



2025:DHC:9535-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 29th October, 2025*+ **W.P.(C) 15508/2024, CM APPL. 65096/2024****C.H. ROBINSON WORLDWIDE FREIGHT INDIA PRIVATE LIMITED**

.....Petitioner

Through: Mr. Kamal Sawhney, Mr. Deepak Thackur, Ms. Akansha Wadhvani and Mr. Rishab Mishra, Advs.

versus

ADDITIONAL COMMISSIONER, CGST-DELHI-SOUTH & ORS.

.....Respondents

Through: Mr. Atul Tripathi, SSC, CBIC with Ms. Jyotsana, Mr. Shubham Mishra and Mr. Gaurav Mani Tripathi, Advs.
Mr. Sumit K. Batra, Adv. for GNCTD.
Mr. Puneet Yadav Adv. for UOI.
Mr. Tushar Sannu and Mr. Fajallu Rehman, Advs. for R. 3&4.**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE SHAIL JAIN****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition raises a challenge to the Show Cause Notice dated 31st May, 2024 which was issued by the Central Goods and Services Tax (CGST) Delhi (South) (hereinafter "*the impugned SCN*").
3. The brief facts of the case are that the CGST Department had conducted a scrutiny of the returns filed by the Petitioner and upon finding alleged discrepancies, the impugned SCN has been issued in respect of Financial Year 2019-20 raising a demand of Rs. 11,85,45,612/- on the ground



of wrongful availment of Input Tax Credit. It is submitted that though the impugned SCN is dated 31st May, 2024 the same was issued only on 12th August, 2024.

4. The short point raised by the Petitioner is that the impugned SCN is barred by limitation in terms of Section 73(2) read with Section 73(10) of the Central Goods and Services Tax Act, 2017. The said two provisions are set out below:

“73. Determination of tax pertaining to the period up to Financial Year 2023-24 not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.

[...]

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

[...]

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.”

5. It is an undisputed position that as per **Notification 56/2023-Central Tax** dated 28th December, 2023, the last date for issuing of order under Section 73 of the CGST Act was extended for the Financial Year 2019-20 till 31st August, 2024. The said Notification is extracted below:



“S.O. 5483 (E).- In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of the Union territory Goods and Services Tax Act, 2017 (14 of 2017) and in partial modification of the notifications of the Government of India, Ministry of Finance (Department of Revenue), No. 35/2020- Central Tax, dated the 3rd April, 2020 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020 and No. 14/2021 - Central Tax, dated the 1st May, 2021 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (I), vide number G.S.R. 310(E), dated the 1st May, 2021 and No. 13/2022-Central Tax, dated the 5th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (I), vide number G.S.R. 516(E), dated the 5 th July, 2022, and No. 09/2023- Central Tax, dated the 31st March, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number G.S.R. 1564(E) dated the 31st March, 2023, **the Government, on the recommendations of the Council, hereby, extends the time limit specified under sub- section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to the period as specified below, namely:-**

(i) for the financial year 2018-19, up to the 30th day of April, 2024;

(ii) **for the financial year 2019-20, up to the 31st day of August, 2024.**”

6. The submission of Id. Counsel for the Petitioner is that in the present



case, the SCN ought to have been issued by 31st May, 2024, since the demand raised in respect of the Financial Year 2019-20. In fact, the impugned SCN was sent by the Department only on 12th August, 2024 and not before. It is submitted that in terms of Section 73(2) of the CGST Act, the minimum period of three months required prior to the time limit prescribed under sub-section 10 of Section 73 of the CGST Act has not been adhered to and hence, the impugned SCN is barred.

7. Mr. Atul Tripathi, Id. Counsel for the Respondent, however, submits that there was a technical glitch due to which DRC-01 could not be issued by the Department as recorded in instructions dated 2nd August, 2024 issued by the Central Board of Indirect Taxes. Accordingly, the same was issued on 12th August, 2024.

8. Further, during the course of pleadings the Department has placed on record additional documents to support the contention that the impugned SCN was dispatched to the Petitioner on 3rd June, 2024. However, to counter the same, the Id. Counsel for Petitioner submits that the same was dispatched to the wrong address of the Petitioner at Vasant Kunj, where the address had been updated by the concerned officer prior to the dispatch itself on 15th May, 2024.

9. Heard, Id. Counsels for the parties. Sections 73(2) and Section 73(10) of the CGST Act were interpreted by this Court in ***W.P.(C) 4781/2025*** titled ***Tata Play Limited vs. Sales Tax Officer Class II/AVATO*** where it has been observed as under:

“20. The limitation for issuance of such a notice under Section 73 of the CGST Act has to be construed in the light of Section 73(2) and 73(10) of the CGST Act. The said two sub-sections are set out below:



“Section 73(2) – The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

.....
Section 73(10) – The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates to or within three years from the date of erroneous refund.”

21. A perusal of the above stated provisions would show that an order has to be passed by the ‘proper officer’ within a period of three years from the due date for furnishing the annual returns for the said financial year. For issuance of a show cause notice, at least three months’ period prior to the time limit under Section 73(10) of the CGST Act would be available. Thus, the show cause notice has to be issued at least three months prior to the outer limit prescribed for passing of an order under Section 73(10) of the CGST Act.

22. In the opinion of this Court, there is a difference in the language of the two sub-sections discussed herein above. Section 73(10) of the CGST Act prescribes an outer limit for passing of an adjudication order under the Act.

23. On the other hand, Section 73(2) of the CGST Act provides that at least three months prior to the outer limit of 3 years for passing an order under Section 73(10) of the CGST Act, a notice is to be served.

24. While the purpose behind Section 73(10) of the CGST Act is to fix the date by which an adjudication order has to be issued, the purpose of Section 73(2) of the CGST Act is to ensure that at least three months is available to the



taxable person for filing a reply to the show cause notice issued to them and for being heard in a proper manner. Thus, the time period between issuance of the show cause notice and the outer limit for passing of the order should be at least three months.

25. The statutory intent behind providing this gap of 3 months can be interpreted to arise from a further reading of Section 73, CGST Act wherein, Section 73(3), CGST Act contemplates the service of a statement upon the noticee, giving all the details of the demand proposed to be raised. Further, under Section 73(5), CGST Act, the noticee has the option of paying the tax by doing a self-assessment and if such amount is paid within 30 days of the issuance of the show cause notice under Section 73(1), CGST Act, no penalty would be payable by the noticee.”

10. In terms of the above decision, the purpose of Section 73(2) of the CGST Act has been clearly held to provide the minimum period of three months to the assessee for filing the reply to the SCN. The three month's period prescribed in Section 73(2) of the CGST Act is mandatory when read with Section 73(10) of the CGST Act.

11. Accordingly, in the present case, the Department's stand that due to a technical glitch, the DRC-01 could not be issued on 31st May, 2024 but was reissued on 12th August, 2024 would not be tenable in law. Further, the impugned SCN dated 31st May, 2024 was not served to the Petitioner within the time limit prescribed in Section 73(2) read with Section 73(10) of the CGST Act. Moreover, even the address of the Petitioner at which the same has been communicated is the wrong address considering the amendment of the Petitioner's address was permitted by the Department on 15th May, 2024 itself.



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12. The SCN dated 28th May, 2024 dispatched on 3rd June, 2024 cannot, therefore, be held to be within time in terms of Section 73(2) of the CGST Act. Accordingly, the said SCN and any other order passed consequent thereto stand quashed.

13. The petition is allowed in the above terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

OCTOBER 29, 2025/kp/msh