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

\+ W.P.(C) 16070/2024 & CM APPL. 67493/2024 (Stay)

M/S RAJDHANI TRADING CO, THROUGH ITS PROP. MANOJ KUMAR GOEL .....Petitioner

Through: Mr. Gaurav Gupta and Mr. Deepanshu Saini, Advs.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Ms. Manisha Agrawal Narain, CGSC with Mr. Chandandeep Singh, Mr. Sandeep Singh Somaria and Mr. Akhil Gupta, Advs. for R-1/UOI
Mr. Anurag Ojha, SSC with Mr. Dipak Raj and Mr. Shubham Kumar, Advs.
Mr. Rajeev Aggarwal, ASC with Mr. Mayank Kamra, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE DHARMESH SHARMA

O R D E R

% **20.11.2024**

CM APPL. 67494/2024 (Ex.)

Exemption is allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) 16070/2024 & CM APPL. 67493/2024 (Stay)

1. This writ petition has been preferred seeking the following reliefs: -

> "(A) Issue a writ, order or direction, or any other appropriate writ, quashing of quashing of Impugned SCN dated 29.09.2023, Impugned Order dated 30.12.2023 and Impugned Order dated 06.09.2024 rejecting the application for rectification of order for the F.Y 2017-18 and other consequential reliefs.

(B) Issue a writ, order or direction declaring the Notification No. 09/2023-Central Tax dated 31.03.2023 extending the limitation for concluding the adjudication of show cause notice issued under Section 73 for F.Y 2017-18 as ultra-vires the provisions of and beyond the powers conferred under Section 168A of the CGST Act, 2017.
(C) Pass any other orders or directions, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
(D) Craves leave of this Hon'ble Court to raise any other additional ground at the time of hearing of the present Petition"

2. However, before us, the challenge is laid principally to the order dated 30 December 2023 which constitutes the final decision which has been taken by the respondents in terms of Section 73 of the Central Goods and Services Tax Act, 2017 ["**Act**"].

3. We note that while responding to the original notice under Section 73 of the Act, the petitioner had filed a detailed reply, a copy of which also stands placed on our record as Annexures P-4 and P-5.

4. However, the Goods & Services Tax officer proceeded to finalize the Section 73 proceedings by merely observing as follows: -

> "Whereas, a notice DRC-01 under section 73 of DGST/CGST Act, 2017 was issued to the taxpayer with details of tax demand as an attachment with the advice to pay the tax along with interest in DRC-03 within stipulated time given in the notice.
>
> And whereas, the taxpayer through the notice DRC-01 under section 73 was also advised to file their objections/reply/supporting documents in DRC-06 within stipulated time i.e. 30 days from the date of issuance of the notice, if the taxpayer is not agreeing with the proposed demand of tax and interest in the notice DRC-01.
>
> <u>The taxpayer filed their reply. On scrutiny of the same, it has been observed that the same is not acceptable as incomplete, not duly supported by adequate documents, without proper justification and thus unable to clarify the issue</u>.
>
> <u>Since, the reply filed is not clear and satisfactory, the demand of tax and interest conveyed via DRC-01 is confirmed</u>, with the direction to deposit the amount mentioned in DRC-07 within three months from the date of receipt of this demand notice, failing which recovery proceedings u/s 79 of CGST Act will be initiated and the actions as per law will be

initiated without further reference."

5. As is manifest from the above, there has been an apparent and clear failure to assign any reasons or engage with the reply that had been filed. Since the impugned order is wholly unreasoned, it cannot be sustained.

6. Faced with our aforesaid tentative conclusion, Mr. Agarwal submitted that rather than the matter being retained on the board of this Court, the ends of justice would warrant the matter being remitted for consideration of the proper officer afresh.

7. We, accordingly, allow the present writ petition and quash the impugned order dated 30 December 2023. The matter shall consequently be taken up by the proper officer for re-adjudication and bearing in mind the replies which were submitted by the writ petitioner. All rights and contentions of respective parties on merits are kept open.

8. Since we have proceeded to dispose of the writ petition on the limited ground noted above, the challenge to Notification No. 9/2023-Central Tax dated 31 March 2023 is kept open to be addressed in appropriate proceedings, if so warranted.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 20, 2024

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