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

\+ W.P.(C) 13177/2024

M/S APN SALES AND MARKETING .....Petitioner
Through: Mr Pranay Jain and Mr Karan Singh, Advocates.

versus

UNION OF INDIA & ANR. .....Respondents
Through: Mr Avishkar Singhvi, ASC with Mr Shubham Kumar, Mr Vivek Kumar Singh and Mr Naved Ahmed, Advocates.

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

O R D E R

% **19.09.2024**

CM No.55058/2024 (for Exemption)

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 13177/2024 and CM No.55059/2024

3. Issue notice.

4. The learned counsel appearing for the respondents accepts notice.

5. The petitioner has filed the present petition, *inter alia*, praying as under:

> "a) issue any appropriate writ to declare the impugned Notification No. 9/2023-Central tax dated 31.03.2023 ultra vires and unconstitutional;
>
> b) issue any appropriate writ to set aside the impugned show

cause notice dated 08.12.2023;

c) issue any appropriate writ to set aside the impugned order dated 28.02.2024;

d) issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the aforesaid facts and circumstances of the case."

6. Although, the petitioner has challenged the Notification No.9/2023 Central Tax dated 31.03.2023 as well as the Show Cause Notice dated 08.12.2023, the learned counsel for the petitioner has confined this petition to challenging the order dated 28.02.2024 (hereafter *the impugned order*). The adjudicating authority has passed the impugned order under Section 73 of the Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017 in respect of the financial year 2018-19 confirming a demand of ₹19,62,334/-. The said order was passed pursuant to a Show Cause Notice dated 08.12.2023 (hereafter *the impugned SCN*). The petitioner submits that the impugned SCN was not received by it. Apparently, the impugned SCN was projected on the petitioner's GST portal under the tab 'Additional Notices and Orders'.

7. Mr Singhvi, learned counsel appearing for the respondents fairly states that the issue is covered in favour of the petitioner by the decisions 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: Neutral Citation No.2024:DHC:5108-DB***.

8. In view of the above, we set aside the impugned order and remand the matter to the adjudicating authority for consideration afresh after affording

the petitioner an opportunity to be heard.

9. The petition is disposed of in the aforesaid terms. The application is also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 19, 2024
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Click here to check corrigendum, if any