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

% *Date of Decision : 18.09.2024*

\+ **W.P.(C) 12096/2024**

R L ENTERPRISES .....Petitioner

Through: Mr Ruchir Bhatia and Mr Abhishek Anand, Advocates.

versus

COMMISSIONER STATE GOODS AND SERVICES TAX DELHI & ANR. .....Respondents

Through: Mr Avishkar Singhvi, ASC and Mr Naved Ahmed Advocate for GNCTD.

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, *inter alia,* impugning the order dated 24.12.2023 (hereafter *the impugned order*) passed under Section 73 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) and the State Goods and Services Tax Act, 2017 (hereafter *the SGST Act*). The impugned order was passed pursuant to the Show Cause Notice dated 22.09.2023 (hereafter *the impugned SCN*) alleging that the petitioner had wrongfully availed Input Tax Credit (hereafter *the ITC*).

2. The said allegation was founded on the basis that the registration of certain suppliers from whom the petitioner had availed the supplies, was cancelled.

3. The petitioner responded to the impugned SCN on 30.10.2023 claiming that at the material time the suppliers from whom the petitioner had availed the supplies were registered under the CGST Act and the SGST Act. The petitioner also stated that it had paid the amount of invoice raised by the said suppliers, which included the Goods and Services Tax (GST) and, therefore, the petitioner was entitled to avail the ITC as claimed.

4. It appears that said contention has not been examined by the adjudicating authority as the impugned order does not reflect any such consideration.

5. Mr Singhvi, the learned counsel for the respondents states, on instructions, that the impugned order be set aside and the matter be remanded to the adjudicating authority to decide afresh.

6. In view of the above, the impugned order is set aside. The petitioner is granted one more opportunity to file all documents and material in support of his contention that it is entitled to avail ITC within two weeks from date. The adjudicating authority shall pass the apposite order afresh after affording the petitioner an opportunity of being heard.

7. The petition is disposed of in the aforesaid directions.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 18, 2024
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Click here to check corrigendum, if any