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

\+ W.P.(C) 14916/2024, CM APPL. 62590/2024 (Interim Relief)

M/S MOTILAL AND SONS .....Petitioner

Through: Mr. Mani Bhadra Jain, Mr. Sushant Singhal and Mr. Dipesh Sharma, Advs.

versus

ASSISTANT COMMISSIONER DGST WARD 201, 207, 208 & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal, ASC with Mr. Shubham Goel and Mr. Siddharth Goel, Advs. for R-1 & 2.

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

O R D E R

% **23.10.2024**

CM APPL. 62591/2024 (Ex.)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 14916/2024, CM APPL. 62590/2024 (Interim Relief)

1. The writ petitioner impugns the final order dated 20 August 2024 framed under Section 73(9) of the Central Goods and Services Tax Act, 2017 ["**CGST Act**"]. The aforesaid order was preceded by a Show Cause Notice ["**SCN**"] dated 29 May 2024 and in response to which the petitioner had furnished a detailed explanation. However, the aforesaid has come to be cursorily rejected with the authority observing as follows:-

"The taxpayer M/s Moti Lal & Sons, GSTIN- 07AAAFM7180KlZ2 was served upon a notice under section 73 of CGST/DGST Act, 2017 regarding (Voluntary Payment Intimation, if applicable) along with GST DRC-01vide reference No. ZD070524040619A (Summary of SCN) on 29.05.2024 for the period April-2019 to March-2020, asking him to furnish the reply by 29.06.2024 and avail personal hearing 02.07.2024.

In response to DRC-01 issued to the taxpayer u/s 73 of CGST/ DGST Act, 2017 for the year 2019-20, the taxpayer filed reply through DRC-06 on 26.06.2024, but not availed personal hearing on the scheduled date.

Observing the principle of natural justice reminder was issued on 26.07.2024 and personal hearing was fixed for 01.08.2024. However, till date none has appeared in personal hearing to explain the issues mentioned in the Show Cause Notice.

In view of the above, the taxpayer has failed to attend the personal hearing despite ample opportunity and after having gone through the reply filed by the taxpayer in r/o following points raised in the Show Cause Notice.

(1) Reconciliation of GSTR-01 with GSTR-09
(2) Reconciliation of E-way bill turnover with GSTR-0 1
(3) Scrutiny of ITC availed
(4) ITC to be reversed on non-business transactions & exempt supplies

<u>The explanation given in the reply is not comprehensible, conceivable, not perspicuous and is ambiguous</u>.

Apart from above, no explanation could be given in want of personal hearing by the taxpayer till date. Therefore, the proposed demand mentioned in the Show Cause Notice is confirmed"

2. As is manifest from the above, all that the competent authority has chosen to observe is that the reply has not been found to be satisfactory. Since the order impugned is bereft of any reasoning, it is rendered unsustainable.

3. On our expressing the aforesaid opinion, Mr. Aggarwal, learned counsel for the respondent, submitted that rather than the matter being retained on our board, the ends of justice would warrant the respondents being accorded an opportunity to revisit the entire issue.

4. Accordingly, we allow the present writ petition and quash the

impugned order dated 20 August 2024.The competent authority shall now proceed to dispose of the SCN afresh and bearing in mind the observations made hereinabove.

5. All rights and contentions of respective parties on merit are kept open.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 23, 2024/DR