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

\+ W.P.(C) 10156/2024 & CM APPL. 41731/2024 (Stay)

M S SUNRISE INTERNATIONAL THROUGH ITS PROPRIETOR NITIN MITTAL .....Petitioner

Through: Mr. M.A.Ansari, Ms. Tabbassum Firdausi, Mr. Arvind Kr. Soni, Advs.

versus

GOVT OF NCT OF DELHI THROUGH CHIEF SECRETARY & ORS. .....Respondents

Through: Mr. Vishal Chadha, Adv. for R-MCD.
Mr. Rajeev Aggarwal, ASC with Mr. Shubham Goel and Mr. Mayank Kamra, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

<u>O R D E R</u>

% **30.09.2024**

1. The instant writ petition has been preferred seeking the following reliefs:-

> "(i). To issue a Writ, Order or Direction in the nature of certiorari quashing impugned unsigned order dated 30.03.2024 passed under CGST Act/SGST Act creating a demand of Rs.1,18,80,364/- including interest and penalty and read with DRC-07 dated 30.03.2024.
>
> (ii) To issue a Writ, Order or Direction in the nature of certiorari quashing impugned unsigned summary order dated 13.12.2019 passed under CGST Act / SGST Act creating a demand of Rs 1,64,57,768 including interest and penalty and read with DRC-07 dated 13.12.2019.

(iii) To grant any other and further relief that may be deemed fit and proper in the interest of justice in favour of petitioner in facts and circumstances of the case"

2. The petitioner is aggrieved by the final demand which has come to be created pursuant to the order impugned and referred to hereinabove.

3. Those proceedings were preceded by a Show Cause Notice [**"SCN"**] dated 02 December 2023 in which the following allegations were levelled against the writ petitioner and are reproduced hereinbelow:

> "You have filed annual return in GSTR-09 for the financial year 2018-19. On examination of the information furnished in this return under various heads and also the information furnished in ·GSTR-01, GSTR-2A, GSTR-3B, EWB and other records available in this office it is found that you have not declared your correct tax liability while filing the annual returns of GSTR-09. The summary of under declared tax is as follows:
>
> SGST Rs.**5940182**
> CGST Rs.**5940182**
> IGST Rs.**0**
> CESS Rs.**0**
> Total Rs.**11880364"**

4. The petitioner contends that since no notice or alert with respect to the aforesaid notices were received by it, it was unable to furnish a response. It is in the aforesaid backdrop that the respondents proceeded to pass final orders.

5. In our considered opinion, the ends of justice would warrant the petitioner being accorded the liberty to now prefer a response to the Show Cause Notice dated 02 December 2023 and for the respondents examining whether a review of the order already passed is warranted.

6. We according dispose of this writ petition by according liberty to the writ petitioner to prefer a response to the original Show Cause

Notice within a period of three weeks from today. In case the said reply is filed, the same may be duly examined and disposed of by the respondents in accordance with law.

7. The impugned order of 30 March 2024 shall abide by the fresh order that the respondents shall now pass pursuant to the directions issued hereinabove.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

SEPTEMBER 30, 2024/*SK*