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

\+ **W.P.(C) 12955/2024 & CM APPL. 54035/2024**

ANDHRA CARGO SERVICE .....Petitioner

Through: Mr. Arif Ahmed Khan, Mr. Afroz Ahmad Khan, Ms. Gauri Grover, Mr. Manoj Awasthi & Mr. Jitender Kumar, Advocates

versus

COMMISSIONER OF CGST EAST COMMISSIONERATE DELHI & ORS. .....Respondents

Through: Mr. Aditya Singla, SSC for CBIC.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 05.08.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- Andhra Cargo Service under Article 226 of the Constitution of India, *inter alia,* challenging the adjudicating order dated 5th May, 2024 *(hereinafter, the 'impugned order')* passed in Form GST DRC-07.

3. Vide the impugned order, a demand was created *qua* the Petitioner for a sum of Rs 7,09,518.69/-. The same relates to Financial Year 2018-2019.

4. The stand of the Petitioner is that the impugned order has been passed beyond the period of limitation prescribed under Section 73 of the CGST Act, 2017. Further, no personal hearing was granted to the Petitioner and the reply filed by the Petitioner on 27th January, 2024, pursuant to the Show Cause Notice dated 27th December, 2023 has not been considered by the Department of Revenue.

5. The Department of Revenue on the other hand, relies upon ***Notification No.56/2023-Central Tax*** dated 28th December, 2023 as also ***Notification No. 9/2023-Central Tax*** dated 31st March, 2023, by which, the date for filing of returns was extended.

6. Mr. Singla, ld. SSC further submits that the Petitioner was given three opportunities of personal hearing, however, the same was not availed.

7. The Court has considered the case. In view of the fact that the date for filing of returns has been extended, automatically, the limitation period for passing an order by the proper officer, gets extended in terms of Section 73 (10) of the CGST Act, 2017.

8. This Notification is also under challenge before the Hon'ble Supreme Court in ***S.L.P No 4240/2025*** *titled* ***M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax & Ors.***

9. It is noticed by the Court that the impugned order in paragraph 10 at page 41 records that no reply has been filed. This fact is contrary to the record as a reply dated 27th January, 2024 has been filed by the Petitioner with all the relevant documents.

10. Accordingly, considering that the notifications dated 28th December, 2023 and 31st March, 2023 are also under challenge before the Supreme Court, this is a fit case where the reply of the Petitioner deserves to be considered by the Adjudicating Authority.

11. In view thereof, the impugned order is set aside, the Adjudicating Authority shall consider the reply of the Petitioner after giving a personal hearing on the following email address:

- ***Email - arif.lawandjudicial@gmail.com***

12. After hearing the Petitioner, a detailed order on merits shall be passed

by the Adjudicating Authority. All the rights and remedies are left open. Needless to add that any order which is passed shall be subject to the final decision on the validity of ***Notification No.56/2023-Central Tax*** dated 28th December, 2023 as also ***Notification No. 9/2023-Central Tax*** dated 31st March, 2023, which is pending in the Supreme Court, in ***S.L.P No 4240/2025*** *titled* ***M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax & Ors.***

13. The present petition is disposed of, along with pending application(s), if any.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

AUGUST 5, 2025
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