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

\+ W.P.(C) 16300/2024

SARENS HEAVY LIFT INDIA PRIVATE LIMITED
.....Petitioner

Through: Mr. Pradeep Singh Rawat, Adv.

versus

THE ASSISTANT COMMISSIONER DGST & ORS.
.....Respondents

Through: Ms. Renu, Mr. Kamlesh Kumar Mishra, Ms. Shivani Verma, Mr. Fareeduddin, Mr. Swagat Gupta and Mr. Prem Shankar Jha, Advs. for R-1

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

O R D E R

% **04.12.2024**

1. The writ petitioner is aggrieved by the final order referable to Section 73(9) of the Central Goods and Services Tax Act, 2017 ["**Act**"] which has come to be passed 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 finalized.

2. From the record, we gather that on receipt of the aforesaid notice, the petitioner had furnished a detailed reply on 12 June 2024. However and on consideration thereof, all that the Assistant Commissioner has chosen to observe is as follows: -

> "In view of the above, as the taxpayer has failed to attend the personal hearing despite ample opportunity given and after having gone through the reply filed by the taxpayer in r/o each point no explanation could be given in want of personal hearing by the

taxpayer till date. Since, the reply filed by the taxpayer is not comprehensible, conceivable, not perspicuous and is ambiguous. Therefore, the proposed demand mentioned in the Show Cause Notice is confirmed."

3. While dealing with an identically worded order passed by the said officer, we had in **Xerox India Limited v Assistant Commissioner**[1] held as follows:

> "3.We are constrained to observe that the order as passed follows lines identical to those which have come before us and have fallen for our notice on earlier occasions. The Assistant Commissioner has clearly adopted a template where the only reason assigned is that the reply filed was "*not comprehensible, conceivable, not perspicuous and is ambiguous*". This clearly exhibits an abject non-application of mind and the officer repeatedly employing identical phraseology to deal with such matters.
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> 4. Despite caution having been sounded by us of the said language having attained the status of a template and the concerned officer having chosen to replicate an identical pattern while framing orders, in **Indian Highways Management Company Limited vs. Assistant Commissioner & Anr.**, we find that the officer has failed to make any amends.
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> 5. Accordingly, while we are convinced that the impugned order being wholly unreasoned is liable to be set aside on this short score alone, we also require Mr. Aggarwal, learned counsel for the respondents to place a copy of this order before the Principal Commissioner concerned, so that an appropriate review of the manner in which such applications of assessees are adjudicated is undertaken.
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> 6. The writ petition is, accordingly, allowed. For reasons assigned above, the impugned order of 16 August 2024 is quashed and set aside. We leave it open to the respondents to proceed further in terms of the earlier SCN issued in accordance with law and bearing in mind the reply which had been submitted by the writ petitioner.
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> 7. All rights and contentions of respective parties on merits are kept open."

Accordingly, we for the aforesaid reasons, find ourselves unable to sustain the final order.

4. We accordingly allow the instant writ petition and quash the order dated 25 August 2024. However, we leave it open for the respondents to finalize the SCN proceedings bearing in mind the reply as furnished by the writ petitioner. All rights and contentions of the respective parties on merits are kept open.
5. The writ petition shall stand disposed of on the above terms.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 04, 2024
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[1] W.P.(C) No. 16451/2024 decided on 28 November 2024