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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 25th April, 2025***+ **W.P.(C) 5304/2025 & CM APPL. 24182/2025, 24183/2025**
M/S GMT GARMENTSPetitionerThrough: Mr. Prem Kandpal, Ms. Shruti Garg &
Mr. Chetan Kumar Shukla, Advs. (M:
9968768840)

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Harpreet Singh, Sr. SC with Ms.
Suhani Mathur and Mr. Jai Ahuja,
Advs.
Mr. Sumit K. Batra, Adv. (M:
9911211000)**CORAM:**
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- M/s GMT Garments under Article 226 and 227 of the Constitution of India, *inter alia*, challenging the validity of **Notification Nos. 09/2023- Central Tax** dated 31st March 2023 and **56/2023- Central Tax** dated 28th December 2023. This Court has had the opportunity to consider a large number of similar matters where such a challenge has been raised. In **W.P.(C) 16499/2023** titled '**DJST Traders Private Limited vs. Union of India & Ors.**' which was the lead matter, vide order dated 23rd April, 2025, this Court has observed as under:

"5. 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 notifications in the present proceedings shall also be subject to the outcome of the decision of the Supreme Court.”

3. Accordingly, insofar as the challenge to the Notifications is concerned, the same shall be governed by 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’***.

4. Coming to the facts, however, the show cause notice (hereinafter, ‘SCN’) was issued on 23rd December, 2023, prior to the change in the portal, which came into effect on 16th January, 2024. The SCN was uploaded on the additional notices tab on the portal.

5. According to the Petitioner, the SCN was not in the knowledge of the Petitioner, hence no reply was filed. The order dated 3rd April 2024 was, thus, passed without hearing the Petitioner and without any opportunity of filing the reply.

6. The Petitioner then approached the Appellate Authority under Section 107 of the Central Goods and Service Tax Act, 2017 which has, however, dismissed the said appeal on 11th November, 2024 on the ground that the same is barred by limitation. The relevant portion of the order of the Appellate Authority is set out below:

“I have gone through the documents made available by the Appellant and considered the facts and circumstances of the case as well as the relevant legal provisions. The demand was raised vide impugned order dated 03.04.2024. As per section 107 (1) of the



DGST/CGST Act, 2017, appeal against any decision or order passed under the Act by an adjudicating authority may be filed by a person before the Appellate Authority within three months from the date on which the said decision or order is communicated to such person.

*Further, as per section 107 (4), the Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period of three months, allow it to be presented within a further period of one month. **In this case, the impugned order is dated 03.04.2024 and the present appeal has been filed only on 02.09.2024, which is beyond the prescribed time-limit as per the above mentioned legal provisions.***

In view of above provisions and facts, the present appeal is time-barred and hence rejected.”

7. This Court has already held that the notice if uploaded on the additional notices tab of the portal, the same would not be proper in as much as the party would not have even acquired knowledge of the same. This issue has been dealt in various decisions including in –

- order dated 9th September, 2024 in ***W.P.(C) 12589/2024*** titled ‘***Satish Chand Mittal (Trade Name National Rubber Products) vs. Sales Tax Officer SGST, Ward 25-Zone 1***’,
- order dated 23rd December, 2024 in ***W.P.(C) 17867/2024*** titled ‘***Anant Wire Industries vs. Sales Tax Officers Class II/Avato, Ward 83 & Anr***’
- order dated 20th March, 2025 in ***W.P.(C) 13727/2024*** titled ‘***Neelgiri Machinery Through its Proprietor Mr. Anil Kumar v. Commissioner Delhi Goods and Service Tax and Others***’.

The order of the Court in ***Satish Chand Mittal (Supra)*** reads as under:



“4. It is the petitioner’s case that he had not received the impugned SCN and, therefore, he had no opportunity to respond to the same. For the same reason, the petitioner claims that he had not appear for a personal hearing before the Adjudicating Authority, which was scheduled on 17.10.2023 and later rescheduled to 30.11.2023 as per the Reminder.

5. The petitioner also states that the impugned SCN, the Reminder and the impugned order are unsigned.

6. Mr. Singhvi, the learned counsel appearing for the respondent, on advance notice, fairly states that the principal issue involved in the present case is squarely covered by the decisions of this Court in M/s ACE Cardiopathy Solutions Private Ltd. v. Union of India & Ors.: Neutral Citation No. 2024:DHC:4108-DB as well as in Kamla Vohra v. Sales Tax Officer Class II/ Avato Ward 52 : Neutral Citation No.2024:DHC:5108- DB.

7. He states that possibly, the petitioner did not had the access of the Notices as they were projected on the GST Portal under the tab ‘Additional Notices & Orders’. He submits that the said issue has now been addressed and the ‘Additional Notices & Orders’ tab is placed under the general menu and adjacent to the tab ‘Notices & Orders’.

8. In view of the above, the present petition is allowed and the impugned order is set aside.

9. The respondent is granted another opportunity to reply to the impugned SCN within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass such order, as it deems fit, after affording the petitioner an opportunity to be heard.

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

11. All pending applications are also disposed of.”

8. Under such circumstances, this Court is of the opinion that the delay in filing the appeal deserves to be condoned and the appeal deserves to be heard



on merits.

9. Accordingly, the Appeal No. AD0709240005076 is restored to its original number before the Appellate Authority.

10. The Appellate Authority shall consider the judgments mentioned above as also the Petitioner's case and adjudicate the appeal on merits.

11. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 25, 2025
dj/ck