



\$~51

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

Date of decision: 19th November, 2025

Uploaded on: 21st November, 2025

+ **W.P.(C) 16844/2025 & CM APPL. 69228/2025**

DAVENDER KUMAR CHADHA PRO LIBERTY
CABLES (INDIA)

.....Petitioner

Through: Mr. S.K Arora, Mr. Bharat Arora, Mr.
Shobhit Manocha and Ms. Himangi
Arora, Advs.

versus

SALES TAX OFFICER CLASS II AVATO
WARD 63 AND ANR

.....Respondents

Through: Ms. Urvi Mohan, GNCTD.

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 by the Petitioner under Article 226 and 227 of the Constitution of India, *inter alia*, challenging the impugned order dated 24th August, 2024, passed under Section 73 of Central Goods and Services Tax Act, 2017 (*hereinafter, 'the Act'*) by the Sales Tax Officer, Class II, AVATO, Ward 63, Zone 6, Delhi (*hereinafter, 'impugned order'*).
3. Additionally, the Petitioner has also challenged the Show Cause Notice dated 21st May, 2024 passed by the Sales Tax Officer, Class II, AVATO, Ward 63, Zone 6, Delhi (*hereinafter, 'impugned SCN'*).
4. *Vide* the impugned order, a demand of Rs. 27,43,593/- has been



confirmed against the Petitioner, for the tax period 2019 to 2020.

5. On the last date of hearing *i.e.*, 7th November, 2025, the following submissions were made by the *ld.* Counsels for the parties:

5. *Ld. Counsel for the Petitioner submits that the demand has been raised in respect of the transactions qua the previous financial year, for which proceedings have already been dropped. In support of the same, ld. Counsel places reliance upon the two earlier orders passed by the GST Department.*

6. *The submission of ld. Counsel for the Petitioner is that the Show Cause Notice was issued to the Petitioner on 21st May, 2024. However, the same was not served upon the Petitioner and thereafter, the impugned order was passed without hearing the Petitioner. Further, ld. Counsel for the Petitioner submits that the Petitioner had also filed a rectification application under Section 161 of the Act, on 11 February, 2025. However, the GST Department rejected the same vide order dated 27th June, 2025, without granting the Petitioner an opportunity for personal hearing.*

6. Further, *vide* the previous order dated 7th November, 2025, the Respondents were directed to seek instructions in the following terms:

“Ld. Counsel for the Respondents to seek instructions and verify as to whether the impugned SCN was served upon the Petitioner and if so, in what manner and whether any hearing was afforded in the rectification application or not.”

7. Today, Ms. Urvi Mohan, *ld.* Counsel for the Respondents submits that the impugned SCN was uploaded on the GST Portal in the ‘Additional Notices Tabs’. However, from 16th January, 2024, the ‘Additional Notices Tabs’ has become clearly visible, and hence this ground could not be tenable.



Additionally, it is submitted that in the rectification application no hearing has been granted.

8. Ld. Counsel for the Petitioner submits that since the impugned SCN has been uploaded on the 'Additional Notices Tabs', the impugned order would have to be set aside.

9. The Court has considered the matter. After 16th January, 2024, the GST Department modified the GST portal to make the 'Additional Notices Tabs' fully visible to taxpayers. Thus, this ground would not be valid in the present case.

10. However, insofar as the hearing for rectification application under Section 161 of the Act is concerned, in terms of the third proviso to Section 161 of the Act, if the rectification order is to be passed adverse to the Petitioner, a hearing ought to be afforded. This is clear from a reading of third proviso of Section 161 of the Act which reads as under:

"161. Rectification of errors apparent on the face of record.— Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice



or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.”

11. This Court in ***HVR Solar Private Limited vs. Sales Tax Officer Class II Avato Ward 67 & Anr., 2025:DHC:2476-DB***, has considered the third proviso to Section 161 of the Act while relying on the decision of the Madras High Court in ***W.P. (MD) No. 7338 of 2024*** titled '***Suriya Cement Agency v. State Tax Officer***' (decided on 21st November 2024). The relevant portion of the judgement in ***Suriya Cement Agency (supra)*** reads as under:

“7. It is an admitted fact that the petitioner had made a Rectification Application. The order of rectification which is impugned would indicate that for the reasons given in the annexure to the said order, the Rectification Application is rejected.

8. A perusal of the order does not also indicate that there had been no error apparent on the record to reject the rectification. He had only extracted the tables indicating the figures which the petitioner is liable to pay. There is also no reasonings as to why there is no error apparent on the face of the record. For this reason, the impugned order dated 02.02.2024 is liable to be set aside. Even though, strenuous efforts had been made by the learned Additional Government Pleader that no personal hearing need to be given when an application had been made at the instance of the assessee, I am not in



agreementd with the learned Additional Government Pleader. **The Provisio indicates that when an order is being made adverse to the assessee, then he should be given an opportunity of being heard when the rectification adversely affects any person. The principles of natural justice had been inbuilt by way of the 3rd Proviso to Section 161. If pursuant to a Rectification Application, if a rectification is made and if it adversely affects the assessee, Proviso 3 contemplates an opportunity of hearing to be given. However, when an Rectification Application is made at the instance of assessee and the rectification is being sought to be rejected without considering the reasons for rectification or by giving reasons as to why such rectification could not be entertained. It is also imperative that the assessee to be put on notice.**

12. The above legal position is to the effect that it is necessary to afford a hearing to the assessee when the rectification order adversely affects the said assessee. The same has also been reaffirmed by this Court in ***W.P.(C) 1349/2025*** titled ***Raman Enterprises v. Commissioner of SGST Delhi and Anr.***

13. Under these circumstances, the Rectification order dated 27th June, 2025 is set aside.

14. Let the Petitioner be permitted to file short submissions highlighting the previous demands that have already been dropped.

15. The Petitioner shall be provided a hearing in the Rectification Application. The notice for personal hearing shall be served on the following e-mail address and mobile number:

- **Email:** bharat_ryans@yahoo.co.in
- **Mobile No.:** 9811628929

16. Until the decision in the rectification application is made, no coercive



2025:DHC:10254-DB



measures shall be taken against the Petitioner, in terms of the impugned order dated 24th August, 2025.

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

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

NOVEMBER 19, 2025*/tg/sm*

Signature Not Verified

Signed By: TANISHKA
GUPTA
Signing Date: 21.11.2025
18:15:45

W.P.(C) 16844/2025

Page 6 of 6