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

% *Date of Decision: 08.07.2024*

\+ **W.P.(C) 9135/2024 CM APPL. 37366/2024 CM APPL. 37367/2024**

SAHIB TEXTILES PRIVATE LIMITED .....Petitioner
Through: Mr. Abhishek Garg, Mr. Yash G. & Mr. Ramesh Singh, Advs.

Versus

SALES TAX OFFICER CLASS II/AVATO WARD 206, ZONE 11, DELHI & ORS. .....Respondents
Through: Mr. Rajeev Aggarwal, Adv. for R-1&2.

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

VIBHU BAKHRU, J. (***Oral***)

1. Issue notice.

2. The learned counsel appearing for respondents no.1&2 accepts notice.

3. The petitioner impugns an order dated 24.04.2024 (hereafter *the impugned order*) under Section 73 of the Central Goods & Services Tax Act, 2017 (hereafter *CGST Act*) and Delhi Goods & Services Tax Act, 2017 (hereafter *DGST Act*), *inter alia,* raising a tax demand of ₹88,89,593/-.

4. The petitioner has challenged the impugned order on several grounds including that the impugned order has been passed without considering any of the contentions raised by the petitioner pursuant to the Show Cause Notice dated 10.12.2023 (hereafter *SCN*). The petitioner, *inter alia,* also seeks to assail the impugned order on the ground that it has not been issued by an officer who had issued the SCN.

5. The petitioner was issued the SCN dated 10.12.2023, *inter alia*, alleging that the petitioner had incorrectly filled the tax on inward supplies and the same was evident from a reconciliation of the E-way Bill turnover with GSTR-09. The petitioner was called upon to explain the underdeclared tax aggregating ₹88,89,593 [SGST ₹9,22,964/-; CGST ₹9,22,964/-; IGST ₹69,63,807/- & Cess ₹79,858/-].

6. The petitioner responded to the SCN in the requisite form (Form GST DRC-06) on 10.01.2024, *inter alia,* stating that it had not claimed most of the Input Tax Credit (*ITC*) as alleged to have been claimed, in the SCN. The petitioner also annexed a detailed ledger with copies of the invoices in support of its claim that it had not claimed the ITC as was set out in the SCN.

7. The impugned order does not specifically deal with any of the contentions raised by the petitioner in his reply to the SCN. It merely states that the said reply was "examined thoroughly and found to be devoid of merits". It also observed that the reply was without any justification or proper reconciliation.

8. It is noticed that the petitioner in his reply to the SCN has set out the ledger account in respect of the supplies received from eight named suppliers along with the bills. However, the impugned order does not refer to the same or provides any reason why the petitioner's claim was found to be unmerited.

9. The impugned order also indicates that since the petitioner's reply was found to be unsatisfactory, an opportunity of personal hearing was granted to the petitioner. This is incorrect. The petitioner claims that date of personal hearing before the Proper Officer was mentioned in the SCN – which was obviously prior to petitioner's reply to the SCN – and not pursuant to any queries that the concerned officer had in respect of the reply to the SCN.

10. In the circumstances, we consider it apposite to set aside the impugned

order and remand the matter to the concerned officer for consideration afresh. The petitioner is also permitted to furnish a reconciliation statement and such further documents, which the petitioner considers relevant within a period of three weeks from today. The concerned officer shall decide afresh after affording the petitioner an opportunity of being heard. We clarify that we have not examined the petitioner's challenge to the impugned order on merits and nothing stated in this order can be construed as such.

11. All rights and contentions of the parties are reserved.

12. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 08, 2024

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Click here to check corrigendum, if any