



\$~204

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3078/2025**
MUDITA EXPRESS CARGO PRIVATE LIMITED

.....Petitioner

Through: Mr. Ruchir Bhatia, Mr. Anant
Mann, Advs.

versus

**COMMISSIONER OF STATE GOODS AND SERVICE TAX
DELHI & ORS.**

.....Respondent

Through: Mr. Sumit Batra, Adv. for
GNCTD

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

ORDER
17.03.2025

%

1. Although the writ petitioner had also questioned the validity of Notification No. 56/2023-CT dated 28 December 2023, learned counsel today submits that notwithstanding the aforesaid, the writ petition is liable to be allowed in light of it being *ex-facie* evident that the impugned order suffers from a complete non-application of mind by the Assistant Commissioner.

2. We note that by virtue of the impugned order, the response of the petitioner to the original **Show Cause Notice**¹ under Section 73 of the **Central Goods and Services Tax Act, 2017**² has come to be rejected in the following terms:

“Govt. of NCT of Delhi
Department of Trade & Taxes
Office of the Assistant Commissioner (DGST), (Ward-201, 207 & 208) KCS

¹ SCN

² Act



13th Floor, Vyapar Bhawan, I.P. Estate, New Delhi-110002

Annexure to Order

(u/s 73(9) of CGST/DGST Act, 2017)

Tax Period: April 2019- March 2020

The taxpayer M/s Mudita Express Cargo Pvt. Ltd., GSTIN-07AADCM3657R1ZT was served upon a notice under section 73 of CGST/DGST Act, 2017 regarding (Voluntary Payment Intimation, if applicable) along with GST DRC-01 vide reference No. ZD0705240269960 (Summary of SCN) on 24.05.2024 for the period April-2019 to March-2020, asking him to furnish the reply by 24.06.2024 and avail personal hearing 28.06.2024.

In response to DRC-01 issued to the taxpayer u/s 73 of CGST/DGST Act, 2017 for the year 2019-20, the taxpayer neither filed reply through DRC-06 nor availed personal hearing on the scheduled date and time. The taxpayer filed adjournment on 24.06.2024, for the period of four weeks, however, no sufficient cause was mentioned as envisaged u/s 75(5) of the Act 2017.

Taxpayer filed reply on 23.07.2024. The reply filed by the taxpayer is not comprehensible, conceivable, not perspicuous and is ambiguous.

Observing the principle of natural justice before deciding the case reminder was issued on 26.07.2024, asking the taxpayer to avail personal hearing on 01.08.2024. Again the taxpayer failed to appear for personal hearing on the re-scheduled date and time.

The taxpayer on 31.07.2024 sought adjournment of a week time without mentioning any sufficient cause as envisaged u/s 75(5) of the Act 2017. The request of the taxpayer could not be acceded to, keeping in view of the negligible time period left as the relevant date for passing order is approaching near and the same is 31.08.2024. Further, till date none has appeared to explain the issues mentioned in the SCN.

In view of the above, as the taxpayer has failed to attend the personal hearing despite ample opportunity given and after having gone through the reply filed by the taxpayer in r/o each point no explanation could be given in want of personal hearing by the taxpayer till date. Since, the reply filed by the taxpayer is not comprehensible, conceivable, not perspicuous and is ambiguous. Therefore, the proposed demand mentioned in the Show Cause Notice is confirmed.

(Dinesh Kumar Gondyan)
Assistant Commissioner
Ward-201, 207 & 208"

3. We had while considering an identical order passed by the said Assistant Commissioner while allowing **Indian Highways**



Management Co. Ltd. v. Assistant Commissioner & Anr.³

observed as follows:

“4. Apart from the Assistant Commissioner having observed that the reply filed by the tax payer was “not comprehensible, conceivable, not perspicuous and is ambiguous”, no further reasons have been assigned. In fact, we are constrained to observe that the said language appears to have attained the status of a template and is being uniformly used while passing orders like the one which is impugned before us.

5. Consequently and since the impugned order is wholly unreasoned, we find ourselves unable to sustain the same. Faced with our aforementioned tentative conclusions, Mr. Aggarwal, learned counsel appearing for the respondent submitted that rather than the matter being retained on the board of this Court, the ends of justice would warrant the impugned order being set aside, subject to liberty being reserved to the respondents to proceed in the matter afresh.”

4. The conduct of the concerned officer whom we found was repeatedly employing identical phraseology to dispose of innumerable objections, had again fallen for adverse comment in **Xerox India Ltd. v. Assistant Commissioner, Ward 208 (Zone - 11) DGST & Anr.⁴** and where we were constrained to observe as under:

“3. We are constrained to observe that the order as passed follows lines identical to those which have come before us and have fallen for our notice on earlier occasions. The Assistant Commissioner has clearly adopted a template where the only reason assigned is that the reply filed was “not comprehensible, conceivable, not perspicuous and is ambiguous”. This clearly exhibits an abject non-application of mind and the officer repeatedly employing identical phraseology to deal with such matters.

4. Despite caution having been sounded by us of the said language having attained the status of a template and the concerned officer having chosen to replicate an identical pattern while framing orders, in **Indian Highways Management Company Limited vs. Assistant Commissioner & Anr.**, we find that the officer has failed to make any amends.

5. Accordingly, while we are convinced that the impugned order being wholly unreasoned is liable to be set aside on this short score alone, we also require Mr. Aggarwal, learned counsel for the respondents to place a copy of this order before the Principal Commissioner concerned, so that an

³ W.P.(C) 15701/2024 dated 12 November 2024

⁴ W.P.(C) 16451/2024 dated 28 November 2024



appropriate review of the manner in which such applications of assesseees are adjudicated is undertaken.”

5. In view of the aforesaid and on the aforenoted short ground alone, we are of the considered opinion that the impugned orders dated 25 August 2024 and 19 December 2024 are liable to be set aside.

6. We, accordingly, allow the present writ petition and quash the impugned orders dated 25 August 2024 and 19 December 2024. We leave it open to the concerned Assistant Commissioner to commence proceedings afresh from the stage of receipt of the objections of the writ petitioner. All rights and contentions of respective parties on merits are kept open.

7. The right of the petitioner to challenge Notification No. 56/2023-CT dated 28 December 2023, is kept open to be raised afresh and if circumstances so warrant.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

MARCH 17, 2025/neha