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

+ **W.P.(C) 19644/2025**

KAPIL MADAN

.....Petitioner

Through: **Mr. Arvind Nayar, Sr. Advocate with Mr. Gurmukh Singh Arora, Mr. Rahul Matharu, Mr. Akshay Joshi and Mr. Shubham Pandey, Advocates alongwith petitioner**

versus

UNION OF INDIA & ORS.

.....Respondents

Through: **Ms. Manisha Agrawal Narain, CGSC with Ms. Aditi Singh (GP) and Mr. Nipun Jain, Advocates for R-1.**

Mr. Akash Panwar, Standing Counsel with Mr. Abhinav Kumar, Advocates for R-2.

Mr. Sumit K Batra and Ms. Priyanka Jindal, Advocates for R-4/GNCTD. (re-numbered as R-3)

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R
% **24.12.2025**

CM APPL. 82023/2025 (Exemption)

1. Exemption allowed subject to all just exceptions.
2. The applications stands disposed of.

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3. On the oral prayer made by learned counsel for the petitioner, let respondent no.3 be deleted from the array of respondents and the respondent no.4 be renumbered as respondent no.3.



4. Amended memo of parties shall be furnished by learned counsel for the petitioner during the course of the day.
5. Issue notice to the respondents.
6. Notice accepted on behalf of respective respondents.
7. This petition in public interest has been filed with the following prayers:-

“A. Issue a writ in the nature of mandamus, or any other appropriate writ, order or direction, declaring that air-purifiers fall within the expanded statutory definition of a “medical device” as notified under Section 3(b)(iv) of the Drugs and Cosmetics Act, 1940, by virtue of Notification S.O. 648(E) dated 11 February 2020;

B. Issue an appropriate writ, order or direction holding that the continued imposition of 18% Goods and Services Tax (GST) on air-purifiers classified under HSN Code 84213920 is illegal, arbitrary, unreasonable, disproportionate, and violative of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India ;

C. Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondent Union of India, the Central Board of Indirect Taxes and Customs (CBIC), and the competent authorities under the GST regime to clarify GST applicable to air-purifiers as 5% as applicable on medical device in terms of notification S.O. 648(E) dated 11.02.2020 under Section 3(b)(iv) of the 1940 Act; ...”

8. It has been submitted by learned counsel for the petitioner that Air Purifiers qualify as a “Medical Device” in terms of the Notification dated 11.02.2020, issued under Section 3(b)(iv) of the Drugs and Cosmetics Act, 1940 which has been appended as Annexure P6 to the Writ Petition. The said notification is extracted herein below:-

*“MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health and Family Welfare)
NOTIFICATION
New Delhi, the 11th February, 2020*



S.O. 648(E).—In pursuance of sub-clause (iv) of clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Government, after consultation with the Drugs Technical Advisory Board, hereby specifies the following devices intended for use in human beings or animals as drugs with effect from the 1st day of April, 2020, namely:—

All devices including an instrument, apparatus, appliance, implant, material or other article, whether used alone or in combination, including a software or an accessory, intended by its manufacturer to be used specially for human beings or animals which does not achieve the primary intended action in or on human body or animals by any pharmacological or immunological or metabolic means, but which may assist in its intended function by such means for one or more of the specific purposes of—

(i) diagnosis, prevention, monitoring, treatment or alleviation of any disease or disorder;

(ii) diagnosis, monitoring, treatment, alleviation or assistance for, any injury or disability;

(iii) investigation, replacement or modification or support of the anatomy or of a physiological process;

(iv) supporting or sustaining life;

(v) disinfection of medical devices; and

(vi) control of conception.

[F.No. X.11035/281/2018-DRS]

Dr. MANDEEP K. BHANDARI, Jt. Secy.”

9. It is stated further that on medical devices as enlisted in the said notification, the GST is being charged @ 5% whereas in the case of air purifier it is charged @ 18%. The petitioner, thus, seeks a direction to be issued to the respondent to consider charging 5% GST on Air Purifiers as well, having regard to the ever worsening air quality condition in the State of Delhi and nearby areas.

10. Our attention has also been drawn to a report submitted by the



Parliamentary Standing Committee on Science & Technology, Environment, Forests and Climate Change submitted to both the House of Parliament on 12.12.2025. Chapter IV of the said report deals with “Addressing health hazards from air pollution”. The said Standing Committee has accordingly recommended that the Government should take sympathetic view and either abolish or lower the GST on air purifiers and HEPA filters.

11. The relevant portion of the recommendation of the said Standing Parliamentary Committee is extracted herein below:-

“The Committee finds it contradictory that while Government efforts to mitigate the country’s severe air pollution crisis have consistently fallen short, a prohibitive tax is levied on a critical device that citizens are forced to rely on for personal protection. Imposing such a tax effectively monetizes a public health failure. The Committee feels that the citizens of the country should not be penalized for trying to save themselves from a catastrophic situation. Therefore, the Committee feels that the Government should take a sympathetic view and recommends that the Government should either abolish or lower the GST on air purifiers and HEPA filters.”

12. Having regard to the concerns raised in the writ petition as also the recommendations made by the Parliamentary Standing Committee as aforesaid, we direct that the issue of lowering or abolishing the GST on air purifiers and HEPA filters shall be considered by the GST Council at the earliest.

13. We have been informed by learned counsel representing respondent no.2 that GST Council is a Pan-India Body and convening a meeting for consideration of any such matter may take some time.

14. We are conscious of the configuration/constitution of the GST Council and we also appreciate that convening a meeting may take time, however, taking into consideration the air quality situation in the State of Delhi and nearby areas, we find it appropriate to require the Council to meet at the earliest.



15. List before the vacation bench on 26.12.2025 to enable the learned counsel representing respondent no.2 to seek instructions as to how early GST Council can meet and take appropriate decision on the issue as outlined above.

16. We may also observe that if meeting of the Council is not possible physically, it may be considered to convene the same through Video Conferencing.

17. Considering that GST rate being charged on the devices and listed in the Notification dated 11.02.2020 is @ 5% and also considering the function being performed by the air purifiers and HEPA filters, *prima facie* we do not find any reason why the GST @ 5%, based on the said notification, can also not be provided for air purifier and HEPA filters.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

DECEMBER 24, 2025

At