$~13

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

%

Date of decision: 05.04.2024

\+ W.P.(C) 4977/2024 & CM APPLs. 20372-73/2024

LAXMI TRADERS PROPRIETOR DIPANSHU GARG .... Petitioner

versus

PRINCIPAL COMMISSIONER OF GST DEPARTMENT OF TRADE AND TAXES & ANR ..... Respondents

Advocates who appeared in this case:

For the Petitioner:	Mr. V.S. Negi and Ms. Sangeeta Rana, Advocates.
For the Respondents:	Mr. Rajeeev Agarwal, ASC with Ms. Samiksha Jain, Advocate.

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

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 07.02.2024, whereby a demand has been created against the petitioner and the same has been set off against blocked ITC.

2. Issue notice. Notice is accepted by learned counsel appearing for respondents.

3. With the consent of parties, petition is taken up for final disposal.

4. Learned counsel for respondent No.1, under instructions submits that there does not appear to be any show cause notice or DRC-01 issued to the petitioner prior to passing of the impugned order.

5. The impugned order is purportedly an order passed under Section 73 of the Central Goods and Services Tax Act, 2017 ["the Act"], creating a demand.

6. Section 73 of the Act mandates issuance of show cause notice prior to passing an order creating a demand. In the instant case, admittedly, no show cause notice was issued to the petitioner prior to impugned order being passed.

7. A show cause notice dated 16.06.2023 was issued proposing to cancel the GST registration of the petitioner, however, the said proceedings were dropped by order dated 25.08.2023 upon consideration of the reply of the petitioner.

8. Since no show cause notice was issued prior to passing of impugned order, on the said technical ground alone, this order is liable to be set aside. The same is accordingly quashed.

9. It is clarified that it would be open to the respondents to pass an appropriate order after giving a proper show cause notice and an opportunity of personal hearing to the petitioner.

10. It is clarified that this Court has neither considered nor commented on the merits of contentions of either party and the

impugned order has been set aside solely on the ground of infraction of principles of natural justice. All rights and contentions of the parties are reserved

11. Petition is accordingly disposed of in the above terms.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

APRIL 05, 2024/*vp*