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

Date of decision: 06th May, 2025

\+ **W.P.(C) 14596/2024**

MMR ELECTRICALS .....Petitioner

Through: Mr. Ruchir Bhatia, Advocate.

versus

SALES TAX OFFICER CLASS II, WARD106, ZONE 4, DELHI AND ANR. .....Respondents

Through: Mr. K.G. Gopalakrishnan, Mr. Sumit K. Batra & Ms. Nisha Mohandas, Advs.

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 petition has been filed by the Petitioner– MMR Electricals under Article 226 of the Constitution of India challenging the order dated 13th April, 2024 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 a reply dated 19th February, 2024 along with supporting documents was filed by the Petitioner pursuant to the issuance of show cause notice dated 13th December, 2023.

4. Thereafter, the impugned order dated 13th April, 2024 was passed wherein a demand of Rs. 11,34,648/- was raised upon the Petitioner, without considering the reply of the Petitioner.

5. It is further submitted that the detailed reply filed by the Petitioner to the issues raised in the show cause notice dated 13th December, 2023, has not

at all been considered while passing the impugned order and instead, a non-speaking, cryptic order has been issued. Furthermore, it is the case of the Petitioner that no opportunity for personal hearing has been afforded to the Petitioner.

6. Heard. This Court has considered the submissions made and has perused the impugned order. The relevant portion of the impugned order is extracted herein below:

NATION TAX MARKET

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE & TAXES/OFFICE O/o the GST OFFICER
WARD-106, 10th FLOOR, VYAPAR BHAWAN, I.P. ESTATE,
NEW DELHI-110002

Annexure to Order
(u/s 73(9) of CGST/DGSTAct, 2017)
TAX PERIOD: April, 2018, MARCH, 2019

Whereas, SCN/DRC-1 [see rule 100(2) & 142(1)(a)] was issued to the taxpayer under Section-73 of CGST/DGST Act & Rules, 2017 for the year 2018-19.

And whereas, it is noticed that the Taxpayer has filed its reply with regard to above mentioned DRC- 01 and the reply was not found comprehensive, an opportunity to submit reply and for the sake of principal of natural justice, opportunity for Personal Hearing, under Section-75(4) DGST Act, was granted to the taxpayer by issuing "***REMINDER***" (along with attachment therewith) through the GST portal.

On the basis of Notice issued vide Ref. No. ZD0712230709000 dated 13.12.2024, reply received and the documents submitted, following observations were made:-

Excess ITC claimed from cancelled dealers, return defaulters & tax non payers:

1. Proposed Tax of Rs.5,67,324/- (SGST), & Rs.5,67,324/- (CGST). The reply of the taxpayer has been examined from the GST portal and found that the suppliers viz. RCI Industries & Technologies Ltd. (GSTIN: 07AAACR5727Q2ZT) has been cancelled suo-moto for the reason of "Reference received from Commissioner state tax Maharastra regarding non-functioning" and M/s. Electromag (GSTIN: 07ALMPA2869G1Z1) has been suspended for the reason of "Letter received from CGST". Therefore, a Tax Amount of Rs.5,67,324/- (SGST) & Rs.5,67,324/- (CGST) is payable along with interest and penalty thereon by taxpayer (DRC-07 attached).

The said tax, interest and penalty are required to be deposited within 90 days from the date of issuance of this notice.

Sd/-
Proper Officer,
Ward- 106

7. Upon perusing the impugned order, this Court is of the opinion that the same has been passed after considering the reply of the Petitioner. In addition

to that, an opportunity for personal hearing was also provided to the Petitioner, followed by the issuance of a reminder for the same. However, the opportunity for personal hearing was not availed by the Petitioner.

8. In light of the observations made, this Court is of the opinion that the impugned order does not merit any interference of this Court and a challenge, if any, shall be taken up by the Petitioner before the appellate authority in appeal.

9. Accordingly, the Petitioner is granted time till 10th July, 2025, to file an appeal before the appellate authority under Section 107 of the Central Goods and Service Tax Act, 2017.

10. If the appeal is filed by the Petitioner before 10th July, 2025, along with the mandatory pre-deposit, the same shall be adjudicated upon merits and shall not be dismissed on the ground of limitation.

11. It is also made clear that the observations made by this Court in the present petition shall have no bearing upon the decision of the appellate authority.

12. The present petition is disposed of in said terms. Pending applications, if any, stand disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 6, 2025*'dc'/ss*
(corrected & released on 13th May, 2025)