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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 21.02.2024

+ W.P.(C) 2553/2024 & CM APPL. 10466-68/2024

SAMSUNG INDIA ELECTRONICS PRIVATE LIMITED ..... Petitioner

versus

UNION OF INDIA & ORS. ..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Harsh Makhija, Advocate

For the Respondents: Mr. Aakarsh Srivastava, Senior Panel Counsel with Mr. Vaibhav Gupta and Mr. Shubham Goel, Advocate for UOI
Ms. Shaguftha Hameed, Mr. Prateek Badhwar, Ms. Samridhi Vats, Advocates for Mr. Rajeev Aggarwal, ASC

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Issue notice. Notice is accepted by learned counsel appearing for the respondent. With the consent of the parties the matter is taken

up for hearing today.

2. Petitioner impugns Notification No. 9 of 2023 dated 31.03.2023 whereby the limitation period for exercise of power under Section 73 of the Central Goods and Services Tax Act, 2017 has been extended.

3. Petitioner also impugns order dated 31.12.2023 whereby the proceedings under Section 73 of the Act have been concluded and a demand has been created against the petitioner.

4. Learned counsel for petitioner submits that Show Cause Notice dated 24.09.2023 was received by the petitioner to which a detailed point-wise reply was submitted.

5. It is noticed that the order dated 31.12.2023 records that no proper reply/explanation has been received from the tax-payer despite sufficient and repeated opportunities which indicates that the tax-payer has nothing to say in the matter.

6. The observation in the impugned order dated 31.12.2023 is not sustainable for the reasons that the reply filed by the petitioner is a detailed reply.

7. The proper officer had to at least consider the reply on merits and then form an opinion whether the explanation was sufficient or not. He merely held that no proper reply/explanation has been received which *ex-facie* shows that proper officer has not even looked at the reply submitted by the petitioner.

8. Accordingly, impugned order dated 31.12.2023 is set aside. The matter is remitted to the proper officer for re-adjudication of the show cause notice issued under Section 73 of the Act within four weeks after giving an opportunity of personal hearing to the petitioner.

9. The challenge to Notification No. 9 of 2023 is left open.

10. The petition is accordingly disposed of in the above terms.

SANJEEV SACHDEVA, J

FEBRUARY 21, 2024 **RAVINDER DUDEJA, J**
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