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

\+ W.P.(C) 8471/2024 & CM No.34909/2024

M/S MITTAL IMPEX .....Petitioner

Through: Mr. Shailender Verma & Mr. Subhash Chandra Gupta, Advs.

Versus

COMMISSIONER OF SGST. DELHI & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal & Mr. Shubham Goel, Advs.

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

ORDER

% **23.07.2024**

1. The petitioner has filed the present petition impugning an order dated 29.12.2023 (hereafter *the impugned order*) passed by the Adjudicating Authority under Section 73 of the Central Goods & Services Tax Act, 2017 / Delhi Goods & Services Tax Act, 2017 (hereafter *CGST Act / DGST Act*) for the tax period – July, 2017 to March, 2018.

2. The impugned order was passed pursuant to a Show Cause Notice dated 27.09.2023 (hereafter *the SCN*) whereby it was, *inter alia*, alleged that the petitioner has claimed excess Input Tax Credit (hereafter *ITC*). The petitioner responded to the SCN by a letter dated 23.12.2023. The petitioner also filed documents such as invoices and ledger accounts in support of its response to the SCN.

3. The impugned order does not indicate that the response filed the petitioner was considered by the Adjudicating Authority, it merely states that the petitioner's reply was found to be vague and it miserably failed to counter the demand raised. Additionally, the impugned order states that no invoices / certificates / payment proof were attached in support of the claim of excess

ITC.

4. A plain reading of the impugned order indicates that the same is *prima facie* unreasoned as it does not address any of the contentions advanced by the petitioner.

5. The learned counsel appearing for the respondent fairly states that the impugned order may be set aside and the present petition be remanded to the Adjudicating Authority for consideration afresh. He further states that although the petitioner, in response to the SCN, indicated that it does not wish to avail any personal hearing, the Adjudicating Authority would also afford the petitioner an opportunity to be heard.

6. The aforesaid contention commends to this Court.

7. In view of the above, this Court remands the present petition to the Adjudicating Authority for consideration afresh. The petitioner is also at liberty to file such other documents as it considers relevant within a period of two weeks from date.

8. The Adjudicating Authority shall pass a reasoned order after affording the petitioner an opportunity to be heard.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 23, 2024

'gsr'

Click here to check corrigendum, if any