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

Date of Decision: 20th March, 2025

+ **W.P.(C) 13727/2024 & CM APPL. 57468/2024**

NEELGIRI MACHINERY THROUGH ITS PROPRIETOR MR.
ANIL KUMARPetitioner

Through: Mr. Rakesh Kumar and Mr. Parveen
Gambhir, Advocates.

versus

COMMISSIONER DELHI GOODS AND SERVICE TAX AND
OTHERSRespondent

Through: Mr Aditya Singla, SSC CBIC, Ms.
Medha Navami and Ms. Arya Suresh
Advocates.

Mr. Raj Kumar Yadav and Mr.
Vaibhav Bhardwaj, Advocates for
UOI.

Mr. Abhinav Sharma and Ms. Aakriti
Jain, Advocates for R-2.

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+ **W.P.(C) 13752/2024 & CM APPL. 57567/2024**

NEELGIRI MACHINERY THROUGH ITS PROPRIETOR MR.
ANIL KUMARPetitioner

Through: Mr. Rakesh Kumar and Mr. Parveen
Gambhir, Advocates.

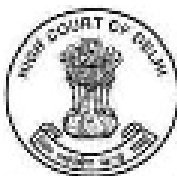
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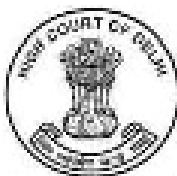


CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petitions are filed by the Petitioner- M/s Neelgiri Machinery (hereinafter 'the Company') assailing -
 - (i) the Show Cause Notices dated 4th December, 2023 and Demand Order dated 23rd April 2024 in ***W.P.(C) 13727/2024***
 - (ii) the Show Cause Notices dated 23th September, 2023 ('SCN') and Demand Order dated 5th December, 2023 in ***W.P.(C) 13752/2024***on the grounds that the same were never served upon it. The Petitioner has filed ***W.P.(C) 13727/2024*** with respect to Assessment Year 2018-19 and ***W.P.(C) 13752/2024*** with respect to Assessment Year 2017-18.
3. The case of the Petitioner is that although the SCNs were uploaded on the portal, they were placed under the category of "*Additional Notices and Orders*," rendering them not directly visible.
4. Vide order dated 26th November, 2024 the Court had directed the Department to file a status report in this regard. Today, a short status report has been handed across on behalf of Respondent No. 2 as per which, the SCNs and the hearing notices were uploaded under the "*Notices*" tab. However, Mr. Sharma, Id. Counsel for Respondent no.2 fairly submits that as per the said status report itself, the manner in which the notices will appear on the Department's side and on the tax payer's side is different. Para 1 of the status report reads as under :-

"1. It is humbly submitted that the GST Portal works differently on the taxpayers side than the

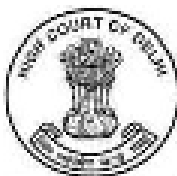


department side. Therefore no information is available in ward or on the officer GST portal id regarding the query raised by the Hon'ble Court. Only information that arose while issuing the SCN-DRC01 (Notice) on the department GST portal was that "Notice or order will be mailed to the Taxpayer and will also be available on his dashboard."

Copy of the submission received from the department dated 03.1.2025 is attached herewith and marked as Annexure - R/1."

5. A perusal of the above would show that the Department concedes that the portal works differently from the Department's side and the tax payer's side. Insofar as the Petitioner is concerned, the Department was not being able to view them on the *Notices* tab. The Petitioner, in support of its case, has placed on record the print out from the portal which shows that the same was viewable only on *Additional notice and orders* Tab and hence, may have been missed by the Petitioner.

6. Be that as it may, the 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 (W.P.(C) 12589/2024; DHC)*** 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 remanded back the matter to ensure the Noticee/Petitioners get a fair opportunity to be heard. The relevant portion of the order 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.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

MARCH 20, 2025/nd/Ar.