



2025:DHC:2917-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 21st April, 2025***+ **W.P.(C) 15525/2024 & CM APPL. 65181/2024****SPARKIN SUNLIT PRIVATE LIMITED THROUGH ITS
DIRECTORS NAKUL BHARDWAJ (2018 -19)Petitioner****Through: Mr. Rakesh Kumar, Mr. Akil Mangla
and Mr. Parveen Gambhir, Adv.
(M:9810220294)**

versus

**COMMISSIONER DELHI GOODS AND SERVICE
TAX AND ANRRespondents****Through: Ms. Aakriti Jain, Adv. on behalf of Mr.
Abhinav Sharma, Adv.****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- Sparkin Sunlit Private Limited seeking setting aside of show cause notice dated 9th December, 2023 issued (*hereinafter, 'the SCN'*) issued by Respondent No. 1- Department of Trade & Taxes, GNCTD. The Petitioner further challenges the subsequent demand order passed thereupon by Respondent No. 2- GSTO, Ward 74, Zone 7 dated 29th March, 2024 (*hereinafter, 'the demand order'*).
3. The case of the Petitioner is that the said SCN did not come to the



knowledge of the Petitioner as the same was uploaded by the Respondent No. 1- Department on the '*additional notices tab*'. It is further submitted by the Id. Counsel for the Petitioner that the present case is fully covered by the decision in ***W.P.(C) 12589/2024*** titled ***Satish Chand Mittal (Trade Name National Rubber Products) v. Sales Tax Officer SGST, Ward 25- Zone 1.***

4. On the last date of hearing i.e., 9th April, 2025, the Court had directed the Respondent-Department's counsel to seek instructions in the matter. Today, it is submitted by Ms. Aakriti Jain, Id. Counsel that with effect from January, 2024, the notices are being uploaded properly on the portal but in this case the notice is of 9th December, 2023.

5. In view of the stand taken, it is clear that the matter is fully covered by the decision of the Coordinate Bench in ***Satish Chand Mittal (supra)***. The Court therein has observed 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.”

6. Similar order has also been passed by this Court in ***W.P.(C) 13727 of 2024 & W.P.(C) 13752 of 2024*** titled ***Neelgiri Machinery through its Proprietor v. Commissioner Delhi Goods and Services Tax & Ors.***

“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.

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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.”

7. In view of the fact that the Petitioner did not get an opportunity to file a reply to the SCN, this Court is of the opinion that the Petitioner ought to be afforded an opportunity to file a reply. Let the reply to the SCN be now filed within a period of 30 days.

8. The Adjudicating Authority shall proceed and pass order with respect to the SCN after affording a hearing to the Petitioner. The hearing notice shall be uploaded on the Portal in a proper manner and shall also be emailed to the Petitioner on the following email address:

sunlitsparkin@gmail.com

9. Thus, the demand order is set aside.



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10. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 21, 2025

dj/ss

Signature Not Verified

Signed By: RAHUL
Signing Date: 25.04.2025
18:16:23

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