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

Date of Decision: 08th October, 2025

+ **W.P.(C) 15391/2025, & CM APPL. 63064/2025**

SAKSHI ELECRICALS POLYMERS ENGG CORPNPetitioner
Through: Mr. P.C. Patnaik, Mr. Devender
Kumar, Mr. Dilip Kumar Nayak & Mr.
Hemant Mishra, Advs.
versus

GOVERNMENT OF NCT DELHI & ANR.Respondents
Through: Ms. Urvi Mohan, Adv. for GNCTD

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 63063/2025 (for exemption)

2. Allowed, subject to all just exceptions. The application is disposed of.

W.P.(C) 15391/2025, & CM APPL. 63064/2025

3. The present petition has been filed by the Petitioner under Articles 226 and 227 of the Constitution of India, *inter alia*, challenging the order dated 26th August, 2024, pertaining to the Financial Year 2019-20 passed by the office of Sales Tax Officer Class II/ AVATO, Delhi (hereinafter, '*the impugned order*'). The Petitioner further challenges the issuance of the Show Cause Notices (hereinafter, '*SCN*') dated 22nd May, 2024 issued under Section 73 of the Central Goods and Service Tax Act, 2017, (hereinafter, '*CGST Act*') and 07th August, 2025 issued under Section 74 of the CGST Act, both pertaining to the Financial Year 2019-20.



4. Additionally, the present petition also challenges the vires of the following notifications:

- **Notification No. 56/2023- Central Tax** dated 28th December, 2023;
- **Notification No. 56/2023- State Tax** dated 11th July, 2024;
- **Notification No. 09/2023- Central Tax** dated 31st March 2023;
- **Notification No. 09/2023- State Tax** dated 22nd June 2023.
(hereinafter, 'the impugned notifications').

5. 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.”



6. 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 fact situation. All such orders are subject to further orders of the Supreme Court.

7. As observed by this Court in the order dated 22nd April, 2025 as well, since the challenge to the above mentioned notifications is presently under consideration before 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 challenge made by the Petitioner to the impugned notifications in the present proceedings shall also be subject to the outcome of the decision of the Supreme Court.

8. However, in cases where the challenge is to the parallel State Notifications, the same have been retained for consideration by this Court. The lead matter in the said batch is ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

SCN dated 22nd May, 2024 & Order dated 26th August, 2024

9. Insofar as first SCN is concerned, the same has raised a demand of sum of Rs.20,00,436/- against the Petitioner under various heads. A reply was thereafter filed by the Petitioner to the SCN on 09th August, 2024. After the said reply was filed by the Petitioner, the impugned order dated 26th August, 2024 has been passed wherein, the demand which was raised in the said SCN has been confirmed.

10. Considering the fact that the reply dated 09th August, 2024 was filed



by the Petitioner and the same has been duly taken into consideration by the Adjudicating Authority, the Court is of the opinion that the impugned order in the present petition does not warrant interference of this Court under writ jurisdiction.

11. Accordingly, the present petition is disposed of with liberty granted to the Petitioner to file an appeal under Section 107 of the CGST Act, challenging the order dated 26th August 2024, before the Appellate Authority by 30th November, 2025, along with the requisite pre-deposit.

12. The access to the portal shall be made available to the Petitioner within one week to download any documents which he may require. If the appeal is filed by 30th November 2025 along with pre-deposits, it shall not be dismissed on the ground of limitation and shall be adjudicated on merits.

13. It is further made clear that the decision of the Appellate Authority shall be subject to the decision of 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.*** and of this Court in ***W.P.(C) 9214/2024*** titled ***Engineers India Limited v. Union of India &Ors.***

SCN dated 7th August, 2025

14. Insofar as the second SCN is concerned, the same is dated 07th August, 2025 for the Financial Year 2019-20. The said notice has been issued under Section 74 of the CGST Act, 2017.

15. For issuance of any notice under Section 74 of the CGST Act, 2017, the same has to be done so within 5 years from the due date of furnishing of the annual return or when the Input Tax Credit (hereinafter, 'ITC') has been wrongly availed.



16. In terms of Section 74 read with **Notification No.56/2023-Central Tax** dated 28th December, 2023 and **Notification No. 56/2023- State Tax** dated 11th July, 2024 , the last date for issuance of any SCN for the Financial Year 2019-20 was 31st August, 2024. However, the impugned SCN was issued on 07th August, 2025 and is accordingly barred by limitation. The said impugned notifications read as under:

Notification No.56/2023-Central Tax dated 28th December, 2023

“S.O (E).- In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of the Union territory Goods and Services Tax Act, 2017 (14 of 2017) and in partial modification of the notifications of the Government of India, Ministry of Finance (Department of Revenue), No. 35/2020-Central Tax, dated the 3'd April, 2020 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3'd April, 2020 and No. 14/2021-Central Tax, dated the 1st May, 2021 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 310(E), dated the 1st May, 2021 and No. 13/2022-Central Tax, dated the 5th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 516(E), dated the 5th July, 2022, and No. 09/2023-Central Tax, dated the 31st March, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number G.S.R. 1564(E) dated the 31st March, 2023, the Government, on the recommendations of the Council, hereby, extends the time limit specified under sub-section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short



paid or of input tax credit wrongly availed or utilized, relating to the period as specified below, namely:-

(i) for the financial year 2018-19, up to the 30th day of April, 2024;

(ii) for the financial year 2019-20, up to the 31st day of August, 2024.

Notification No. 56/2023- State Tax dated 11th July, 2024

“No. F.3 (04 /Fin.(Exp-I)/2024-25/DS-I/572- In exercise of the powers conferred by section 168A of the Delhi Goods and Services Tax Act, 2017(03 of 2017) (hereinafter referred to as the said Act) read with section 20 of the integrated Goods and Services Tax Act, 2017(13 of 2017), and in partial modification of the Government Notification No. 35/2020-State Tax, published in the Gazette of Delhi, Extraordinary, Part IV, Section 3, Sub- section (i), vide number F.3(84)/Fin.(Exp-IV)/2020-21/DS-IV/288, dated 24th March, 2021 and Notification No. 14/2021-State Tax published in the Gazette of Delhi, Extraordinary, Part IV, Section 3, Sub- section (i), vide number F.3 (115)/Fin.(Exp-I)/2021-22/DS-I/313, dated 17th November, 2021 and Notification No. 13/2022-State Tax, published in the Gazette of Delhi, Extraordinary, Part IV, Section 3, Sub- section (i), vide number F.3 (22)/Fin.(Exp-I)/2022-23/DS-I/818, dated 12th October, 2022, and Notification No. 09/2023-State Tax, published in the Gazette of Delhi, Extraordinary, Part IV, Section 3, Sub- section section (i), vide number F.3 (02)/Fin.(Exp- I)/2023-24/DS-I/548, dated 22th June, 2023, the Lieutenant Governor of National Capital Territory of Delhi, on the recommendations of the Council, hereby, extends the time limit specified under sub-section(10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to



the period as specified below. namely:

(i) for the financial year 2018-19, up to the 30th day of April, 2024;

(ii) for the financial year 2019-20, up to the 31st day of August, 2024.

17. In view thereof, the SCN dated 07th August, 2025 itself is not tenable and is liable to be quashed.

18. The present writ petition is disposed of in above terms. All the pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

OCTOBER 8, 2025/pd/ck