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

\+ W.P.(C) 9396/2024, CM APPL. 38602/2024 & CM APPL. 38603/2024

M/S RAMADA ENGINEERING INDUSTRY .....Petitioner

Through: Mr. A. Krishan Maggo alongwith Mr. Vikas Sareen and Mrs. Oshin Maggo, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Rajeev Aggarwal, ASC alongwith Mr. Shubham, Adv. for R1.
Ms. Sonu Bhatnagar, SSC alongwith Ms. Nishtha Mittal, Ms. Apurva Singh, Advs. for R2.

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

O R D E R

% **11.07.2024**

1. Issue notice.

2. Learned counsel for the respondents accept notice.

3. The petitioner has filed the present petition, *inter alia*, impugning a show cause notice dated 16.12.2023 (hereafter *the impugned SCN*) issued under Section 73 of the Central Goods and Services Tax Act, 2017 (hereafter *CGST*) and Delhi Goods and Services Tax Act, 2017 (hereafter *DGST*) in respect of the tax period, April 2018 to March 2019.

4. The petitioner also impugns an order dated 10.04.2024 (hereafter *the impugned order*) issued pursuant to the impugned SCN, raising an aggregate demand of ₹30,34,958/-.

5. The petitioner has assailed the impugned SCN and the impugned order on several grounds, including that the impugned SCN and the impugned order

are unsigned.

6. The Proper Officer had issued the impugned SCN alleging that the petitioner had incorrectly availed the Input Tax Credit (hereafter *ITC*) in respect of supplies received from the suppliers as they had not deposited the tax on their outward supplies to the petitioner. The impugned SCN referred to Section 16(2)(c) of the CGST Act, 2017/DGST Act, 2017 and set out that a taxpayer is entitled to ITC subject to the condition that the tax charged in respect of such supplies has been paid to the Government.

7. The impugned SCN also set out a tabular statement indicating the issue involved. The said statement is set out below:-

S. No.	Issue	SGST	CGST	IGST	CESS	Total
1	2	3	4	5	6	7
1	Supplier registration cancelled before date of invoice	721854	721854	0	0	1443708
2	Supplier failed to file GSTR-3B and did not pay tax on the invoices declared in GSTR-01	0	0	0	0	0
3	Supplier filed GSTR-3B with Nil turnover and did not declare or pay tax corresponding to the invoices declared in GSTR-01	0	0	0	0	0

4	Total (S.NO. 1+2+3)	721854	721854	0	0	1443708

8. The Proper Officer had also included a statement with the impugned SCN indicating that the name of the suppliers stated to have supplied the goods to the petitioner and whose registration was cancelled.

9. The petitioner furnished a reply to the said impugned SCN, *inter alia*, stating that the suppliers, which were alleged to have not deposited the tax, had filed their returns for the period during which the supplies were made.

10. The Proper Officer passed the impugned order rejecting the reply filed by the petitioner by stating that the reply was found to be unsatisfactory. It also suggested that the petitioner has failed to discharge its burden by producing the records such as the names and the addresses of the sellers, details of vehicle used for delivery of goods, proof of payment and freight charges and acknowledgment of delivery of goods.

11. Mr. Aggarwal, learned counsel for respondent no.1 fairly states that there is no discussion or finding in the impugned order to the effect of substantiating the allegation that the tax on the supplies in respect of which the petitioner had availed ITC had, in fact, not been deposited with the Government. He submits that the petitioner has been denied ITC on the ground that the registration of the certain suppliers, which had supplied goods to the petitioner, had been cancelled retrospectively.

12. It is clear from the above that the impugned SCN is cryptic and does not specifically state that the demand is sought to be raised on account of a retrospective cancellation of the registration of the suppliers. It is premised on the basis that the suppliers, from whom the petitioner had received supplies, have not paid tax on the goods supplied to the petitioner.

13. The impugned order is also silent as to the documents provided by the

petitioner. It appears that the concerned proper officer has not considered the same.

14. Learned counsel for the petitioner also submits that the impugned SCN apart from being unsigned, was not completely understood by the petitioner.

15. We do not find the said submissions made on behalf of the petitioner to be unjustified.

16. At this stage, learned counsel for the petitioner states that he will produce all the relevant documents as available with the petitioner to establish that it had, in fact, received the goods from the suppliers in question.

17. In view of the above, we consider it apposite to set aside the impugned order and remand the matter to the Proper Officer to consider it afresh. The petitioner is at liberty to file all the relevant documents in response to the impugned SCN. The Proper Officer shall consider the same and pass an appropriate order after affording an opportunity of hearing to the petitioner.

18. The present petition stands disposed of in the above terms.

19. All the pending applications also stand disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 11, 2024

'at'

Click here to check corrigendum, if any