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**RA-CW-280-2023 in
CWP-11675-2023**

SAPPHIRE MEDIA LTD V/S STATE OF HARYANA AND ANOTHER

Present: Mr. Sandeep Goyal, Advocate,
for the applicant-petitioner.

This application has been filed by the applicant under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure seeking review/recall of order dated 29.05.2023.

Heard, the applicant had withdrawn CWP-11675-2023, as filed by it, on 29.05.2023 while seeking liberty to avail alternative remedy by filing an appeal before the first Appellate Authority in accordance with law. The above mentioned writ petition had been dismissed as withdrawn while permitting the applicant-petitioner to do so. Now the applicant has filed this application seeking review of the order dated 29.05.2023 on the ground that while withdrawing the writ petition, inadvertently, it could not bring it to the notice of this Court that the impugned order, which was challenged by the applicant, was in gross violation of the procedure, established by the CGST Act, 2017 as well as the principles of natural justice, as no opportunity of hearing was given to the applicant-petitioner and also could not mention that the show cause notice, impugned by the applicant in the writ petition, was not signed by the proper officer and hence, the concerned officer had no jurisdiction to pass the impugned order. It is submitted that in these circumstances, the order dated 29.05.2023 passed by this Court is liable to be reviewed and recalled.

A collective perusal of the provision of Section 114 and Order XLVII Rules 1 and 2 reveals that any person considering himself aggrieved

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by a decree or order, from which an appeal is allowed, but from which no appeal has been preferred, or by a decree or order from which no appeal is allowed, may file an application for review of the judgment/order, if from the discovery of new an important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of record, or for any other sufficient reason, he desires to obtain a review of the decree or order, so made against him.

The applicant, in the instant case, is seeking review of the order dated 29.05.2023 passed by this Court, on the ground that while withdrawing the writ petition (CWP-11675-2023), it could not bring forward before this Court the fact that opportunity of personal hearing had not been given to it while passing the order impugned in the petition and further that the show cause notice was not signed by a proper officer.

We are of the considered opinion that both the grounds cannot be accepted for the purpose of allowing this application. The applicant has failed to either plead or point out any new fact or circumstance, which was not within its knowledge or which could not be brought before this Court even after exercise of due diligence at the time of passing of order dated 29.05.2023 nor any mistake or error apparent on the face of record has been pleaded or pointed out by the applicant. The reasons given for seeking review of the order dated 29.05.2023 cannot be considered to be sufficient either for the purpose of holding that the applicant deserved recall of this order. The applicant-petitioner, through counsel, had made prayer for

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withdrawal of the writ petition with liberty to avail alternative remedy by filing an appeal before the appropriate forum and had been permitted to do so. Now, it cannot be allowed to take a U-Turn and seek recall of the order on the grounds, which were already within its knowledge and were taken in the writ petition. As such we do not see any justifiable ground to allow the present application.

However, it is also pointed out that though, at the time of pronouncement of order dated 29.05.2023, this Court had directed that the limitation to file appeal before the first Appellate Authority would start in favour of the applicant-petitioner from the day of passing of the order by this Court, but due to inadvertence, in the said order, this limitation was mentioned as starting from the day of uploading the signed order, by the respondents.

Hence, in view of the discussion, as made above, though we see no ground to allow the instant application and dismiss the same, however, the impugned order is modified to the extent to which, it was mentioned that the limitation to file appeal will start from the day of uploading the signed order and it is directed that this order would read as to mean that the limitation to file the appeal will start from the day of passing of the order dated 29.05.2023.

**(RITU BAHRI)
JUDGE**

**(MANISHA BATRA)
JUDGE**

21.08.2023
ajp