$~65

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

\+ W.P.(C) 13286/2024 & CM APPL. 55495/2024 (Exemption)

GAURAV GUPTA PROP EXIM INCORPORATION .....Petitioner

Through: Mr. Ruchir Bhatia and Ms. Priyanka Jindal, Advocates.

versus

COMMISSIONER STATE GOODS AND SERVICE TAX DELHI & ANR. .....Respondents

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

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

<u>O R D E R</u>

% **23.09.2024**

1. Issue notice.

2. The learned counsel for the respondents accepts notice.

3. The petitioner has filed the present petition impugning the order dated 27.08.2024 (hereafter *the impugned order*) passed under Section 73 of the Central Goods and Services Tax Act, 2017 / the Delhi Goods and Services Tax Act, 2017 (hereafter *the CGST Act / the DGST Act*) in respect of financial year 2019-2020.

4. The impugned order was passed pursuant to a show cause notice dated 20.05.2024 (hereafter *the SCN*) imposing a demand of ₹60,45,235/- on account of SGST, CGST and IGST. The said demand is proposed essentially on four grounds.

5. First, that there was a difference in reconciliation between GSTR-01 and GSTR-09 (tax on outward supplies). Second, it is alleged that the

petitioner has availed excess input tax credit (ITC). Third, under declaration of ineligible ITC and fourth, that the petitioner has availed ITC from suppliers whose registrations were cancelled.

6. The petitioner responded to the said SCN on 26.06.2024 raising several preliminary objections as well as submissions on merits.

7. The impugned order indicates that none of the submissions, as made by the petitioner in respect of the SCN, were considered and the impugned order which has been passed, summarily rejects the petitioner's reply with the observations "not found satisfactory".

8. Clearly, the impugned order is unreasonable and is liable to be set aside on the said grounds only.

9. In view of the above, the impugned order is set aside and the matter is remanded to the adjudicating authority for considering afresh.

10. The adjudicating authority shall pass an appropriate order after affording the petitioner an opportunity to be heard, in accordance with law.

11. The present petition is disposed of. The pending application is also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 23, 2024
r