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

\+ W.P.(C) 12386/2024 CM APPL. 51543/2024 CM APPL. 51544/2024 CM APPL. 51545/2024

WORLDS WINDOW EXIM PRIVATE LIMITED .....Petitioner

Through: Mr. Sandeep Chilana, Mr. Priyojeet Chatterjee, Mr. Snehil Sharma, Ms. Anjali Jain, Ms. Akriti Sinha, Mr. Abdullah Tanveer and Ms. Kannopriya Gupta, Advs.

versus

COMMISSIONER OF STATE TAX DELHI & ANR......Respondents

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

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

ORDER

% **05.09.2024**

1. Issue notice.

2. Learned counsel for the respondents accept notice.

3. The petitioner impugns an order dated 28.12.2023, passed under Section 74 of the Central Goods and Services Tax Act, 2017 (hereafter *CGST Act*) / Delhi Goods and Services Tax Act, 2017 (hereafter *DGST Act*) in respect of the tax period from July, 2017 to March 2018. The said order was passed pursuant to a Show Cause Notice dated 14.01.2021 (hereafter *the impugned SCN*). The petitioner was called upon to reply to the impugned SCN on or before 15.02.2021. A tabular statement set out in the said impugned SCN indicates that no date, time or venue of the personal hearing

was fixed. The said impugned SCN was premised on the basis that there were certain discrepancies in the input tax credit (hereafter *ITC*) to the extent of ₹299.84 Lacs as seen in GSTR 2A and GSTR 3B. The petitioner was, therefore, required to explain reasons for the same.

4. The impugned SCN proposed an aggregate demand of ₹8,13,96,466/- which also included interest and penalty.

5. The petitioner states that although it did not file a reply to the impugned SCN on or before the stipulated date, it did so on 13.12.2023.

6. The petitioner states that it also received a notice fixing a personal hearing on 14.12.2023 and the petitioner availed the said opportunity by filing the reply to the impugned SCN.

7. It is the petitioner's case that there were in fact no discrepancies in the ITC as reflected in the returns GSTR 2A and GSTR 3B as alleged.

8. Undisputedly, the impugned order does not deal with the petitioner's contentions. The petitioner's reply was rejected summarily by stating that it was found to be devoid of merits. The impugned order is *ex facie* unreasoned and, therefore, is liable to be set aside.

9. Learned counsel for the respondents fairly states that the impugned order may be set aside and the matter be remanded to the Adjudicating Authority to consider afresh.

10. In view of the above, the present petition is allowed and the impugned order is set aside.

11. 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 of hearing.

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

13. All pending applications also stand disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 05, 2024/cl