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

\+ W.P.(C) 3695/2022

RAJIV ENTERPRISES (THROUGH ITS SOLE PROPRIETOR RAJIV DAGA) .....Petitioner

Through: Mr. Ashutosh Gupta, Mr. Gaurav Rana, Mr. Ajitesh Kumar, Mr. Shresth Garg and MR. Shivanshu Srivastava, Advs.

versus

COMMISSIONER OF DELHI GOODS AND SERVICES TAX .....Respondent

Through: Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Suhani Mathur, Adv.
Mr. Ripudaman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Abhinav Bhardwaj, Advs. for UOI

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE DHARMESH SHARMA

<u>O R D E R</u>

% **13.12.2024**

1. This writ petition has been preferred seeking the following reliefs:-

> "a. Issue appropriate Writ in the nature of *certiorari* or such other Writ or Order or Direction, thereby setting aside the said Deficiency Memo dated 08.12.2021 as illegal and void;
>
> b. Issue appropriate Writ in the nature of *Mandamus* or such other Writ or Order or Direction, thereby and directing the Respondent to grant refund amounting to Rs.27,00,923/- (Rupees Twenty-Seven Lakh Nine Hundred and Twenty-Three Only) with applicable interest to the Petitioner; and/ or

c. Pass any other or further writ of any nature, direction, Order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. The petitioner is essentially aggrieved by the respondents failing to attend to the claim for refund which had been submitted. It appears that in the course of consideration of the refund application, a Deficiency Memo dated 08 December 2021 came to be issued. According to the writ petitioner, a copy of that Memo was never served on them nor was it visible on the Goods and Services Tax portal.

3. Although this aspect is disputed by the respondents, we find that the Deficiency Memo itself reads as under and had assigned the following reasons:-

"FORM-GST-RFD-03

[See rule 90(3)]

Deficiency Memo

Reference NO · 200112210095214 Date: 08/12/2021 4;08 PM

To

07ADPP07738N1ZV

RAJN OAGA

3/15ASAF AI ROAD,.NEAR ICICI Bank, Central Delhi 07, l10002

Subject: Refund Application Reference No. (ARN) AA0711210411BOS Dated 08/2/2021 4:08 PM -Reg

Sir/Madam. This has reference to your above mentioned application filed under section 54 of the Act. Upon scrutiny of your application certain deficiencies have been noticed below:-

Sr. No	Description (select the reason from the drop down of the Refund application)
1	Others

You are advised to file a fresh refund application after rectification of above deficiencies.

Remarks CLAIM IS NOT SUSTAINABLE VALID GROUNDS FOR THE SAID CLAIM ARE NOT FORTHCOMING FURTHER. THE DEPOSIT IN AUDIT WAS VOLUNTARY.

Date 08/12/2021 Signature

Place DARYA GANJ Name of Proper Officer Ravi Babu

Designation Assistant Commissioner

Office Address DARYA GANJ"

4. As is manifest from the above, the solitary reason, which was ascribed in that Deficiency Memo was "Others".

5. In view of the aforesaid and an abject lack of justiciable reasons having been assigned, we find ourselves unable to sustain the Memo dated 08 December 2021.

6. We consequently allow the instant writ petition and quash the Deficiency Memo dated 08 December 2021. The concerned respondent is directed to process the application for refund afresh and in accordance with law.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 13, 2024/sp