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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 10.05.2024

\+ **W.P.(C) 6696/2024 & CM APPL.27917-18/2024**

M/S SERVICES INTERNATIONAL ..... Petitioner

Versus

UNION OF INDIA AND ORS ..... Respondents

Advocates who appeared in this case:

For the Petitioner:	Mr. Gaurav Gupta, Advocate.
For the Respondents:	Mr. Harpreet Singh, Senior Standing Counsel with Mr. Suhani Mathur, Mr. Jatin Kumar Gaur and Ms. Pritika Nagpal, Advocates. Mr. Vinish Phogat, Advocate (Through VC).

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

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 18.04.2024 whereby the impugned Show Cause Notice dated 06.12.2023, proposing a demand of Rs 3,86,25,289.00 against the petitioner has been disposed of and a demand including penalty had been raised against the Petitioner for Financial Year 2018-19. The order has been passed under Section 73 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the Act).

2. Issue notice. Notice is accepted by learned counsel for respondents. With the consent of parties, the petition is taken up for final disposal.

3. Learned counsel for petitioner submits that petitioner received a Show Cause Notice dated 06.12.2023 and made a request on 06.01.2024 for extension of time to file reply on the ground that Accountant has suffered Jaundice and was not attending the office. He further submits that thereafter no information was received as to whether the adjournment requested had been accepted or declined and straightway the impugned order dated 18.04.2024 was passed.

4. He further submits that one opportunity be granted to the petitioner to file a reply to the Show Cause Notice and thereafter the Show Cause Notice be adjudicated in accordance with law. He further submits that this is without prejudice to his challenge to the Notification No.09/2023.

5. The observations and conclusion in the impugned order dated 18.04.2024 records that "*the taxpayer has filed their adjournment for 1st week of February and personal hearing after three days online on portal on dated 06-01-2024 but non appeared nor any document uploaded by the Tax prayer till date. And whereas, on examination of the reply/documents furnished by the tax prayer, it has been observed*

that since the reply is devoid of merits without any justification or proper reconciliation, the demand raised in SCN/DRC-01 is hereby upheld along with penalty "

6. The impugned order dated 18.04.2024, mentions the date of personal as 18.04.2024 itself, however, the summary of proceedings does not show that any notice of personal hearing was issued to the petitioner after issuance of the subject Show Cause Notice.

7. Keeping in view the peculiar facts and circumstances of the case, we are of the view that it would be in the interest of justice that an opportunity be granted to the petitioner to respond to the Show Cause Notice. Accordingly, the impugned order dated 18.04.2024 is set aside. The matter is remitted to the Proper Officer for re-adjudication and the Show Cause Notice is restored on the file of the proper officer.

8. Petitioner shall file a reply to the Show Cause Notice within 30 days. Thereafter, the Proper Officer shall re-adjudicate the Show Cause Notice after giving an opportunity of personal hearing and shall pass a fresh speaking order in accordance with law within the period prescribed under Section 75 (3) of the Act.

9. It is clarified that this Court has neither considered nor commented upon the merits of the contentions of either party. All rights and contentions of parties are reserved.

10. The challenge to Notification No. 9 of 2023 with regard to the initial extension of time is left open.

11. Petition is disposed of in the above terms.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MAY 10, 2024/NA