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

\+ W.P.(C) 13031/2024 and CM APPL.54391/2024

ESSKCON .....Petitioner

Through: Mr. Ajay Garg, Mr. Deepak Singh and Ms. Usha, Advs.

versus

THE PRINCIPAL COMMISSIONER OF DELHI GOODS AND SERVICE TAX & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal, ASC and Mr. Shubham Goel, Adv. for R-1 and 2.

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

ORDER

% **18.09.2024**

1. Issue notice.

2. Learned counsel for the respondents accepts notice.

3. The petitioner has filed the present petition impugning an order dated 21.04.2024 (hereafter *the impugned order*), under Section 73 of the Central Goods and Services Tax Act, 2017 (*CGST Act*)/State Goods and Services Tax Act, 2017 (*SGST Act*).

4. Learned counsel appearing for the petitioner submits that the petitioner did not receive the Show Cause Notice dated 27.01.2024 (hereafter *the impugned SCN*) pursuant to which the said order was passed. The petitioner also did not receive the reminder notice issued by the adjudicating authority. He submits that the said notices were placed under the Tab ‘Additional Notices and Orders’ and therefore, the petitioner’s attention was not drawn to the said notices.

5. Mr. Rajeev Aggarwal, learned counsel for the respondents, who appears on advance notice, submits that there is no averment to the said effect in the petition. He states that the impugned SCN was issued after the GST portal had been re-configured and therefore the petitioner's contention that the notices were placed on the Tab 'Additional Notices and Orders' cannot be accepted.

6. We find merit in the contentions advanced on behalf of the respondents. There is no material on record to indicate that the notices issued to the petitioner were placed under the Tab 'Additional Notices and Orders'. There is also no averment to the said effect in the petition.

7. The petitioner also has a remedy by way of a statutory appeal against the impugned order.

8. In view of the aforesaid, we decline to entertain the present petition.

9. However, we clarify that if the petitioner prefers an appeal under Section 107 of the CGST Act/SGST Act within a period of two weeks from today, the same would be considered by the appellate authority uninfluenced by the question of delay.

10. The present petition is disposed of in the above terms.

11. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 18, 2024/cl