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

+ W.P.(C) 6895/2021 & C.M.No.21794/2021

M/S PYRAMID BUILDTECH PVT. LTD. & ORS. Petitioners

Through Mr.N.K.Sharma, Advocate.

versus

UNION OF INDIA & ANR.

..... Respondents

Through Mr.Harpreet Singh, standing counsel
for the Revenue.

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Date of Decision: 23rd July, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

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 order dated 09th March 2021 passed by Commissioner Central Goods and Service Tax, Delhi East confirming the demand of service tax and penalties amounting to Rs.21,51,01,611. Petitioner also seeks a direction to the Respondent no.2 to decide the matter on merits by giving a fair hearing to the petitioners and

abide by the Principles of Natural Justice.

3. Learned counsel for the petitioner submits that the impugned order has been passed without following the adjudication procedure under Section 33A(1) and Section 37C of the Central Excise Act, 1944 as well as in violation of principles of natural justice. He also submits that service tax is not liable on procurement of the land from landowners and no service tax can be demanded merely upon an agreement which was not performed.

4. A perusal of the paper book reveals that it is the case of the Revenue Department that though summons had been served upon the petitioner on 17th September, 2018, yet it had neither appeared before the respondent-Department nor any documents had been filed on its behalf. It was only after the respondent-Department contacted the petitioner's auditor, that he appeared and made a statement. Later also efforts were made to serve the petitioner with notices, however, the petitioner was not available at the given address.

5. However, keeping in view the fact that the demand is a high-pitched one and subsequent notices issued by the respondent to the petitioner had not been served upon the petitioner or its authorised representative before the hearing, this Court in the interest of justice, grants last and final opportunity to the petitioner to appear before the respondent no.2 on 2nd and 9th August, 2021 at 11.00 A.M., subject to payment of costs of Rs.2,50,000/- to Delhi High Court Bar Association Pandemic Relief Fund (A/c No.15530110152195; IFSC Code-UCBA0001553) within a week.

6. With the aforesaid directions, the present writ petition along with pending application stands disposed of.

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

MANMOHAN, J

NAVIN CHAWLA, J

JULY 23, 2021
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