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

\+ W.P.(C) 5886/2024 & CM APPL. 24302/2024 (Stay)

BRILLIANT METALS PVT. LTD. .....Petitioner

Through: Mr. Rajesh Jain, Mr. Virag Tiwari, Mr. Rishabh Jain, Mr. Ramashish and Ms. Tanya Saraswat, Advs.

versus

THE UNION OF INDIA, REVENUE SECRETARY, MINISTRY OF FINANCE & ANR. .....Respondents

Through: Mr. Raj Kumar Yadav, Adv. Mr. Rajeev Aggarwal, ASC with Mr. Shubham Goel, Adv. for R-2.

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

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

% **27.11.2024**

1. We had upon hearing the learned counsels for respective sides on 21 November 2024 passed the following order: -

> "1. The writ petitioner impugns the final orders referable to Section 73 of the Central Goods and Services Tax Act, 2017 ["CGST Act"]/ Delhi Goods and Services Tax Act, 2017 ["DGST Act"]. One of the grounds which was urged for our consideration was of the State Goods and Services Tax ["SGST"] authority being deprived of the power to pass any adjudication order, once the Directorate General of Goods and Services Tax Intelligence ["DGGI"] had commenced investigation.
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> 2. However, and as is manifest from the record, the notice from the office of the DGGI came to be issued after the passing of the final orders under Section 73 by the SGST authorities.
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> 3. We are also unimpressed by the argument proceeding on

the basis of Section 6(2)(b) of the DGST Act, with it being contended that in light of that provision, the SGST authorities would stand restrained. Regard must be had to the fact that Section 6(2)(b) uses the expression "any proceedings on a subject matter".

4. In our considered opinion, whether an investigation which alone was concededly pending when the SGST authorities proceeded to pass the orders, would fall within the ambit of Section 6(2)(b) is a question which would warrant further consideration.

5. Mr. Jain, learned counsel, then draws our attention to the allegations levelled in paragraph 20 of the writ petition, with it being contended that the petitioner was deprived of its right to represent and show cause since the notices were placed under the "Additional Notices & Orders" tab.

6. Insofar as this aspect is concerned, let Mr. Aggarwal, learned counsel, obtain instructions.

7. Let the writ petition be called again on 27.11.2024."

2. Pursuant to the liberty granted to the respondents, Mr. Aggarwal, learned counsel submits that on due verification of the record it has been found that the **Show Cause Notice**[1] had in fact been placed under the "Additional Notices & Orders" tab. In view of the above and following the judgment rendered by us in **ACE Cardiopathy Solutions Private Limited vs. Union of India and Ors.**[2] and **Kamla Vohra vs. Sales Tax Officer Class II/AVATO Ward 52**[3] we are of the considered opinion that the ends of justice would warrant the impugned orders being set aside, with liberty being reserved to the respondents to initiate proceedings afresh in accordance with law.

3. Accordingly, we allow the present writ petition and quash the impugned adjudication orders in DRC-07 dated 04 December 2023

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[1] SCN
[2] 2024 SCC OnLine Del 3827
[3] W.P(C) 9261/2024 decided on 10 July 2024

and 06 December 2023 and DRC -01 orders dated 15 September 2023, 21 September 2023 and 29 September 2023 issued under Section 73 of the Central Goods and Services Tax Act, 2017.

4. We leave it open to the respondents to draw proceedings afresh, if otherwise permissible in law. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 27, 2024/gunn