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

\+ W.P.(C) 12190/2024 CM APPL. 50699/2024 CM APPL. 50700/2024

M/S AAA IMPEX .....Petitioner

Through: Mr. Siddharth Malhotra, Adv.

versus

COMMISSIONER OF STATE GST AND VAT DEPARTMENT OF TRADE AND TAXES .....Respondent

Through: Mr. Udit Malik, ASC (Civil) and Mr. Vishal Chanda, Adv.

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

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

% **02.09.2024**

1. Issue notice.

2. The learned counsel for the respondent accepts notice.

3. The petitioner has filed the present petition impugning an order dated 17.12.2023, passed under Section 73 of the Central Goods and Services Tax Act, 2017 (CGST Act)/Delhi Goods and Services Tax Act, 2017 (DGST Act), confirming a demand of Rs.35,52,662/- including interest and penalty.

4. The petitioner states that the impugned order is not signed and therefore, is *non est*.

5. The petitioner also submits that the Show Cause Notice (hereafter *the SCN*) dated 19.09.2023, pursuant to which the impugned order was passed, is also *ex facie* erroneous. The allegation in the said SCN is that the petitioner has claimed excess ITC on account of CGST/DGST. However, the tabular statement set out in the SCN indicates that there was no difference between the ITC claimed and ITC accrued. He submits that the SCN is also unsigned.

6. After some hearing, learned counsel for the respondent fairly states that the impugned order may be set aside and the matter be remanded to the adjudicating authority for considering afresh in accordance with law.

7. In view of the above, the impugned order is set aside and the matter is remanded to the adjudicating authority to consider afresh. The adjudicating authority shall pass a speaking order after affording the petitioner an opportunity to be heard.

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

9. All pending applications also stand disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 02, 2024/cl