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

\+ W.P.(C) 12695/2024 CM APPL. 52862/2024 CM APPL. 52863/2024

AMIT UPADHYAY (PROPRIETOR OF M/S. GAYATARI DIAMONDS) .....Petitioner

Through: Mr. Puneet Rai, Ms. Srishti Sharma and Mr. Sanjay Sharma, Advs.

versus

SALES TAX OFFICER CLASS II /AVATO, WARD 45, ZONE 3, DELHI & ANR. .....Respondents

Through: Mr. Udit Malik, ASC along with Mr. Vishal Chanda, Advs.

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

O R D E R

% **10.09.2024**

1. Issue notice.

2. Learned counsel for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter-alia*, impugning an order dated 24.08.2024, passed by the adjudicating authority under Section 73 of the Delhi Goods and Services Tax Act, 2017 (hereafter *DGST Act*) pertaining to the financial year 2019-20. In terms of the impugned order, an aggregate demand of ₹32,234,680/- including interest and penalty has been confirmed against the petitioner.

4. The impugned order was passed pursuant to a Show Cause Notice dated 31.05.2024 (hereafter *the SCN*).

5. The petitioner was called upon to furnish the reply on or before 01.07.2024 and appear before the concerned adjudicating authority on 05.07.2024 at 11.00 AM.

6. The impugned demand is premised on the basis that the registration of some of the suppliers from whom the petitioner has availed supplies was cancelled retrospectively.

7. Additionally, some of the suppliers have also failed to pay taxes on their outward supplies and, therefore, the Input Tax Credit claimed by the petitioner in respect of the said suppliers was inadmissible.

8. The petitioner failed to respond to the SCN due to certain mitigating factors, which are set out in the petition. The petitioner has filed his medical records which indicate that he is unwell.

9. To compound the petitioner's problem, the Chartered Accountant who was engaged by him for dealing with the matters relating to the Goods and Services Tax has also been unavailable as his daughter is severely ill. The medical records of his daughter have also been placed on record.

10. In the aforesaid circumstances, it would be apposite to grant the petitioner another opportunity to respond to the SCN since the petitioner has been unable to do for the reasons stated above.

11. Accordingly, the petition is allowed and the impugned order is set aside.

12. The petitioner may file a response to the SCN within a period of two weeks from date along with all documents that the petitioner seeks to rely upon.

13. The adjudicating authority may pass such order as it deems fit after affording a hearing opportunity to the petitioner.

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

15. All pending applications also stand dismissed.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 10, 2024/cl