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

+ W.P.(C) 3776/2020 & CM APPL. 13514/2020

BSA CITI COURIER PVT. LTD. ..... Petitioner
Through: Mr. Ruchir Bhatia, Advocate.

versus

COMMISSIONER OF CENTRAL GOODS AND SERVICES TAX DELHI WEST & ANR. ..... Respondents
Through: Mr. Harpreet Singh, Advocate.

% Date of Decision: 02nd July, 2020

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.

2. Present writ petition has been filed challenging the communication dated 05th March, 2020 whereby the declaration filed by the petitioner, under Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019, for waiver of interest only from April, 2015 to June, 2017 has been rejected without affording any opportunity of hearing by stating *"the date of communication declared is 05.09.2019 which is beyond the cut-off date (i.e. 30.06.2019). Therefore the application cannot be accepted under section 125(1)(e) of Chapter V of Finance Act, 2019"*.

3. Learned counsel for petitioner states that the alleged reason is contrary to facts as the petitioner was made aware of the quantification way back in March 2019 i.e. prior to the cut-off date. According to him, the record of the respondents itself establishes that the amount stood quantified by the Audit Party of the respondents in March, 2019 i.e. before the cut-off date of 30th June, 2019. He submits that the respondents have wilfully mis-interpreted the provisions of Section 125(1)(e) of Chapter V of Finance Act, 2019 – which mentions about quantification on or before 30th June, 2019 and not communication.

4. He points out that the Assistant Commissioner Division Connaught Place, vide letter dated 05th September, 2019 had asked the petitioner to avail of the Scheme 2019, if it so desired. Consequently, according to him, the petitioner is eligible under the Scheme and the reason stated in the impugned communication is contrary to the Scheme and without any merit.

5. Mr. Harpreet Singh, learned counsel for respondents, on instructions, states that the quantification in the present case was done post 30th June, 2019 and was communicated to the petitioner for the first time on 05th September, 2019. He states that the petitioner cannot reply on the internal correspondences/communications between different departments of the respondents to contend that the quantification took place in March, 2019.

6. Having heard learned counsel for the parties, this Court finds that the impugned communication dated 05th March, 2020 has been issued by the respondents without giving an opportunity of hearing to the petitioner and without considering the case put forward by the petitioner.

7. Consequently, the present writ petition and pending application are disposed of by setting aside the order/communication dated 05th March, 2020 and by directing the respondent No.2 to give a hearing to the petitioner on 09th July, 2020 at 11.30 a.m.

8. In the event, the petitioner is aggrieved by the decision of respondent No.2, it shall be at liberty to file appropriate proceedings in accordance with law.

9. All the rights and contentions of the parties are left open.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

JULY 02, 2020
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