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

\+ W.P.(C) 13294/2024 & CM APPL. 55535/2024(stay)

SANJAY EXPORTS .....Petitioner

Through: Mr.A.K.Prasad,Mr. K.K.Anand, Ms. Surabhi Sinha and Ms. Sweety Gangum, Advocates.

versus

PRINCIPAL COMMISSIONER TRADE AND TAXES & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal, ASC alongwith Mr. Shubham Goel and Mr. Mayank Kamra, Advocates.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

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

% **30.09.2024**

1. The present writ petition had been preferred seeking the following reliefs:

> "(i) That the impugned order dated 21-08-2024 (Annexure P-1) be set aside and the matter remanded back to the respondents for deciding the show cause notice dated 30-05-2024 (Annexure P-3) on merits by taking into consideration the reply dated 05-08-2024 (Annexure P-6).
>
> (ii) That the respondents be directed to grant an opportunity of personal hearing before deciding the matter.
>
> (iii) Pass such order (s) or direction(s) as this Hon'ble Court may deem put and proper in facts and circumstances of the case in favor of these Petitioner in the interest of justice."

2. The petitioner is principally aggrieved by the order of 21

August 2024 and in terms of which a Show Cause Notice [**"SCN"**] dated 30 May 2024 pertaining to the Tax Period April 2019 to March 2020 has come to be decided. The SCN had laid the following allegations against the writ petitioner:

> "You have filed annual return in GSTR-09 for the financial year 2019-20 On examination of the information furnished in this return under various heads and also the information furnished in GSTR-2A, GSTR-3B, EWB and other records available in this office it is found that you have not declared your correct tax liability while filing the annual returns of GSTR-09. The summary of under declared tax is as follows:
>
> SGST Rs.**19909614**
> CGST Rs.**19909614**
> IGST Rs.**297298**
> CESS Rs.**0**
> Total Rs.**40116526**

3. The petitioner while responding to the said notice had furnished a detailed reply which stands placed on our record as Annexure 6. However, and despite the aforesaid reply having been submitted, the impugned final order has come to be passed and proceeds on the incorrect premise that no reply at all had been furnished by the writ petitioner.

4. Since the aforesaid facts which emerged from the record are undisputed, we find no justification to continue this writ petition on our Board any further and it shall stand disposed of on the following terms.

5. The writ petition is allowed and the impugned final order of 21 August 2024 is set aside. We leave it open to the respondents to pass a fresh order in the proceedings which had commenced pursuant to the issuance of the SCN dated 30 May 2024. The respondents shall proceed further bearing in mind and taking into consideration the detailed reply which had been submitted by the writ petitioner and by

according an opportunity of personal hearing. All other rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

SEPTEMBER 30, 2024/ib