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

\+ W.P.(C) 10810/2024, CM Nos.44454/2024 & 44455/2024

M/S BAJRANG LAL MAHENDRA KUMAR
THROUGH PARTNER PAWAN JOSHI .....Petitioner

Through: Mr. Pranay Jain, Mr. Karan Singh & Mr. Ritik Gupta, Advs.

Versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal, Mr. Avishkar Singhvi, Mr. Shubham Goel, Mr. Naved Ahmed & Mr. Vivek Kumar Singh, Advs.

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

O R D E R

% **05.08.2024**

1. Issue notice.

2. Mr. Rajeev Aggarwal, learned counsel appearing for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 27.12.2023 (hereafter *the impugned order*) passed by the Adjudicating Authority under Section 73 of the Delhi Goods & Services Tax Act, 2017 (hereafter *the DGST Act*) in respect of the financial year 2017-18. The impugned order was passed pursuant to a show cause notice dated 25.09.2023 (hereafter *the impugned SCN*), wherein the demand proposed to be raised against the petitioner was set out and the petitioner was called upon to furnish a reply by 25.10.2023. In terms of the impugned SCN an aggregate demand of ₹20,55,05,548/- was proposed to be raised on account of excess Input Tax Credit (hereafter *ITC*). It was alleged that the petitioner has not reversed the ITC in respect of the non-business transactions and exempted supplies.

4. It is the petitioner's case that he had closed down its business and his Goods and Services Tax (GST) registration was cancelled by an order dated 19.05.2022. In the circumstances, he did not check the GST portal and thus, was unaware of the impugned show cause notice. It is also stated that no separate show cause notice was sent to the petitioner by other electronic modes (through WhatsApp or E-mail).

5. The impugned show cause notice also indicates that no date, time and schedule for personal hearing was fixed. It is also the petitioner's case that even if it is accepted that the show cause notice was served to the petitioner yet the impugned order would be violative of principles of natural justice as the petitioner was not afforded an opportunity of hearing.

6. The learned counsel appearing for the petitioner also submits that the petitioner had not availed any excess ITC as the petitioner was maintaining separate trading accounts for eligible and non-eligible businesses.

7. In view of the above, we consider it apposite to set aside the impugned order and remand the matter to the Adjudicating Authority for consideration afresh. The petitioner may file a response to the impugned show cause notice along with all documents in order to substantiate its case within a period of two weeks from date. The Adjudicating Authority shall consider the same and pass a reasoned order after affording the petitioner an opportunity of hearing.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 05, 2024/'gsr'