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

% *Date of Decision : 17.09.2024*

\+ **W.P.(C) 7655/2024 & CM APPL. 31863/2024**

CELEBI DELHI CARGO TERMINAL
MANAGEMENT INDIA PVT. LTD. .....Petitioner

Through: Mr Sparsh Bhargava, Ms Ishita and Ms Vanshika Taneja, Advocates.

Versus

SALES TAX OFFICER, NEW DELHI .....Respondent

Through: Mr.Rajeev Aggarwal, ASC and Mr.Shubham Goel, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE SACHIN DATTA

VIBHU BAKHRU, J. (*ORAL*)

CM APPL. 53916/2024(directions)

1. For the reasons stated in the application, same is allowed.

2. The application stands disposed of.

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

4. The petitioner has filed the present petition, *inter alia,* impugning an

order dated 13.04.2024 (hereafter *the impugned order*) passed under Section 73 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) and the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) for the financial year 2018-19.

5. The impugned order was passed pursuant to a Show Cause Notice dated 08.01.2024 (hereafter *the impugned SCN*). The petitioner had filed a reply to the impugned SCN on 23.02.2024 and was afforded an opportunity of being heard. The impugned SCN had proposed separate demands under five grounds. The same are summarised in the impugned order and are reproduced below: -

> "1. Under declaration of output tax: The tax on outward supplies under declared on reconciliation of data in GSTR-09: Rs. 17,45,101/-.
>
> 2. Under declaration of output tax: Reconciliation of GSTR-01 with GSTR-09: Rs.31,13,79,219/-.
>
> 3. Excess claim of ITC: Scrutiny of ITC reversals in GSTR-09 – Table 7 Rs. 1,87,548/-.
>
> 4. Excess claim of ITC: Under declaration of Ineligible ITC availed: Rs. 62,11,960/-.
>
> 5. Excess claim of ITC: ITC claimed from cancelled dealers, return defaulters and tax nonpayers: Rs. 3,57,036/-".

6. The proposed demand of ₹17,45,101/- at serial No.1; and proposed demand of ₹1,87,548/- at serial No.3 were dropped. However, the demands on the other grounds were confirmed in terms of the impugned order.

7. The substantial demand pertaining to ₹31,13,79,219/- was proposed

on the basis of mismatch of GSTR-01 with GSTR-09. It is the case of the petitioner that this mismatch was on account of technical glitch in the GST portal functionality where the GST component corresponding to advance adjustment as reported in Table 11B of GSTR-01 was added to the output tax liability instead of the same being reduced from the output tax liability. This contention was not accepted by the adjudicating authority and the demand as proposed in the impugned SCN was confirmed.

8. The petitioner submits that similar issue persisted in the next tax period for 2019-20 as well. The adjudicating authority has examined the said issue in some detail and in terms of an order dated 25.08.2024, the adjudicating authority has accepted the petitioner's contention that there is technical glitch, whereby the advance amount has been added instead of being reduced. Accordingly, the proposed demand on similar grounds has been dropped. The petitioner, thus, prays that the impugned order be set aside and the adjudicating authority be directed to decide afresh.

9. Although, the petitioner has a statutory remedy of an appeal, but considering the controversy is in a narrow compass and it appears that the adjudicating authority has already examined the issue for the subsequent period, we consider it apposite to remand the matter to the adjudicating authority to consider afresh.

10. In view of the above, we set aside the impugned order and remand the matter to the adjudicating authority, to pass a fresh order after affording an opportunity of personal hearing to the petitioner.

11. The petition is disposed of in the aforesaid terms. Pending application

also stands disposed of.

12. The hearing scheduled on 03.10.2024 is cancelled.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 17, 2024
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Click here to check corrigendum, if any