



\$~47

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

+ W.P.(C) 15766/2023 & CM APPL. 63329/2023 & CM
APPL. 63330/2023

SULENDER SHAH & ANR. Petitioners

Through: Mr. Abhay Gupta, Mr.
Tanuj Dogra & Mr. Vivek
Pathak, Advs.

versus

**ADDITIONAL COMMISSIONER/ JOINT
COMMISSIONER CGST AND ANR Respondents**

Through: Mr. Harpreet Singh, SSC
with Ms. Suhani Mathur,
Mr. Jatin Kumar Gaur &
Mr. Gurpreet Singh
Gulati, Advs.
Mr. Anurag Ojha, SSC
with Mr. Deepak Soman
& Mr. Vipul Kumar,
Advs. for R1.

CORAM:

**HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE AMIT MAHAJAN**

O R D E R

%

07.12.2023

1. Issue notice.
2. The learned counsel appearing for the respondents accepts notice.
3. The petitioner has filed the present petition, *inter alia*, praying as under: -

“(a) Issue a Writ, Order or Directions In A Nature Of Certiorari To Set aside /Quash The Impugned Show Cause Notice File NO. DGGI/ DZU/ GR-D/ INV/ 822019-20 DIN NO. 2023 08 DNN 10000217428 SHOW CAUSE NOTICE DATED- 02.08.2023 issued by respondent no. 2 to the satisfaction of respondent no. 1 for non-compliance of rule 142 (1) (a) and rule 142 (1A) of the CGST rules 2017



(b) Issue a appropriate Writ OF prohibition/ order or directions restraining the respondent no. 1 from proceeding with the adjudication proceedings of the impugned show cause notice file no. DGGI/DZU/GRD/ INV/822019-20 DIN NO. 2023 08 . DNN 10000217428 SHOW cause notice dated- 02.08.2023 during the pendency of the present writ petition.”

4. It is contended that the said issue is covered by the earlier decision of this Court rendered in W.P.(C) No.12457/2023 captioned ***Shubham Gupta v. Additional Commissioner/Joint Commissioner CGST, and Anr.*** The petitioner is the co-noticee in the notice impugned in the present petition and the notice is the same as that was considered in W.P.(C) 12457/2023. The learned counsel for the respondents submit that the preset petition be disposed of in terms of the said order.

5. The order dated 21.09.2023 passed in W.P.(C) No.12457/2023 reads as under: -

- “1. Issue notice.
- 2. The learned counsel appearing for the respondents accepts notice.
- 3. The petitioner has filed the present petition, *inter alia*, praying as under: -
 - “(i) Issue a Writ, Order Or Directions In A Nature Of Certiorari To Set A Side /Quash The Impugned Show Cause Notice File NO. DGGI/DZU/GR-D/INV/822019-20 DIN NO. 2023 08 DNN 1000021742B SHOW CAUSE NOTICE DATED-02.08.2023 issued by respondent no. 2 to the satisfaction of respondent no.1 for non compliance of rule 142 (1) (a) and rule 142 (1) (a) of the CGST rules 2017
 - (ii) Issue a appropriate Writ OF prohibition/ order or directions restraining the respondent no. 1 from proceeding with the adjudication proceedings of the impugned show cause notice file no. DGGI/DZU/GR-D/INV/822019-20 DIN NO. 2023 08 DNN 1000021742B SHOW cause notice dated- 02.08.2023 during the pendency of the present writ petition.”

4. It is the petitioner's grievance that although it has



received the show cause notice dated 02.08.2023 proposing imposition of penalty, the summary of the proposed demand has not been communicated electronically in FORM GST DRC-01 & FORM GST DRC-02 as required under Rule 142(1) of the Central Goods and Services Tax Rules, 2017 (hereafter '**the CGST Rules**').

5. The Rule 142(1) of the CGST Rules reads as under: -

"142. Notice and order for demand of amounts payable under the Act – (1) The proper officer shall serve, along with the

- (a) notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in **FORM GST DRC-01**,
- (b) statement under sub-section (3) of Section 73 or sub-section (3) of Section 74, a summary thereof electronically in **FORM GST DRC-02**, specifying therein the details of the amount payable."

6. Any notice issued under the relevant sections including Section 74 of the Central Goods and Services Tax Act, 2017 (hereafter '**the CGST Act**') is required to be accompanied by a summary thereof, electronically in FORM GST DRC-01 & FORM GST DRC-02. The show cause notice dated 02.08.2023 indicates that it has been issued under Section 74(1) of the CGST Act.
7. The learned counsel appearing for the respondents submits that a summary has not been issued in the requisite form and that the proper officer shall issue the same in compliance with the said provisions.
8. Although the summary in the electronic form is required to be furnished along with the show cause notice, we are of the view that furnishing of the said summary at this stage would be substantial compliance with the said provisions.
9. In view of the above, the present petition is disposed of with the direction to the proper officer to issue a summary of the notice and demands electronically, in FORM GST DRC-01 & FORM GST DRC-02 as expeditiously as possible and preferably within a period of one week from date.



10. The petition is disposed of in the aforesaid terms.”

6. In view of the above, the present petition is disposed of by directing the proper officer to issue summary of the notice and demands electronically in FORM GST DRC-01 & FORM GST DRC-02 as expeditiously as possible and preferably within a period of one week from today, if not already done. All pending applications are also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

DECEMBER 7, 2023
Ch