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

\+ W.P.(C) 14419/2024

M/S FAIREST MEDIA LIMITED THROUGH ITS AR SHIV SAGAR MISHRA .....Petitioner

Through: Mr. Ankit Kanodia, Mr. R. P. Singh & Ms. Megha Agarwal, Advs.

versus

SALES TAX OFFICER CLASS II AVATO WARD 97, ZONE9 .....Respondent

Through: Mr. Rajeev Aggarwal, ASC with Mr. Shubham Goel & Mr. Mayank Kamra, Advs.

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

O R D E R

% **16.10.2024**

CM APPL. 60444/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 14419/2024 & CM APPL. 60443/2024 (interim relief)

1. Notice. Since the respondent is duly represented by Mr. Aggarwal, learned counsel, no further steps need been taken.

2. The writ petitioner has approached this Court seeking the following reliefs:-

> "a. issue a writ of certiorari or any other appropriate writ or direction to quash and set aside the demand order along with summary of the demand order in form GST DRC-07 dated 28.08.2024 issued vide reference No. ZD0708240991260 passed by Respondent No. 1 in the interest of Justice.
> b. 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."

3. The petitioner is principally aggrieved by the final order of adjudication dated 28 August 2024 and in terms of which the impugned demand has come to be created. As we read the order impugned, we find that all that has been observed by the Goods and Services Tax officer is as under:

> " Whereas, on examination of the information furnished to this office in GSTR-3B, GSTR-0 1 and other records available in this office it is found that you have not discharged your correct tax liability while filing the annual returns of GSTR-09.
>
> And whereas, the taxpayer has filed their objections/reply online on portal through DRC-06 which has been examined thoroughly and was found to be devoid of merits. Therefore, following principle of natural justice before passing any adverse order, further personal hearing opportunity was given to the taxpayer.
>
> And whereas, neither the taxpayer nor their representative appeared for personal hearing despite giving sufficient opportunities, therefore, the undersigned is left with no other option but to re-examine the reply and documents available on the portal.
>
> And whereas, on examination of the reply/documents furnished by the taxpayer, it has been observed that since the reply is devoid of merits without any justification or proper reconciliation, the demand raised in SCN/DRC-01 is hereby upheld. DRC-07 is issued accordingly."

4. Quite apart from the fact that, the officer has clearly failed to deal with the prayer for adjournment which had been moved on 29 June 2024, we find that even the reply dated 21 June 2024 which had been tendered has been cursorily rejected by merely observing that it was found to be devoid of merit. The order is thus ex facie wholly unreasoned and unsustainable.

5. Faced with the above, Mr. Aggarwal, learned counsel appearing for the respondent submitted that rather than the matter being retained

on our board, the ends of justice would warrant the respondent being accorded liberty to proceed in the matter afresh.

6. Accordingly, and for reasons aforenoted, we allow the present writ petition and quash the demand order dated 28 August 2024.

7. This order, however, shall be without prejudice to the rights of the respondent to draw proceedings afresh, if otherwise permissible in law. All rights and contentions of respective parties, in such an eventuality, are kept open.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 16, 2024/*sk*