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

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Date of Decision: 17.09.2024

+ **W.P.(C) 12214/2024**

M/S MANDY ENTERPRISES
PROPRIETORSHIP CONCERN

.....Petitioner

Through: Mr Ankit Sareen and Mr Yash
Tandon, Advocates.

versus

DEPUTY COMMISSIONER, CGST DIVISION
AND ANOTHER & ANR.

.....Respondents

Through: Mr Anurag Ojha, Senior Standing
Counsel with Mr Subham Kumar,
Advocate along with Mr Pramod
Kumar, Commissioner of CGST
(West) through VC.

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*, praying that an appropriate order be passed directing the respondents to grant the refund of ₹28,84,115/- as available in the electronic cash register of the proprietor of M/s Mandy Enterprises, Late Sh. Mandeep Singh Batra.

2. It is claimed that Sh. Mandeep Singh Batra was providing waste management services to various government and local authorities since the year 2014 and was carrying on his activities under the name of his sole proprietorship concern – M/s Mandy Enterprises. Sh. Mandeep Singh Batra



expired on 10.10.2021.

3. After his demise, his widow (Mrs Neera Batra) filed an application dated 14.06.2023 seeking refund of the Integrated Goods and Services Tax amounting to ₹28,84,115/-, which was lying in the electronic cash register.

4. The petitioner received the Show Cause Notice (Form-GST RFD-08) dated 25.07.2023 (hereafter *the SCN*) calling upon the petitioner to provide certain documents and also to show cause why the application should not be rejected, *inter alia*, on the ground that provisions of Sub-section (6) of Section 49 of the Central Goods and Services Tax Act, 2017 were not complied with. Mrs Neera Batra responded to the SCN (in Form GST RFD-09) on 08.08.2023. Thereafter, the Adjudicating Authority passed the order dated 10.08.2023 in Form GST RFD-06, rejecting the claim for refund.

5. Mrs Neera Batra appealed the said order dated 10.08.2023 before the Appellate Authority under Section 107 of the Central Goods and Services Tax, 2017. The appellate authority found that the grounds on which the adjudicating authority had rejected the application for refund could not sustained. The appellate authority concluded that the adjudicating authority had erred in rejecting the petitioner's rightful refund for excess balance in the electronic cash register. The adjudicating authority was further directed to refund the excess balance in the electronic cash register into the bank account of the petitioner in respect of which Mrs Neera Batra was a legal heir in terms of the succession certificate issued by the Court.

6. The relevant extract of the Order in Appeal dated 21.01.2024 is reproduced below:



“8. In view of the above, I am of the considered view that the adjudicating authority has erred in rejecting the appellant’s rightful refund claim for excess balance in electronic cash ledger. The impugned order passed by the adjudicating authority is neither legal nor maintainable in law as such the same is liable to be set aside and the appellant’s appeal is liable to be allowed. The adjudicating authority is directed to refund the said excess balance in appellant’s electronic cash ledger into the bank account of the appellant firm for which Smt. Neera Batra has become legal heir in terms of succession certificate issued by the Hon’ble Court. Accordingly, I pass the following order:”

[emphasis added]

7. Notwithstanding that express directions had been issued by the appellate authority for grant of refund, the same was not implemented. In order to secure the benefit granted by the Order in Appeal dated 21.01.2024, Ms. Neera Batra filed a fresh application for refund on 05.02.2024. However, has not received any response to the same. Accordingly, a reminder dated 11.03.2024 was also filed with the concerned authorities.

8. Thereafter, the adjudicating authority once again issued a Show Cause Notice dated 28.03.2024 in Form GST RFD-08. The petitioner responded to the said Show Cause Notice by a letter dated 08.04.2024. However, the petitioner’s application for refund has not been processed as yet.

9. We have heard the counsel for the parties.

10. The respondents cannot withhold the refund, which has been directed to be issued by the appellate authority. The Order in Appeal dated 21.01.2024 is required to be implemented unless the same is otherwise stayed by a superior forum. Concededly, in the present case, the



respondents have not preferred any appeal or any proceedings to challenge the Order in Appeal dated 21.01.2024. It is impermissible for the respondents to simply ignore the said order. The issue is squarely covered by the earlier decision of this Court in *Alex Tour and Travel (P.) Ltd. v. Assistant Commissioner, CGST, Division-Janakpuri: Neutral Citation: 2023: DHC:3303-DB, Kunal International v. Union of India: 2023: DHC:7316-DB* and *G.S. Industries v. Commissioner Central Goods and Services Tax Delhi West & Anr.: 2023: DHC:2402-DB*.

11. The present petition is accordingly, allowed. The respondents are directed to forthwith process the claim for refund in terms of the Order in Appeal dated 21.01.2024 along with applicable interest in accordance with law.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 17, 2024
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[Click here to check corrigendum, if any](#)