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

+ **W.P.(C) 8435/2024**

M/S. BANSAL

.....Petitioner

Through: Mr. Vijay Gupta, Mr. Rahul Gupta and
Ms. Kajol, Advocates.

versus

COMMISSIONER OF DELHI GOODS AND SERVICES TAX
AND ORS

.....Respondents

Through: Mr. K.G. Gopalakrishnan and Ms.
Nisha Mohandas, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **13.05.2025**

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 challenging the show cause notice dated 26th September, 2023 (hereinafter, '*the SCN*') issued by the Department of Trade & Taxes, Government of N.C.T. of Delhi, pertaining to the Financial Year 2017-18, as also the consequent order dated 2nd December, 2023 passed by the office of Sales Tax Officer Class II/ AVATO, Delhi (hereinafter, '*the impugned order*').
3. In the present case, the submission of the Petitioner, on facts, is that the SCN dated 26th September, 2023, 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 due to which no reply was filed. Hence, the impugned order was passed without providing the Petitioner with an opportunity to challenge the case on merits.
4. On the other hand, ld. Counsel for the Respondent-Department submits



that after 16th January, 2024, the Respondent–Department had rectified the portal and ensured that the notices uploaded thereon were made visible.

5. The Court has heard the parties. 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 on the '**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 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.”

6. 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 has been issued on 26th September, 2023. Hence, the said issue is no longer *res integra* as it stands decided by the decision in *Neelgiri (supra)*.

7. Under such circumstances, considering the fact that the Petitioner did not get a proper opportunity to be heard and no reply to the SCN has been filed by the Petitioner, the matter deserves to be remanded back to the concerned Adjudicating Authority.

8. 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 mobile no. and e-mail address:

Email ID: rahulgupta219@gmail.com

Mobile: 9711953429

9. 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 a fresh order with respect to the SCN shall be passed.

10. All rights and remedies of the parties are left open. Access to the GST Portal, shall be provided to the Petitioner to enable uploading of the reply as



also access to the notices and related documents.

11. The present writ petition is disposed of in above terms. All the pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 13, 2025/nd/ss