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

\+ W.P.(C) 10842/2021

SHIV KUMAR JINDAL

.....Petitioner

Through: Mr.Bharat Bhushan, Ms.Nidhi Gupta, Ms.Garima Thimani and Mr.Anunay Mishra, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondent

Through: Mr.Aditya Singla, SCC with Ms.Medha Navami, Mr.Ritwik Saha, Mr.Sahil Parashar, Mr.Raghav Bakshi and Mr.Vaibhav Chichi, Advocates.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% **01.10.2024**

1. The instant writ petition had been preferred seeking the following reliefs:

> A) Issue a Writ of certiorari or any other appropriate Writ/ order/ direction declaring that the provision contained in Explanation 1 (ii) of the Central Goods & Service Tax, 2017 (Annexure P-1) and identical provisions contained in Explanation 1 (ii) of the Delhi Goods & Service Tax, 2017 (Annexure P-2) are not sustainable as they not only violates the fundamental right of equality by treating similarly situated persons differently but also runs contrary to the scheme of GST law, or
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> B) Issue a Writ of certiorari or any other appropriate Writ/ order/ direction / command that the provisions contained in Explanation 1 (ii) of the Central Goods & Service Tax, 2017 (Annexure P-1) and identical provisions contained in Explanation 1 (ii) of the Delhi Goods & Service Tax, 2017 (Annexure P-2) should be so read to

> mean that the proceedings against all the persons liable to pay penalty under Section 122, 125, 129 and 130 shall be deemed to be concluded not only in those cases wherein proceedings initiated against the main noticee has been concluded under Section 73 or Section 74 but also in those cases wherein the person chargeable with tax has paid tax, interest and penalty in terms of sub-section (5) of Section 73 or sub-section (5) of Section 74, and / or
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> (C) Issue such other writ/ order/ direction as the Hon'ble High Court may deem just and proper in the facts and circumstances of the case."

2. As is manifest, there is no challenge to any order or action of respondents and which may have justified us examining the challenge to the validity of Explanation 1(ii) to Section 74 of the Delhi Goods & Service Tax, 2017. We bear in mind the well settled principle that a declaration of invalidity cannot be rendered in a vacuum.

3. The writ petition, consequently, fails and shall stand dismissed. The question of law sought to be canvassed is kept open to be addressed in an appropriate case.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 1, 2024/VLD