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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 11.03.2024

\+ **W.P.(C) 3237/2024**

MANOJ DIWAKAR ..... Petitioner

versus

UNION OF INDIA AND ANR. ..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Pradeep Kumar Arya, Mr. Aditya Kumar Yadav, Mr. Nikhil Verma, Mr. Gaurav Chaudhry, Mr. Arpit Bamal, Mr. Vaibhav Chaudhry, Mr. Alok Yadav, Advocates.

For the Respondents: Mr. Rajeev Aggarwal, ASC with Ms. Samridhi Vats, Advocate.

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

JUDGMENT

SANJEEV SACHDEVA, J (ORAL)

1. Petitioner impugns orders dated 26.12.2023 whereby the Show Cause Notice dated 26.09.2023 issued by Mr. Vinod Kumar, Assistant Commissioner has been disposed of. Learned counsel for the petitioner submits that the impugned orders annexes two orders; one passed by Mr. Vinod Kumar, Assistant Commissioner for Range 84/85/300 and other passed by Mr. Amit Kumar, GST Officer for Range 89 and both pertain to the same tax period July, 2017- March, 2018.

2. Learned counsel submits that earlier the Scrutiny Notice dated 13.07.2020 was received for the same tax period July, 2017 to March, 2018 which was duly responded on 19.07.2020. Thereafter, no information was received by petitioner and subsequently the impugned Show Cause Notice dated 23.09.2023 has been received.

3. Learned counsel submits that it was informed by reply dated 28.09.2023 that petitioner had earlier responded to the notice of 2020 and the same may be referred to. As per the petitioner, a fraud was committed on the petitioner by the tax consultant who was engaged by the petitioner.

4. Perusal of the impugned orders dated 26.12.2023 issued by Mr. Vinod Kumar, Assistant Commissioner and the GST officer, Mr. Amit Kumar show that the same do not contain any reasoning. The case of the petitioner that fraud was committed by the tax consultant is not even adverted to in the said orders. Further, the orders do not have any CRN number, nor is the name of any assessee mentioned. The order passed by the Assistant Commissioner, Mr. Vinod Kumar states that no reply has been received and as such it is assumed that tax payer has nothing to state. The order passed by the GST officer, Mr. Amit Kumar records that reply/explanation submitted by the tax payer within time was examined and found not satisfactory.

5. Clearly, there appears to be complete non-application of mind to the case of the petitioner. Accordingly, the said orders dated 26.12.2023 cannot be sustained and are set aside with an order of remit. Accordingly, the proper officer shall once again re-adjudicate

the Show Cause Notice dated 23.09.2023 read with Scrutiny Notice dated 13.07.2020 as also the replies filed by the petitioner.

6. Keeping in view the peculiar facts and circumstances of the case, petitioner is granted further two weeks' time to file a supplementary reply to the Show Cause Notice as well as the Scrutiny Notice. Thereafter, the proper officer shall pass a fresh speaking after giving an opportunity of personally hearing to the petitioner.

7. It is clarified this Court has neither considered, not commented on the merits of the contentions of either party. All rights and contentions of parties are reserved.

8. Petition is disposed of in the above terms.

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SANJEEV SACHDEVA, J

MARCH 11, 2024/ss **RAVINDER DUDEJA, J**