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

\+ W.P.(C) 13029/2024 CM APPL. 54388/2024

POSITRA PACKAGING PRIVATE LIMITED .....Petitioner
Through: Mr. Ashutosh Agarwal, Adv.

versus

THE COMMISSIONER APPEALS & ORS. .....Respondents
Through: Mr. Vishal Chanda, Adv.

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

O R D E R

% 24.09.2024

1. The petitioner has filed the present petition impugning an order dated 13.12.2023 (hereafter *the impugned order*), passed under Section 73 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) for the period of July, 2017 to March, 2018.

2. The impugned order was issued pursuant to a Show Cause Notice (*the SCN*) dated 04.09.2023. It is the petitioner's case that issuance of the SCN had escaped his attention as the same was projected on the GST portal under the tab 'Additional Notices and Orders'.

3. The petitioner has relied upon the decision of this court in ***M/s ACE Cardiopathy Solutions Private Limited v. Union of India & Ors.: Neutral Citation No.2024:DHC:4108-DB*** as well as ***Kamla Vohra v. Sales Tax Officer Class II/AVATO Ward 52: Neutral Citation No.2024:DHC:5108-DB*** in support of its contention that he did not have sufficient opportunity to respond to the SCN. However, it is now pointed out that the SCN was placed under the tab 'Additional Notices and Orders' which was placed next

to the tab ‘Notices and Orders’. And both the tabs were under a common tab. The SCN was projected on the portal after it was configured to address the issue as raised in ***M/s ACE Cardiopathy Solutions Private Limited v. Union of India & Ors.*** (supra), which was followed in ***Kamla Vohra v. Sales Tax Officer Class II/AVATO Ward 52*** (supra).

4. It is noticed that the petitioner has an equally efficacious remedy by way of a statutory appeal. The learned counsel for the petitioner, however, states that the same is not available as the time for filing the same has since expired.

5. In the given facts of this case, we consider it apposite to dispose of the petition by directing that the petitioner file an appeal against the impugned order within a period of two weeks from date and the appellate authority shall consider the same, uninfluenced by the question of delay.

6. This direction has been issued with the concurrence of the learned counsel for the respondents.

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

8. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 24, 2024/cl