of the view that following the earlier decisions passed by this Court, the Petitioner



herein also deserves to be given an opportunity to reply to the Show Cause Notice.

5. Accordingly, in the facts of this case, the Impugned Order dated 22.12.2023 is set aside. The matter is remanded back to the concerned Department for fresh consideration after providing an opportunity of hearing to the Petitioner. The Petitioner is at liberty to file a response to the impugned Show Cause Notice within a period of 30 days.

6. The concerned authority shall adjudicate the impugned Show Cause Notice after considering the Petitioner's response and after affording the Petitioner an opportunity to be heard.

7. With these observations, the petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

HARISH VAIDYANATHAN SHANKAR, J

APRIL 1, 2025

hsk