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

\+ W.P.(C) 9213/2024 and CM APPL. 41290/2024 (Stay)

SIEMENS LIMITED (THROUGH AUTHORIZED SIGNATORY) .....Petitioner

Through: Mr. Gajendra Maheshwari, Ms. Priyanwada, Advs.

versus

SALES TAX OFFICER/GST OFFICER & ORS. .....Respondents

Through: Mr.Udit Malik, ASC and Mr.Vishal Chanda, Advocate for GNCTD.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE DHARMESH SHARMA

O R D E R

% **22.11.2024**

1. The writ petitioner is aggrieved by two orders dated 27 April 2024 passed by the respondents pertaining to the tax period April 2018 to March 2019. It is conceded before us that the two impugned orders deal with identical issues and have essentially been passed by the same officer albeit by way of separate orders penned on the said date.

2. Learned counsel for the petitioner has drawn our attention to the following table which shows the extent to which there is a difference in the ultimate orders passed. The said table is extracted hereinbelow:

Issues	**First Impugned Order passed by the Respondent No.1**	**Second Impugned Order passed by the Respondent No.1**

Tax demand of Rs. 45,00,548 basis differences in the output tax liability declared in Form GSTR-1 and Form GSTR-9.	**Confirmed**	**Dropped**
Difference in tax amounting to Rs.7,81,580 on outward supplies as declared in Form GSTR-1 versus E-way bill.	**Confirmed**	**Dropped**
Excess ITC of Rs.28,354 claimed on reverse charge basis in Form GSTR-3B for the F.Y. 2018-19.	**Confirmed**	**Dropped**
Availment of ITC against the invoices wherein the GSTIN of the supplier was cancelled.	**Confirmed demand of tax of Rs.5,74,281**	**Confirmed demand of tax of Rs.5,03,548 (resulting into double taxation)**

3. In our considered opinion, there cannot be two competing or conflicting orders pertaining to the same tax period. We further find that while passing the second impugned order, the authority has chosen to drop three of the issues that had been originally flagged for the purposes of assessment. It has further confirmed a demand of tax in respect of ITC availed wherein the registration of the suppliers is stated to have been cancelled. On this aspect, even the first order had held against the petitioner.

4. In our considered opinion, the confirmed demand with respect to ITC availed from suppliers whose GST registration came to be subsequently cancelled can always be assailed by the petitioner by way of an appeal. However, insofar as the output tax liability question as well as the outward supplies as declared in Form GSTR-1 is concerned, the same would have to abide by the order bearing reference no. ZD070424062920H.

5. We accordingly allow the writ petition and quash the order dated 27 April 2024 bearing reference no. ZD070424062889V which stands placed on our record as Annexure P1. We leave it open to the

petitioner to adopt appropriate remedies in light of the liberty reserved in para 4 of the present order.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 22, 2024/*neha*