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

% *Date of Decision : 30.07.2024*

\+ **W.P.(C) 10424/2024 & CM APPL. 42813-814/2024**

M/S SREE ANANTA EXIM .....Petitioner

Through: Mr Akhil Krishan Maggu, Mr.Vikas Sareen, Ms Maninder Kaur, Ms Oshin Maggu and Mr.Ruchir Baswal, Advocates.

versus

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

Through: Mr Awadhesh Kr Singh, Advocate for R1/UOI.

Ms Sonu Bhatnagar, Sr SC, Ms Nishtha Mittal, Ms Apurva Singh and Ms K R Mary Jonet, Advocates for R2.

Mr.Rajeev Aggarwal, ASC and Mr.Shubham Goel, Advocate for R3.

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

VIBHU BAKHRU, J. (*ORAL*)

1. The petitioner has filed the present petition impugning an order dated 17.04.2024 (hereafter *the impugned order*) passed under Section 73 of the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) and the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) confirming the demand of ₹89,83,380/- including interest and penalty for the financial year 2018-19.

2. The impugned order was passed pursuant to the Show Cause Notice issued on 17.12.2023 (hereafter *the SCN*). The SCN indicates that the demand was proposed to be raised from the petitioner on the ground that the Input Tax Credit (ITC) as claimed by the petitioner was greater than the amount declared by the petitioner's supplier. It was also alleged that the petitioner had availed ITC in respect of supplies from taxpayers, who had not paid tax on their outward supplies to the petitioner.

3. The petitioner responded to the SCN, *inter alia,* ascertaining that it had received supplies from three suppliers – Sai International; Mukul International; and Shri Ganpati Enterprises – during the relevant period. The returns filed by the suppliers for the period reflected that the tax had been paid.

4. The learned counsel for the petitioner submits that the retrospective cancellation of the GST registration of the said suppliers does not imply that the suppliers did not pay the tax and this was the principal ground on which the Adjudicating Authority had imposed the liability on the petitioner.

5. The reply furnished by the petitioner indicates that the petitioner had not selected the option for personal hearing. The learned counsel for the petitioner submits that there is a glitch in the system and it does not permit the tax payer to select the option of personal hearing.

6. The impugned order does not indicate that any of the contentions advanced by the petitioner were considered. The petitioner's reply was rejected by the Adjudicating Authority by simply observing that it was not found satisfactory. The impugned order is, thus, unreasoned and is liable to

be set aside.

7. Mr Aggarwal, learned counsel fairly states that the impugned order has been passed in similar terms as other cases, which have been remanded to the Adjudicating Authority for consideration afresh.

8. In view of the above, the impugned order is set aside and matter is remanded to the Adjudicating Authority for consideration afresh. The Adjudicating Authority shall pass the order after affording the petitioner an opportunity of personal hearing.

9. The petition stands disposed of in the aforesaid terms. Pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 30, 2024
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Click here to check corrigendum, if any