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

\+ W.P.(C) 2963/2024 & CM APPL. 12191/2024 (Stay)

MAGICON IMPEX PVT LTD ..... Petitioner

Through: Mr. Rajesh Mahna, Mr. Ramanand Roy & Mr. K.G. Bansal, Advocates

versus

COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX & ORS. ..... Respondents

Through: Mr. Anurag Ojha, Senior Standing Counsel with Mr. Subham Kumar & Mr. Vipul Kumar, Advocates

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

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

% **20.03.2024**

1. Petitioner impugns summons dated 31.01.2024 issued by the Senior Intelligence Officer from the Office of Directorate General of GST Intelligence, Delhi Zonal Unit, requiring the petitioner to produce all documents from July 2017 onwards.

2. Learned Counsel for petitioner submits that petitioner had filed the requisite returns and the Proper Officer at the relevant point of time had passed assessment orders. He submits that petitioner was thereafter issued notices in 2019 for investigation of refund claim. Petitioner was also required by the Anti Evasion Wing to produce the relevant documents, which were produced, and thereafter, the refund of the petitioner was allowed.

3. He submits that audit was directed to be conducted of the accounts of the petitioner for the period 2017-18 to 2021, and audit was conducted and audit memo dated 11.01.2024 was issued to the petitioner creating a demand.

4. He submits that now by the impugned summons dated 31.01.2024, petitioner has been summoned by the Senior Intelligence Officer once again to produce all the requisite documents.

5. Learned counsel submits that petitioner has twice over been subjected to scrutiny of the accounts and once again has been asked to produce the accounts. He submits that for some period, limitation has already expired for conduct of an audit or scrutiny and for the remaining, the audit has already been conducted.

6. He submits that petitioner was asked to appear on 08.02.2024 and when he appeared, he was not shown having participated in the proceedings but was orally informed to produce all the documents and no returnable date has been given.

7. Petitioner also impugns the direction of the Respondents by communication dated 05.02.2024 for reversal of ITC avail from a non-existing firm. Insofar as, reversal of ITC is concerned, learned counsel for the Petitioner submits that Petitioner has already reversed the subject ITC and is only concerned with the summons issued for submitting further documents, which as noticed hereinabove, have already been provided.

8. Learned counsel for Respondents submits that the investigation is sought to be transferred from the Authority that had issued the summons and, as of now, there is no requirement of the Petitioner to either submit

documents or to appear before any Authority. He submits that once the proceedings are transferred/consolidated, fresh summons, if required, would be issued to the Petitioner.

9. In view of the above statement, learned counsel for the Petitioner seeks leave to withdraw the present petition, reserving the rights of the Petitioner to avail of such further remedies as may be permissible in law in case Petitioner is summoned to appear or required to furnish further documents.

10. Petition is accordingly dismissed as withdrawn. All rights and contentions are reserved.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MARCH 20, 2024
RM