$~42

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

\+ **W.P.(C) 18877/2025 & CM APPL. 78601/2025**

M/S PHX ELECTRONICS PVT. LTD. .....Petitioner
Through: Mr.Bharat Bhushan, Mr.Anunay Mishra and Ms. Nidhi Gupta, Adv.

versus

COMMISSIONER CGST AND CENTRAL EXCISE, DELHI EAST COMMISSIONERATE & ORS. .....Respondents
Through: Mr. Akash Panwar, JSC

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 19.12.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, assailing the Show Cause Notice dated 18th March, 2019 (hereinafter, *'impugned SCN'*) issued to the Petitioner under Section 130 of the Central Goods and Services Tax Act, 2017 (hereinafter, *'CGST Act'*) by the Respondent Department .

3. A brief background of the Petitioner's case is that, a search was conducted by the Directorate General of Goods and Services Tax Intelligence (hereinafter, *'DGGI'*) at the business premises of the Petitioner and excess stock of Televisions and Motherboards were seized on the ground that goods found were more than the recorded stock.

4. Thereafter, the impugned SCN was issued to the Petitioner on 18th March, 2019, proposing confiscation of the excess stock of Televisions and Motherboards valuing Rs. 1,34,43,410/-.

5. According to the Petitioner, the impugned SCN was made answerable to the Assistant Commissioner, Laxmi Nagar Division. However, the Laxmi Nagar Division has stated in a letter dated 9th May, 2019 that the matter comes under the Gandhi Nagar Division. The Petitioner has not filed a reply to the impugned SCN

6. On the last date of hearing *i.e.,*12th December, 2025, ld. Counsel for the Respondent was directed to seek instructions in this matter.

7. Mr. Akash Panwar, ld. Counsel for the Respondent has sought instructions in the matter. He submits that the Laxmi Nagar Division of the CGST Department is willing to adjudicate the SCN in a time bound manner.

8. Ld. Counsel for the Petitioner is also willing to file a reply to the SCN so long as time bound directions are fixed, considering the nature of the goods being electronic goods are becoming outdated.

9. Another aspect has been highlighted before the Court on the basis of the submissions made by the parties. Whenever such goods are seized under Section 130 of the CGST Act, Section 67(6) of the CGST Act permits provisional release of the goods subject to a bond or a security. The other option is to pay the applicable tax and penalty. Unfortunately, however under Rule 140 of the Central Goods and Services Tax Rules, 2017 (hereinafter, *'Rules'*), the only mechanism that has been provided is for payment of the entire tax, interest and penalty and no other conditions are prescribed for provisional release. Usually under other enactments conditions such as bank guarantee, corporate guarantee or some other form of security is also acceptable. For the sake of reference, Section 67(6) of the CGST Act, Rule 140(1) of the Rules and Section 35(6) of the CGST Act are set out below:

Section 67(6) of CGST Act
"(6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be."

Rule 140 (1) of the Rules
"140. Bond and security for release of seized goods.-(1) The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in FORM GST INS-04 and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable."

Section 35 (6) of CGST Act
" (6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74 [or section 74A], as the case may be, shall, mutatis mutandis, apply for determination of such tax."

10. In the present case, in terms of paragraph 10 of the SCN, it is recorded that the Petitioner was given an option of provisional release, however, there was no quantification of the amount payable for provisional release and neither there were any conditions imposed for provisional release.

11. The Department submits that the Petitioner never sought provisional release of the goods.

12. The goods themselves are electronic goods imported 6 years ago and

technologically they may have become outdated.

13. Under these circumstances, this incongruity deserves to be resolved by taking a policy decision on the manner in which provisional release can be considered even when the seizures are effected on alleged suspicion of evasion of GST.

14. Let this matter be placed before the GST Council.

15. Insofar as the present case is concerned, let the Petitioner file a reply to the SCN by 15th January, 2026. Considering the delay that has already taken place, personal hearing shall be given in the SCN proceedings and a decision shall be taken by 15th March, 2026. A personal hearing notice shall be served to the Petitioner on the following email address and mobile no.:

Email Address: bbhushanadv@gmail.com

Mobile No.:9810854786

16. This Court has not gone into the merits and contentions of the parties. All rights and remedies in respect of the adjudication SCN are also left open.

17. The petition is accordingly disposed of. Pending applications, if any, are also disposed of.

18. Copy of this order be communicated to the OSD(legal), CBIC through email (Osd-legal@gov.in) for necessary information and compliance. Let Mr. Anurag Ojha, ld. Sr. Standing Counsel, also communicate this order to the OSD (Legal), CBIC for necessary information.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

DECEMBER 19, 2025/*pt/ck*