



2025:DHC:9618-DB



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

Date of Decision: 31st October, 2025

+ **W.P.(C) 16532/2025, CM APPL. 67713/2025 & CM APPL. 67714/2025**

M/S SWARN COSMETICS (INDIA)

.....Petitioner

Through: Mr. Sahil A Garg Narwana, Ms. Amnaya Jagannath Mishra, Mr. Dinesh Singhal, Mr. Kapil Gola and Ms. Honey Gola, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr Akash Verma, Sr. Standing Counsel, CBIC with Ms Aanchal Uppal, Adv. for R-1. (M: 9697980007)
Mr. Sumit K. Batra, Adv.

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 has been filed by the Petitioner seeking setting aside of the impugned Show Cause Notice dated 21st November, 2024 issued by the Department of Trade & Taxes, Government of N.C.T. of Delhi (*hereinafter, 'impugned SCN'*) and the consequent impugned order dated 23rd February, 2025 passed by the Office of Sales Tax Officer Class II (*hereinafter, 'impugned order'*). The demand raised in the impugned order relates to the financial year 2020-21.



3. The said demand has been raised in the following terms:

Demand Details :-

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(Amount in Rs.)												
Sr. No.	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	APR 2020	MAR 2021	SGST	NA	20,00,341.00	14,89,569.00	2,00,034.00	0.00	0.00	36,89,944.00
2	0	0.00	APR 2020	MAR 2021	CGST	NA	20,00,341.00	14,89,569.00	2,00,034.00	0.00	0.00	36,89,944.00
3	0	0.00	APR 2020	MAR 2021	IGST	Other Territory	7,26,984.00	5,41,354.00	72,698.00	0.00	0.00	13,41,036.00
Total							47,27,666.00	35,20,492.00	4,72,766.00	0.00	0.00	87,20,924.00

4. The background of the present case is that the impugned SCN was issued to the Petitioner on 21st November, 2024. The said SCN was issued on various grounds, including:

- Reconciliation of GSTR-01 with GSTR-09;
- Excess input tax credit (ITC) claimed on account of non-reconciliation of information;
- ITC to be reversed on non-business transactions & exempt supplies;
- ITC claimed from cancelled dealers, return defaulters & non tax payers.

5. No reply to the impugned SCN was filed by the Petitioner, thus leading to the impugned demand raised on 23rd February, 2025.

6. The Petitioner, in this petition, has sought setting aside of the impugned SCN as also the impugned order. Additionally, challenge has also been raised Section 16 (2)(c) of the Central Goods and Service Tax Act, 2017.

7. The contentions raised by the Petitioner are three-fold:

- That the impugned SCN and the impugned order are not duly



signed either physically or digitally;

(ii) That the pre-consultation notice under Rule 142 (1A) of the CGST Rules, 2017, has not been issued by the Department;

(iii) That the challenge to Section 16 (2)(c) of the CGST Act, 2017, is pending consideration before this Court in a batch of matters.

8. Ld. Counsel for the Petitioner has relied upon various judgments of this Court to argue that the non-appending of the signatures on the impugned SCN and the impugned order would go to the root of the matter.

9. Ld. Counsel for the CGST Department, on the other hand, made the following submissions on all the three aspects:

- Firstly, insofar as the issue of signatures is concerned, the Department now uses digital keys to upload the orders on the GST Portal and without the digital key of the concerned officer, in addition to the name and designation of the officer, the orders as well as the SCNs cannot be uploaded. Since the digital key is mandatorily required to upload both the SCN and the orders, it cannot be held that there is any technical discrepancy in the signatures.
- Secondly, it is argued by Mr. Batra, Ld. Counsel that the Rule 142 (1A) of the CGST Rules, 2017, earlier required a mandatory pre-SCN to be issued, however, the amendment in the Rule 142 (1A) came into effect on 15th October, 2020, wherein the issuance of the pre-SCN consultation notice was made discretionary. It is conceded that the earlier language of the said Rule had made the said pre-SCN notice mandatory as was also highlighted by this Court in *W.P.(C) 5407/2020* titled *Gulati Enterprises v. Central*



Board of Indirect Taxes & Customs & Ors. However, post-amendment, the same is not mandatory anymore.

- Lastly, insofar Section 16 (2)(c) of the CGST Act, 2017 is concerned, the challenge to the same has already been raised and is pending consideration before this Court.

10. Further, upon direction of the Court, Mr. Sumit K. Batra, Id. Counsel for the Department has handed over a short note, explaining the process followed by the proper officers while issuing any order or show cause notice. The said process, as explained on behalf of the Department is as follows:

- i. All orders and notices issued by tax authorities are uploaded electronically to the common portal and authenticated using a Digital Key/Signature which contains the credentials of the proper officer including his name, designation and jurisdiction.
- ii. As per the mandate of Rule 26(3) of the CGST Rules, 2017, all notices, certificates, and orders are to be issued electronically. Such service of notices, certificates and orders is made available to the taxpayer by uploading the same on the GST portal.
- iii. A proper officer can log in to the GST portal by using his/her Digital Key/Signature followed by a system generated OTP which is sent by the GST portal to the registered mobile number of the proper officer.
- iv. It is only after such authentication that the proper officer permits the system to generate the document (e.g., Show Cause Notices in FORM GST DRC-01, Orders in FORM GST DRC-07) and the same is stored with the proper officer's digital signature in the



system.

Hence, the note filed on behalf of the Department clearly states that even though the PDF documents downloaded from the GST portal may not show a physical signature impression, but it is generated only after a thorough authentication of the proper officer.

11. Thus, this Court is of the view that the argument raised by the Petitioner with respect to the impugned order and SCN being unsigned is untenable. Thus, insofar as the issue of signatures on the impugned order and impugned SCN is concerned, since the SCNs and orders are now uploaded through the GST portal only through the digital key of the concerned officer, as also because the orders and SCNs bear the name of the officer and the designation of the officer, the authenticity and genuinity of the order cannot be disputed, unless there is a misuse of the digital key.

12. Insofar as the question of pre-consultation SCN is concerned, the relevant amended rule *i.e.* Rule 142(1A) of the CGST Rules, 2017, is stated herein below:

Rule 142 (1A)- The proper officer may, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74, as the case may be, communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A.

Hence, in light of the amendment in the rule, since the issuance of the pre-consultation SCN is now discretionary, the impugned SCN and the impugned order cannot be set aside merely on the ground of non-issuance of the pre-consultation notice.



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13. Further, the final contention raised by the Petitioner is with respect to the challenge to Section 16 (2)(c) of the CGST Act, 2017. The said issue is pending before the Court in ***W.P. (C) 6293/2019*** titled '***Bharti Telemedia Ltd. Vs. Union of India and Ors.***'.

14. Under such circumstances, this Court is of the view that the Petitioner ought to avail of its appellate remedy under Section 107 of the CGST Act, 2017, to file an appeal against the impugned order.

15. If the said appeal is filed by the Petitioner by 30th November, 2025, it shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

16. However, insofar as the Appellate Authority's order is concerned, the same shall be bound by the decision in ***Bharti Telemedia Ltd. (supra)*** where Section 16(2)(c) of the CGST Act, 2017 is under challenge, that too only in respect of the demand *qua* cancelled dealers.

17. The petition is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

OCTOBER 31, 2025
dj/ss