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

\+ W.P.(C) 9736/2024, CM No.39946/2024 & CM No.39947/2024

LODHI PROPERTY COMPANY LIMITED .....Petitioner

Through: Ms. Kavita Jha, Mr. Shammi Kapoor, Ms. Swati Aggarwal & Ms. Prachi Jain, Advs.

Versus

SALES TAX OFFICER CLASS II AVATO WARD 205 ZONE 11 DELHI .....Respondent

Through: Counsel for the respondent (appearance not given)

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

O R D E R

% **18.07.2024**

1. The petitioner has filed the present petition, *inter alia,* impugning an order dated 27.04.2024 passed by the adjudicating authority under Section 73(9) of the Central Goods & Services Tax Act, 2017 / Delhi Goods and Services Act, 2017 (hereafter *CGST Act / DGST Act*) in respect of the tax period April, 2018 to March, 2019.

2. The impugned order was passed pursuant to the Show Cause Notice dated 02.12.2023 (hereafter *the SCN*) alleging that the petitioner had not correctly declared its tax liability in its tax returns (GSTR-09). A plain reading of the impugned SCN indicates that the same was passed on the ground that there was discrepancy in the returns submitted by the petitioner. In addition, the Adjudicating Authority had also referred to Section 16(2)(c) of the CGST Act / DGST Act suggesting that the petitioner had availed Input Tax Credit in regard to supplies in respect of which the supplier(s) had not deposited the tax with the government.

3. The petitioner, under cover of its letter dated 29.02.2024, responded to

the SCN and made detailed submissions. The petitioner also sought to reconcile the returns filed. It is also pointed out that the petitioner had also admitted certain mistakes and agreed to pay the additional amount. The learned counsel appearing for the petitioner submits that the same has since been deposited. However, it is apparent that the Adjudicating Authority has not considered the reply submitted by the petitioner. The only reason set out in the impugned order for rejecting the petitioner's reply is that "taxpayer has not properly replied / filed explanation despite of sufficient and repeated opportunities". The impugned order has not dealt with any of the contentions raised by the petitioner.

4. It is apparent that the impugned order is unreasoned. Accordingly, we consider it apposite to set aside the impugned order and remand the matter to Adjudicating Authority for decision afresh. It is so directed.

5. The adjudicating authority shall pass a reasoned order after affording the petitioner an opportunity of being heard.

6. The petition is disposed of in the aforesaid terms. All pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 18, 2024
'gsr'

Click here to check corrigendum, if any