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

\+ W.P.(C) 11997/2024 & CM APPL. 49901/2024 (Stay)

CHETAN GARG .....Petitioner

Through: Mr. Anurag Rajput & Mr. Dhruv Bhardwaj, Advs.

versus

AVATO WARD 105 STATE GOODS AND SERVICE TAX AND ORS & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal, ASC with Mr. Shubham Goel, Adv. for R-1 & 2.

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

ORDER

% **07.10.2024**

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

> (i) issue a writ of certiorari or any other writ, order or direction of like nature to the Respondents, directing them to withdraw their impugned Order passed u/s 73 of the CGST Act, 2017 in Form DRC-07 on dated 30.04.2024.
>
> (ii) Pass such further and other orders, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

2. The order dated 30 April 2024 which stands impugned herein and raises a demand against the writ petitioner under the State GST regime was preceded by a Show Cause Notice ["**SCN**"] which had alleged that the Input Tax Credit had been claimed in connection with Cancelled Dealers, Return Defaulters and Non-Tax Payers. The three entities which were noticed by the respondents and which the petitioner is stated to have dealings with were Garg Trading, Shivakanta Sanitation Private Limited and Raghuwar Metals Industries.

3. In response to the SCN, the petitioner had taken the stand that insofar as Garg Trading is concerned, since the firm had failed to submit its GSTR-1 and GSTR-3B, the issue was not being contested and that it would attend to the tax default. Insofar as Shivkanata Sanitation Private Limited and Raghuvwar Metals Industries are concerned, the petitioner had submitted a detailed response while responding to the notice issued.

4. However, and as is manifest from a reading of the final order which has come to be framed, the said reply has neither been taken notice of nor have the disclosures made therein been examined or considered. In view of the aforesaid, and in light of the complete absence of any reasoning, we find ourselves unable to sustain the order impugned.

5. The writ petition is, accordingly, allowed. The impugned order dated 30 April 2024 is quashed. We, however, leave it open to the respondents to pass an order afresh bearing in mind the reply which has been submitted by the petitioner and which forms part of our record as Annexure P-3.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

OCTOBER 7, 2024/kk