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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 18th November, 2025

Date of upload: 21st November, 2025

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W.P.(C) 16741/2025

M/S GANGA ENTERPRISES

.....Petitioner

Through: Ms. Nidhi Mohan Parashar, Mr. Pranav Sarthi, Mr. Amar Bajpayee and Ms. Aditi Vishnoi, Advs.

versus

ASSISTANT COMMISSIONER, CGST, DELHI EAST
COMMISSIONERATE

.....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Harsh Singhal, Mr. Suraj Shekhar Singh, Advs.

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, *inter alia*, challenging the impugned Order-in-Original dated 28th August, 2024 by which a demand of Rs. 97,53,080/- along with interest has been confirmed against the Petitioner.
3. The brief facts of the case are that the present petition has been preferred by Mrs. Chakresh Jain who is stated to be a senior citizen of more than 75 years of age and a widow. Mrs. Jain is the sole proprietor of the Petitioner firm who has a dealership agreement dated 14th October, 2016 with M/s. Hindustan Petroleum Corporation Limited in respect of domestic & commercial Liquified Petroleum Gas for a period of 10 years.
4. A notice in Form GST ASMT 10 was issued to the Petitioner firm on



5th April, 2024 (hereinafter “*the notice*”) relating to certain discrepancies in the Goods and Service Tax (hereinafter, ‘GST’) returns filed by the Petitioner firm. The firm was asked to explain within ten days from the issuance of the notice the allegation of short-payment of tax of Rs. 97,53,080/- for the period 01st April, 2019 to 31st March, 2020 after comparison between GSTR-1 and GSTR-3B returns.

5. Thereafter a Show Cause Notice was issued on 29th May, 2024 (hereinafter “*the SCN*”) seeking as to why the demand should not be raised against the Petitioner firm under Section 73(1) of the Central Goods and Services Tax Act, 2017.

6. Personal hearing notices were issued on 30th July, 2024, 06th August, 2024 and 13th August, 2024. However, the Petitioner neither replied to the notice or the SCN nor did she attend the personal hearing.

7. The impugned Order-in-Original was passed on 28th August, 2024, raising the demand of Rs. 97,53,080/- along with penalty of Rs. 5000/- and Rs. 9,75,308/-.

8. The ground for challenging the impugned Order-in-Original which is raised in the Petition is that the Petitioner firm’s proprietor being a senior citizen was suffering from an ‘acute kidney’ condition due to which she failed to file a reply. It is submitted that from 2022, she is suffering from this condition and hence, her case may be considered with some leniency.

9. It is further submitted that insofar as the Financial Year 2019-2020 is concerned, in respect of which the present Petition would be connected, challenge to the **Notification No. 9/2023- Central Tax** dated 31st March, 2023, **Notification No. 56/2023- Central Tax** dated 28th December, 2023, which is also pending before the Supreme Court - though, no specific orders



seeking quashing of the said notifications has been sought in the present Petition.

10. Heard. The challenge in the present petition is similar to a batch of petitions wherein, *inter alia*, the impugned notifications were challenged. **W.P.(C) No. 16499/2023** titled **DJST Traders Private Limited v. Union of India & Ors** was the lead matter in the said batch of petitions. On 22nd April, 2025, the parties were heard at length *qua* the validity of the impugned notifications and accordingly, the following order was passed:

“4. Submissions have been heard in part. The broad challenge to both sets of Notifications is on the ground that the proper procedure was not followed prior to the issuance of the same. In terms of Section 168A, prior recommendation of the GST Council is essential for extending deadlines. In respect of Notification no.9, the recommendation was made prior to the issuance of the same. However, insofar as Notification No. 56/2023 (Central Tax) the challenge is that the extension was granted contrary to the mandate under Section 168A of the Central Goods and Services Tax Act, 2017 and ratification was given subsequent to the issuance of the notification. The notification incorrectly states that it was on the recommendation of the GST Council. Insofar as the Notification No. 56 of 2023 (State Tax) is concerned, the challenge is to the effect that the same was issued on 11th July, 2024 after the expiry of the limitation in terms of the Notification No.13 of 2022 (State Tax).

5. In fact, Notification Nos. 09 and 56 of 2023 (Central Tax) were challenged before various other High

Courts. The Allahabad Court has upheld the validity of Notification no.9. The Patna High Court has upheld the validity of Notification no.56. Whereas, the Guwahati High Court has quashed Notification No. 56



of 2023 (Central Tax).

6. The Telangana High Court while not delving into the vires of the assailed notifications, made certain observations in respect of invalidity of Notification No. 56 of 2023 (Central Tax). This judgment of the Telangana High Court is now presently under consideration by the Supreme Court in S.L.P No 4240/2025 titled *M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors.* The Supreme Court vide order dated 21st February, 2025, passed the following order in the said case:

"1. The subject matter of challenge before the High Court was to the legality, validity and propriety of the Notification No.13/2022 dated 5-7-2022 & Notification Nos.9 and 56 of 2023 dated 31-3-2023 & 8-12-2023 respectively.

2. However, in the present petition, we are concerned with Notification Nos.9 & 56/2023 dated 31-3-2023 respectively.

3. These Notifications have been issued in the purported exercise of power under Section 168 (A) of the Central Goods and Services Tax Act, 2017 (for short, the "GST Act").

4. We have heard Dr. S. Muralidhar, the learned Senior counsel appearing for the petitioner.

5. The issue that falls for the consideration of this Court is whether the time limit for adjudication of show cause notice and passing order under Section 73 of the GST Act and SGST Act (Telangana GST Act) for financial year 2019-2020 could have been extended by issuing the Notifications in question under Section 168-A of the GST Act.

6. There are many other issues also arising for consideration in this matter.

7. Dr. Muralidhar pointed out that there is a cleavage of opinion amongst different High Courts of the country. 8. Issue notice on the SLP



as also on the prayer for interim relief, returnable on 7-3-2025.”

7. In the meantime, the challenges were also pending before the Bombay High Court and the Punjab and Haryana High Court. In the Punjab and Haryana High Court vide order dated 12th March, 2025, all the writ petitions have been disposed of in terms of the interim orders passed therein. The operative portion of the said order reads as under:

“65. Almost all the issues, which have been raised before us in these present connected cases and have been noticed hereinabove, are the subject matter of the Hon'ble Supreme Court in the aforesaid SLP.

66. Keeping in view the judicial discipline, we refrain from giving our opinion with respect to the vires of Section 168-A of the Act as well as the notifications issued in purported exercise of power under Section 168-A of the Act which have been challenged, and we direct that all these present connected cases shall be governed by the judgment passed by the Hon'ble Supreme Court and the decision thereto shall be binding on these cases too.

67. Since the matter is pending before the Hon'ble Supreme Court, the interim order passed in the present cases, would continue to operate and would be governed by the final adjudication by the Supreme Court on the issues in the aforesaid SLP-4240-2025.

68. In view of the aforesaid, all these connected cases are disposed of accordingly along with pending applications, if any.”

8. The Court has heard Id. Counsels for the parties for a substantial period today. A perusal of the above would show that various High Courts have taken a view and the matter is squarely now pending before the Supreme Court.



9. Apart from the challenge to the notifications itself, various counsels submit that even if the same are upheld, they would still pray for relief for the parties as the Petitioners have been unable to file replies due to several reasons and were unable to avail of personal hearings in most cases. In effect therefore in most cases the adjudication orders are passed ex-parte. Huge demands have been raised and even penalties have been imposed.

10. Broadly, there are six categories of cases which are pending before this Court. While the issue concerning the validity of the impugned notifications is presently under consideration before the Supreme Court, this Court is of the prima facie view that, depending upon the categories of petitions, orders can be passed affording an opportunity to the Petitioners to place their stand before the adjudicating authority. In some cases, proceedings including appellate remedies may be permitted to be pursued by the Petitioners, without delving into the question of the validity of the said notifications at this stage.

11. The said categories and proposed reliefs have been broadly put to the parties today. They may seek instructions and revert by tomorrow i.e., 23rd April, 2025.”

11. The abovementioned writ petition and various other writ petitions have been disposed of by this Court on subsequent dates, either remanding the matters or relegating the parties to avail of their appellate remedies, depending upon the factual situation in the respective cases. All such orders are subject to further orders of the Supreme Court in respect of the validity of the **Notification No. 56/2023-Central Tax** in **S.L.P No 4240/2025** titled **M/s HCC-SEW-MEIL-AAG JV v. Assistant Commissioner of State Tax &Ors..**



12. Insofar as the present case is concerned, considering the medical condition of the Petitioner firm's proprietor which prevented her from filing a reply to the notices or appearing for the personal hearing, in the opinion of the Court, the matter deserves to be heard on merits. In **W.P.(C) 4779/2025** titled '***Sugandha Enterprises through its Proprietor Devender Kumar Singh V. Commissioner Delhi Goods And Service Tax And Others***', under similar circumstances where no reply was filed to the SCN this Court had remanded the matter in the following terms:

"6. On facts, however, the submission of the Petitioner in the present petition is that the Petitioner was not afforded with an opportunity to file a reply to the SCN dated 23rd May, 2024 and the impugned order was passed without affording the Petitioner with an opportunity to be heard. Hence, the impugned order is a non-speaking order and is liable to be set aside on the said ground.

7. Heard. The Court has considered the submissions made. The Court has perused the records. In this petition, as mentioned above, no reply to the SCN has been filed by the Petitioner. Relevant portion of the impugned order reads as under:

And whereas, the taxpayer had neither deposited the proposed demand nor filed their objections/reply in DRC-06 within the stipulated period of time, therefore, following the Principle of Natural Justice, the taxpayer was granted opportunities of personal hearing for submission of their reply/objections against the proposed demand before passing any adverse order.

And whereas, neither the taxpayer filed objections/reply in DRC 06 nor appeared for personal hearing despite giving sufficient opportunities, therefore, the undersigned is left



with no other option but to uphold the demand raised in SCN/DRC 01. DRC 07 is issued accordingly.

8. This Court is of the opinion that since the Petitioner has not been afforded an opportunity to be heard and the said SCN and the consequent impugned order have been passed without hearing the Petitioner, an opportunity ought to be afforded to the Petitioner to contest the matter on merits.

9. Accordingly, the impugned order is set aside. The Petitioner is granted 30 days' time to file the reply to SCN. Upon filing of the reply, the Adjudicating Authority shall issue to the Petitioner, a notice for personal hearing. The personal hearing notice shall be communicated to the Petitioner on the following mobile no. and e-mail address:....”

13. In terms of the decision in ***Sugandha (supra)***, this Court is inclined to give an opportunity to the Petitioner firm to file a reply and have a personal hearing in the matter.

14. However, considering that the Petitioner firm was duly served with the notices and had been provided repeated opportunities of personal hearing, the Court is of the opinion that a conditional order would be passed in respect of the impugned Order-in-Original.

15. Accordingly, subject to payment of Rs. 1,00,000/- as costs, the impugned Order-in-Original is set aside. Costs shall be paid to the Delhi High Court Bar Association within two weeks. Details of the bank account are as under:

- ***A/c No.*** – 15530100000478
- ***IFSC*** – UCBA0001553



- **Bank & Branch** – UCO Bank, Delhi High Court.

16. The Petitioner is permitted to file a reply to the SCN by 15th December, 2025. Costs shall be deposited by 5th December, 2025 and receipt of deposit of costs shall be attached with the reply.

17. After receiving the reply, notice for personal hearing should be given to the Petitioner on the following mobile no. and e-mail address:

- **E-mail Address:** (i) kamal@sascvk.com
(ii) cjain8385@gmail.com
- **Mobile No.:** +91-8826457307

18. The Petitioner shall attend the hearing and a reasoned order shall be passed in accordance with law.

19. Access to the GST Portal, shall be provided within one week, to the Petitioner to enable uploading of the reply as also access to the notices and related documents.

20. All rights and remedies of the parties are left open as this Court has not considered the matter on merits.

21. The present petition is disposed off in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

NOVEMBER 18, 2025^{/tg/msh}

