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

\+ W.P.(C) 10871/2024

M/S JMD INDUSTRIES .....Petitioner

Through: Mr. H.C. Bhatia, Mr. Ruchir Bhatia, Mr. Naveen Madan and Mr. Abhishek Anand, Adv.

versus

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

Through: Mr. Ajay Jain, SPC along with Mr. Bijay Lakshmi, Mr. M.N. Mishra, Mr. Krishna Sharma and Ms. Shreya Jain, Advs. for R-1.
Mr. Atul Tripathi, Sr.SC for R-2, 3 and 5.
Mr. Avishkar Singhvi, ASC along with Mr. Vivek Kumar Singh, Mr. Shubham Kumar and Mr. Naved Ahmed, Advs. for GNCTD.

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

O R D E R

% **23.08.2024**

1. The petitioner has filed the present petition, *inter alia,* challenging the constitutional validity of Section 16(4) of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*)/Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*). The petitioner is essentially aggrieved by the order dated 25.04.2024 (hereafter *the impugned order*) whereby the petitioner's claim for input tax credit has been denied, by virtue of Section 16(4) of the CGST Act/DGST Act, on account of delay.

2. The learned counsel for the parties state that in view of the enactment

of Finance (No.2) Act, 2024, an introduction of sub-section 5 of Section 16 of the CGST Act/DGST Act, their grievance stands satisfied. If the matter is remanded to the Adjudicating Authority to consider the same in light of the amendments introduced by the Finance (No.2) Act, 2024.

3. Learned counsel for the petitioner also states that they are not pressing their constitutional challenge to the provisions of Section 16(4) of the CGST Act/DGST Act.

4. The learned counsel appearing for the respondents states that he has no objection it the impugned order is set aside and the matter is restored before the Adjudicating Authority to consider afresh in view of amended Section 16 of CGST Act/DGST Act.

5. In view of the above, the impugned order is set aside and the matter is remanded to the Adjudicating Authority to consider the same in the light of enactment of the Finance (No.2) Act, 2024.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 23, 2024/cl