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

\+ W.P.(C) 10142/2024 & CM APPL. 53446/2024

M/S BATRA ENTERPRISES .....Petitioner

Through: Mr. Kishore Kunal, Ms. Runjhun Pare and Mr. Anuj Kumar, Advocates.

versus

SALES TAX OFFICER, CLASS II & ORS. .....Respondents

Through: Mr. Rajeev Aggarwal, ASC alongwith Mr. Shubham Goel and Mr. Mayank Kamra, Advocates.

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

O R D E R

% **12.09.2024**

W.P.(C) 10142/2024 & CM APPL. 53456/2024

1. The petitioner has filed the present application, *inter alia*, seeking leave to amend the above captioned petition.

2. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondents to sanction a refund under Section 54(3) of the Central Goods and Services Tax Act, 2017 (hereafter *CGST Act*), pursuant to the applications filed for the period of October 2023 to March 2024. It is the petitioner's grievance that the respondents have taken no steps to grant the refund pursuant to the said applications and the time period of 60 (sixty) days for granting the refund has expired. However, after the petition was filed, the respondents have issued five Show Cause Notices (hereafter *SCN*) in Form GST RFD-08 calling upon the petitioner to show cause why its applications for refund not be rejected.

3. The petitioner seeks to impugn the said five SCNs, four notices dated

29.08.2024 and one notice dated 23.08.2024 in respect of period from October 2023 to February 2024. The petitioner was afforded an opportunity of personal hearing however, the date fixed for personal hearing was prior to the date fixed for filing the reply. that is, on 10.09.2024 at 3:30 PM.

4. Learned counsel for the petitioner also states that the issue raised in the SCNs is beyond the scope of the proceedings under Section 54 of the CGST Act. Plainly it is open for the petitioner to advance the contentions as raised before us, before the concerned officer. In the given circumstances, we consider it apposite to dispose of the present petitioner by directing that the petitioner shall file its reply on or before 20.09.2024.

5. The concerned authority shall afford the petitioner an opportunity to be heard and thereafter, process the petitioner's applications for refund within a period of two weeks from 20.09.2024, that is, on or before 06.10.2024.

6. In the event, the concerned officer decides to allow the petitioner's application for refund, the concerned officer shall ensure that the refund allowed shall include the interest as payable under the statute.

7. In the event, the concerned officer denies the petitioner's application for refund, it shall pass a reasoned order considering the contentions advanced by the petitioner.

8. The respondent has not issued any notice for the petitioner's application for the month of March, 2024. The time period for issuance of any notice of acknowledgment and deficiency under GST RFD-03 has expired. Clearly, the respondents have forfeited their right to issue any deficiency memo. Thus, the respondents are directed to process the petitioner's application for refund for the month of March, 2024 in

accordance with law as expeditiously as possible and preferably within a period of four weeks from date.

9. The present application as well as the above captioned petition are disposed of in the aforesaid terms.

10. It is clarified that all contentions of the parties including scope of inquiry under Section 54 are reserved.

11. The hearing scheduled on 26.09.2024 is cancelled.

12. All pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 12, 2024

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