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

+ **W.P.(C) 2653/2025 & CM APPL. 12595/2025 (Stay)**

VIJAY GAUR

.....Petitioner

Through: Mr. Jitin Singhal, Adv.

versus

**DELHI STATE GOODS AND SERVICE TAX, GOVT. NCT
OF DELHI & ANR.**

.....Respondents

Through: Ms. Urvi Mohan, Adv.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

03.03.2025

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CM APPL. 12596/2025 (Ex.)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 2653/2025 & CM APPL. 12595/2025 (Stay)

1. The writ petitioner has approached this Court seeking the following reliefs:-

“(a) Issue a writ, order, or direction in the nature of certiorari quashing of the impugned order dated 19.03.2024 passed by the learned GSTO, Ward 13 & 15;

(b) Issue a writ, order, or direction in the nature of certiorari quashing of the impugned order/GST DRC 07 (vide Reference No. ZD070324038158G) dated 20.03.2024 passed by the learned Sales Tax Officer Class II/AVATO, Ward 15 Zone 2, Delhi;

(c) pass any other or further order/orders which Your Lordships may deem fit and proper in the interest of justice. ”

2. The grievance essentially is in respect of what is described to be



an ex parte order of assessment. We find that the Assessing Officer [‘AO’] while concluding assessment has recorded as follows:-

“

Dated: 19.03.2024

Ex-PARTE ASSESSMENT ORDER (GST PERIOD: 01-04-2018 TO 31-03-2019) (U/s 73(9) OF THE CGST/DGST ACT, 2017)

Whereas, M/s Gaur Vijay Electricals GSTIN 07AFFPG3432C1Z2 was issued a Notice/SCN under Section 73 of CGST/SGST Act, 2017 thorough From GST DRC-01 dated 11.12.2023, whereby discrepancies observed in the GSTR-01/GSTR- 3B/GSTR-09/other GST mismatch related issues pertaining to the tax period 01-04-2018 to 31-03-2019 were conveyed vide the attachment enclosed therewith and it was proposed to assess the tax payer for the net tax payable indicated vide the aforesaid notice amounting Rs. 25,52,714/- as Tax and Rs. 23,79,270/- as Interest 2,55,272 as Penalty thereon. The tax payer was provided opportunity to file his **objections/reply by dated 10.01.2024.**

And whereas, the Tax Payer was further provided opportunity u/s. 75(4) of the CGST/DGST Act, 2017, by way of issuing a **REMINDER** dated 12.01.2024 to submit his **reply by dt 25.01.2024** and was also provided a **Personal hearing** on dt. 30.01.2024 to submit any objections/explanations regarding the aforesaid notice.

And whereas, as Tax Payer has neither filed any reply/objection nor appeared for personal hearing in person or through any authorized representative.

In view of the above, it is evident that despite according sufficient opportunities to the Tax Payer to file his reply/objections, if any, regarding the proposed assessment of the tax as indicated vide the DRC-01 the taxpayer has neither filed any reply/objections nor appeared for personal hearing in person or through authorized representative. **As such, the undersigned is left with no other option than to access the case Ex-parte u/s. 73(9) of the CGST/DGST, 2017 as per the DRC-01, as under:**

Tax: 25,52,714/-

Intt.: 23,79,270/-

Penalty: 2,55,272/-

Total Amt. assessed as recoverable: 51,87,256/-

The DRC-07 tax Rs. 51,87,256/- is issued accordingly.”



3. As is manifest from the above, the order solely rests on a failure on the part of the taxpayer to respond to the Show Cause Notice [‘SCN’] which had been issued. We are of the considered opinion that irrespective of whether the assessee had chosen to submit a response to the SCN which was issued or not, the AO was clearly obliged in law to assign and disclose reasons before finalizing the assessment.

4. As is ex facie evident from a reading of the order of 19 March 2024, the order clearly fails to meet those tests. In view of the aforesaid, we find ourselves unable to sustain the same.

5. Consequently, we allow the instant writ petition and quash the order of 19 March 2024. This, however, shall be without prejudice to the right of the respondents to draw an order of assessment afresh and after affording an opportunity of hearing to the writ petitioner.

6. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

MARCH 03, 2025/RW