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

Date of Decision: 9th September, 2025

\+ **W.P.(C) 13798/2025 & CM APPL. 56612/2025**

NATIONAL ALUMINIUM COMPANY LIMITED THROUGH MR SANDEEP DARBARI CHIEF GENERAL MANAGER .....Petitioner

Through: Mr. Ramanand Roy & Mr Mayank Kotus, Advs.

versus

COMMISSIONER OF DELHI GOODS AND SERVICE TAX & ORS. .....Respondents

Through: Ms. Vaishali Gupta, Adv. [Panel Counsel (Civil) GNCTD]

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 56613/2025 (for exemption)

2. Allowed, subject to all just exceptions. The application is disposed of.

W.P.(C) 13798/2025 & CM APPL. 56612/2025

3. The present has been filed by the Petitioner- National Aluminium Company Limited, which is a Public Sector Undertaking (hereinafter, '*PSU*'), under Articles 226 and 227 of the Constitution of India, *inter alia*, challenging the impugned order dated 18th March, 2024 (hereinafter, '*impugned order*') passed by the Office of Sales Tax Officer Class II/AVATO for the Financial Year 2018-19. *Vide* the impugned order, a demand to the tune of Rs. 3,16,14,689/- has been raised against the Petitioner.

4. The ground for the challenge is that the Show Cause Notice (hereinafter, *'SCN'*) dated 05th December, 2023 was uploaded on the *'Additional Notices Tab'*. Though a reminder to the SCN was issued thereafter, on 17th January, 2024, it did not come to the knowledge of the Petitioner as the change in the GST portal was effected only on 16th January, 2024, one day before the issuance of the reminder.

5. Ld. Counsel for the Petitioner submits that since the Petitioner did not have an opportunity to file a reply and appear before the Adjudicating Authority, the matter may be remanded back to the concerned authority.

6. Ms. Gupta, ld. Counsel for the Respondent objects on the ground that there is no challenge to any of the notifications *i.e.*, ***Notification No.56/2023-Central Tax*** dated 28th December, 2023, ***Notification No. 56/2023-State Tax*** dated 11th July, 2024, ***Notification No.09/2023-Central Tax*** dated 31st March, 2023 as also ***Notification No. 09/2023-State Tax*** dated 22nd June, 2023. Secondly, there is a reminder issued to the Petitioner post the change in the portal *i.e.*, after 16th January, 2024.

7. Heard. The present petition has certain unique features, which are as under:

(i) The Petitioner is a PSU under the Ministry of Mines, Government of India;

(ii) The SCN was issued prior to the change in the portal on 16th January, 2024 and the reminder to the SCN was issued only one day after the change in the portal was effected, *i.e.*, 17th January, 2024. It is possible that the Petitioner may have missed the reminder and it may not have come to the knowledge of the Petitioner. Hence, no reply was filed by the Petitioner to the SCN.

In fact, no personal hearing has also been availed of by the Petitioner.

8. 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:*
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> *"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."

9. 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. Accordingly, the impugned order is set aside.

10. The Petitioner is granted time till 31st October, 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 Address:*** ***ramanand76@yahoo.com***
- ***Mobile No.: 9650050457***

11. 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 fresh order with respect to the SCN shall be passed accordingly.

12. This order shall not act as a precedent for any other case.

13. All rights and remedies of the parties are left open. Access to the GST Portal, shall be provided to the Petitioner within one week to enable uploading of the reply as also access to the notices and related documents.

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

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 9, 2025/*pd/ck*