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

\+ W.P.(C) 11190/2024

RETROVIS FASHION PVT. LTD. .....Petitioner

Through: Mr. Mukesh Gupta and Mr. Shivam Gupta, Advs.

versus

SALES TAX OFFICER CLASS II / AVATO .....Respondent

Through: Mr. Shubham Goel, Adv. for Mr. Rajeev Aggarwal, ASC.

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

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

% **13.08.2024**

1. The petitioner has filed the present petition, *inter alia,* impugning the Show Cause Notice dated 28.02.2022 (hereafter *the impugned SCN*) and the order dated 29.03.2022 (hereafter *the impugned order*), passed under Section 74 of the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) in respect of the financial year 2020-21.

2. In terms of the impugned order, a demand of ₹98,34,425/- has been confirmed. The petitioner states that his GST registration was cancelled on 13.01.2020. Further, the Director of the petitioner company, who was aware of the passwords of the GST portal (Sh. Vikas Gupta), expired shortly thereafter on 16.11.2020.

3. In the given circumstances, the petitioner claims that he did not have access to its GST portal.

4. The respondent issued the impugned SCN under Section 74 of the

DGST Act, proposing a demand of ₹98,34,425/- including interest and penalty for the financial year 2020-21.

5. The petitioner claims that he did not receive the impugned SCN. Further, it had stopped its business and therefore, had no occasion to examine the GST portal which, in any case, it could not do for want of the password. In these circumstances, the impugned order was passed without hearing the petitioner or affording him any further opportunity of hearing.

6. The learned counsel for the petitioner further submits that the petitioner company has effectively closed its business and has not carried out any business for the last four years. Thus, there was no question of any output liability.

7. The learned counsel appearing for the respondent submits that he has no objection if the impugned order is set aside and the matter is remanded to the adjudicating authority for consideration afresh.

8. In view of the above, we allow the present petition and, the impugned order passed under Section 74 of the DGST Act is set aside.

9. The petitioner may file a reply to the impugned SCN within a period of two weeks from date.

10. The adjudicating authority shall consider the same and pass an appropriate order after affording the petitioner an opportunity to be heard.

11. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 13, 2024/cl