2024:DHC:4428-DB

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

% Date of decision: 27.05.2024

W.P.(C) 7034/2024& CM APPLs. 29264-65/2024
MITCHEM IMPEX THROUGH ITS PARTNER MR BHAVYA GUPTA ..... Petitioner

versus

GOVT OF NCT OF DELHI THROUGH CHIEF SECRETARY & ORS. ..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. A.K. Babbar, Mr. Ankur Sethi, Mr. Surender Kumar and Mr. Bharat Tripathi, Advocates.

For the Respondents: Mr. Rajeev Aggarwal, ASC with Ms. Samridhi Vats, Advocate for R-1 to 3.
Mr. Arun Khatri, SSC for R-4 and 5.

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

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 29.12.2023, whereby the show cause notice dated 05.12.2023 has been adjudicated and a demand created.

2. Learned counsel for the petitioner submits that the impugned order was passed even prior to the stipulated date of filing the response to the show cause notice.

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

4. Show Cause Notice dated 05.12.2023 was issued to the petitioner under Section 73 of the Central Goods and Services Tax Act, 2017. Said Show Cause Notice has a column pertaining to the details of personal hearing and the due dates for filing replies, and reads as follows:-

Sr. No.	*Description*	*Particulars*
1	*Date by which reply has to be submitted*	*05-01-2024*
2	*Date of personal hearing*	*NA*
3	*Time of personal hearing*	*NA*
4	*Venue where personal hearing will be held*	*NA*

5. Perusal of the details of personal hearing and due dates for filing of replies, as contained in the show cause notice dated 05.12.2023 shows that reply was to be submitted by 05.01.2024. Even before the due date for filing reply, the impugned order dated 29.12.2023 has been passed creating a demand against the petitioner.

6. Clearly, the proper officer could not have adjudicated the show cause notice even prior to the stipulated date for filing response.

7. In view thereof, the impugned order is not sustainable and is accordingly quashed.

8. We further notice from the show cause notice that there is no opportunity for personal hearing being granted to the petitioner.

9. In view of the above, the matter is remitted to the proper officer for re-adjudication of the show cause notice. Petitioner shall file response to the said Show Cause Notice within 30 days. Thereafter, the proper officer shall adjudicate the show cause notice in accordance with law after giving an opportunity of personal hearing to the petitioner. The Show Cause Notice be disposed of within three months of filing of response by the petitioner.

10. The challenge to notification No. 9/2023 with regard to initial extension is left open.

11. It is clarified that this Court has neither considered not commented upon the merits of the contentions of either party. All rights and contentions of parties are reserved.

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

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MAY 27, 2024/*vp*