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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of decision: 12.04.2022**
\+ **W.P.(C) 2212/2021 & CM No.6444/2021**

ANJNEY LOYS PVT. LTD. ..... Petitioner
Through: Mr Tanmay Mehta, Mr Sourabh Gupta, Mr Puneet Yadav and Mr Narender Goel, Advs.

versus

COMMISSIONER OF STATE GOODS & SERVICES TAX & ANR. ..... Respondents
Through: Mr Dhananjaya Mishra and Mr Shyambhuv Talwar, Advs. for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MS. JUSTICE POONAM A. BAMBA
[Physical court hearing/ hybrid hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):-

1. Mr Dhananjaya Mishra, who appears on behalf of the respondents, says there is an alternate remedy available to the petitioner.

2. We may note that the petitioner, essentially, is aggrieved by the writ of demand dated 19.09.2020, served upon it by the respondents under Section 137 of the Delhi Land Reforms Act 1954. [See Annexure P-2.]

2.1. The writ of demand is accompanied by a recovery certificate dated 19.09.2020, issued under Section 43(6) of the Delhi Value Added Tax Act, 2004 [in short "DVAT Act"]. [See Annexure P-1.]

2.2. A perusal of the aforementioned documents would show that they concern a period spanning between 2007-08 and 2014-15. The demand reflected in these documents is Rs.3,34,46,943/-.

3. There are several grievances articulated on behalf of the petitioner,

including the fact that no valid notice of default was served on the petitioner.

3.1. By way of illustration, Mr Tanmay Mehta, who appears on behalf of the petitioner, has drawn our attention to the documents appended on pages 48 to 103, which are collectively marked as Annexure P-3 i.e., notice(s) of default assessment of tax and interest under the Central Sales Tax Act, 1956 [in short "the CST Act"]/DVAT Act. A perusal of some of these documents indicates that there is an egregious error embodied in them.

3.2. However, Mr Mishra says that the errors in the documents referred to by Mr Mehta may not be present in the other, such like, notices of default assessment concerning tax and interest issued under the CST Act/DVAT Act.

4. Given this position, Mr Mishra says that, if the petitioner were to be relegated to an alternate remedy for filing an objection under Section 74 of the DVAT Act, the respondent will hold its hands till such time the concerned authority takes a decision, as to whether or not any pre-deposit has to be made, prior to the petitioner being heard in support of its objections.

4.1. The statement of Mr Mishra is taken on record.

5. The petitioner is given liberty to file an objection under Section 74 of the DVAT Act.

5.1. Needless to add, once the objection is filed, the concerned authority will hear the petitioner, as to whether in the given circumstances, the petitioner would be required to make the pre-deposit of the tax and interest demanded of it, and, if so, the amount that would be remitted towards pre-deposit before hearing the objection.

6. Since the petitioner had approached this Court and we have relegated

the petitioner to avail an alternate remedy, the concerned authority we are sure will take a benign view and, accordingly, exclude the time spent in this Court.

6.1. While ascertaining the period which needs to be excluded for calculating limitation for preferring the objections, the concerned authority will also consider the orders that have been passed by the Supreme Court from time to time, in *suo motu* W.P.(C) No.3/2020.

7. The writ petition is disposed of in the aforesaid terms.

8. Consequently, pending application shall also stand closed.

RAJIV SHAKDHER, J

POONAM A. BAMBA, J

APRIL 12, 2022
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