$~43

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

Date of decision: 26th September, 2025
Uploaded on: 29th September, 2025

\+ **W.P.(C) 15080/2025 & CM APPL. 62037/2025**

M/S G.L.KHANNA AND SONS. .....Petitioner
Through: Mr. Pulkit Verma & Mr. Saket Jain, Advs.

versus

SALES TAX OFFICER CLASS II/AVATO, WARD 56 & ORS. .....Respondents
Through: Mr. Ravi Kant Srivastava, SPC with Mr. Robert Laishram, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present petition has been filed, *inter alia*, challenging the impugned order dated 30th December, 2023 passed by the Sales Tax Officer Class II/Avato Ward 56, Zone-4, Delhi (hereinafter "*impugned order*") passed in respect of Financial Year 2017-18. The impugned order has been passed pursuant to the Show Cause Notice dated 26th September, 2023 raising a demand of Rs. 10,63,436/- against the Petitioner.

3. Additionally, the present petition also challenges ***Notification No. 9/2023- Central Tax*** dated 31st March, 2023 and ***Notification No. 9/2023- State Tax*** dated 22nd June, 2023 (hereinafter "*impugned notifications*").

4. The challenge in the present petition is similar to a batch of petitions wherein, *inter alia*, the impugned notifications were challenged. ***W.P.(C) No. 16499/2023*** titled ***DJST Traders Private Limited v. Union of India &Ors.*** was the lead matter in the said batch of petitions. On 22nd April, 2025, the parties were heard at length *qua* the validity of the impugned notifications and accordingly, the following order was passed:

> *"4. Submissions have been heard in part. The broad challenge to both sets of Notifications is on the ground that the proper procedure was not followed prior to the issuance of the same. In terms of Section 168A, prior recommendation of the GST Council is essential for extending deadlines. In respect of Notification no.9, the recommendation was made prior to the issuance of the same. However, insofar as Notification No. 56/2023 (Central Tax) the challenge is that the extension was granted contrary to the mandate under Section 168A of the Central Goods and Services Tax Act, 2017 and ratification was given subsequent to the issuance of the notification. The notification incorrectly states that it was on the recommendation of the GST Council. Insofar as the Notification No. 56 of 2023 (State Tax) is concerned, the challenge is to the effect that the same was issued on 11th July, 2024 after the expiry of the limitation in terms of the Notification No.13 of 2022 (State Tax).*
>
> *5. In fact, Notification Nos. 09 and 56 of 2023 (Central Tax) were challenged before various other High Courts. The Allahabad Court has upheld the validity of Notification no.9. The Patna High Court has upheld the validity of Notification no.56. Whereas, the Guwahati High Court has quashed Notification No. 56 of 2023 (Central Tax).*
>
> *6. The Telangana High Court while not delving into the vires of the assailed notifications, made certain observations in respect of invalidity of Notification No. 56 of 2023 (Central Tax). This judgment of the Telangana High Court is now presently under consideration by 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. The Supreme Court vide order dated 21st February, 2025, passed the following order in the said case:

> *"1. The subject matter of challenge before the High Court was to the legality, validity and propriety of the Notification No.13/2022 dated 5-7-2022 & Notification Nos.9 and 56 of 2023 dated 31-3-2023 & 8-12-2023 respectively.*
>
> *2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 respectively.*
>
> *3. These Notifications have been issued in the purported exercise of power under Section 168 (A) of the Central Goods and Services Tax Act. 2017 (for short, the "GST Act").*
>
> *4. We have heard Dr. S. Muralidhar, the learned Senior counsel appearing for the petitioner.*
>
> *5. The issue that falls for the consideration of this Court is whether the time limit for adjudication of show cause notice and passing order under Section 73 of the GST Act and SGST Act (Telangana GST Act) for financial year 2019-2020 could have been extended by issuing the Notifications in question under Section 168-A of the GST Act.*
>
> *6. There are many other issues also arising for consideration in this matter.*
>
> *7. Dr. Muralidhar pointed out that there is a cleavage of opinion amongst different High Courts of the country.*
>
> *8. Issue notice on the SLP as also on the prayer for interim relief, returnable on 7-3-2025."*

7. In the meantime, the challenges were also pending before the Bombay High Court and the Punjab and Haryana High Court. In the Punjab and Haryana High Court vide order dated 12th March, 2025, all the writ petitions have been disposed of in terms of the interim orders passed therein. The operative portion of the *said order reads as under:*

> *"65. Almost all the issues, which have been raised before us in these present connected cases and have been noticed hereinabove, are the subject matter of the Hon'ble Supreme Court in the aforesaid SLP.*
> *66. Keeping in view the judicial discipline, we refrain from giving our opinion with respect to the vires of Section 168-A of the Act as well as the notifications issued in purported exercise of power under Section 168-A of the Act which have been challenged, and we direct that all these present connected cases shall be governed by the judgment passed by the Hon'ble Supreme Court and the decision thereto shall be binding on these cases too.*
> *67. Since the matter is pending before the Hon'ble Supreme Court, the interim order passed in the present cases, would continue to operate and would be governed by the final adjudication by the Supreme Court on the issues in the aforesaid SLP-4240-2025.*
> *68. In view of the aforesaid, all these connected cases are disposed of accordingly along with pending applications, if any."*

8. The Court has heard ld. Counsels for the parties for a substantial period today. A perusal of the above would show that various High Courts have taken a view and the matter is squarely now pending before the Supreme Court.

9. Apart from the challenge to the notifications itself, various counsels submit that even if the same are upheld, they would still pray for relief for the parties as the Petitioners have been unable to file replies due to several reasons and were unable to avail of personal hearings in most cases. In effect therefore in most cases the adjudication orders are passed ex-parte. Huge demands have been raised and even penalties have been imposed.

10. Broadly, there are six categories of cases which are

> ***pending before this Court. While the issue concerning the validity of the impugned notifications is presently under consideration before the Supreme Court, this Court is of the prima facie view that, depending upon the categories of petitions, orders can be passed affording an opportunity to the Petitioners to place their stand before the adjudicating authority. In some cases, proceedings including appellate remedies may be permitted to be pursued by the Petitioners, without delving into the question of the validity of the said notifications at this stage.***
>
> ***11. The said categories and proposed reliefs have been broadly put to the parties today. They may seek instructions and revert by tomorrow i.e., 23rd April, 2025.”***

5. The abovementioned writ petition and various other writ petitions have been disposed of by this Court on subsequent dates, either remanding the matters or relegating the parties to avail of their appellate remedies, depending upon the factual situation in the respective cases. All such orders are subject to further orders of the Supreme Court in respect of the validity of the Notification No. 56/2023-Central Tax in ***S.L.P No 4240/2025*** titled ***M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors.***.

6. However, in cases where the challenge is to the parallel State Notifications, the same have been retained for consideration by this Court. The lead matter in the said batch is ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

7. Coming to the facts of the present case, the submission of the Petitioner is that the Show Cause Notice dated 26th September, 2023 was duly replied to by the Petitioner on 26th October, 2023. However, it is stated that no personal hearing has been granted to the Petitioner before passing of the impugned

order. It is the case of the Petitioner that the impugned order is a non-speaking order and has not at all considered the reply filed by the Petitioner.

8. The Court has heard the parties and has perused the records. It is noticed that the impugned order arises from the SCN dated 26th September, 2023. In the said SCN the last date for filing the reply is 26th October, 2023 and the date of personal hearing is recorded as 3rd November, 2023. Although a reply is seen to have been filed by the Petitioner on 26th October, 2023, the opportunity of personal hearing was not availed of by the Petitioner. The impugned order has thereafter been passed on 30th December, 2023.

9. Considering the fact that the impugned order had been passed on 30th December, 2023 and the present petition has been filed now in 2025, as also the fact that the Petitioner did not avail the opportunity of personal hearing, the Court is of the opinion that no interference with the impugned order is warranted.

10. However, considering that the Petitioner had filed its reply to the SCN, the Court deems fit to dispose of the present petition with liberty to file an appeal under Section 107 of the Central Goods and Service Tax Act, 2017, before the Appellate Authority by 15th November, 2025, along with the requisite pre-deposit.

11. If the appeal is filed by 15th November, 2025 along with the requisite pre-deposit, it shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

12. It is further made clear that the decision of the Appellate Authority shall be subject to the decision of this Court in ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

13. Accordingly, the present writ petition is disposed of in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 26, 2025
Rahul/msh