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

\+ W.P.(C) 16451/2024 & CM APPL. 69443/2024 (Stay)

XEROX INDIA LIMITED .....Petitioner

Through: Mr. Akshay Allagh, Adv.

versus

ASSISTANT COMMISSIONER, WARD 208(ZONE - 11)DGST AND ANR .....Respondents

Through: Mr. Rajeev Aggarwal, ASC with Mr. Shubham Goel, Adv.

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

O R D E R

% **28.11.2024**

1. The writ petitioner is aggrieved by the final order dated 16 August 2024 passed by the Assistant Commissioner under Section 73 of the **Central Goods and Services Tax Act, 2017**[2].

2. The aforesaid order was preceded by the issuance of a **Show Cause Notice**[3] and pursuant to which the petitioner had submitted a detailed response. The Assistant Commissioner had thereafter proceeded to frame a final order which reads as follows:

> "The taxpayer M/s Xerox India Limited, GSTIN-07AAACM8634RIZT was served upon a notice under section 73 of CGST/DGST Act, 2017 regarding (Voluntary Payment Intimation, if applicable) along with GST DRC-0l vide reference No. ZD0705240298761 (Summary of SCN) on 27.05.2024 for the period April-2019 to March-2020.
>
> In response to DRC-01 issued to the taxpayer u/s 73 of CGST/DGST Act, 2017 for the year 20I9-20, the taxpayer filed

[2] Act
[3] SCN

reply through DRC-06.

Observing the principle of natural justice reminder was issued on 12.07.2024. The taxpayer requested for adjournment on 24.07.2024, however, no sufficient cause as envisaged u/s 75(5) of the Act 2017 was mentioned in the adjournment request. Request of the taxpayer was considered and hearing was fixed on 01.08.2024. Further the taxpayer again requested for adjournment on 30.07.2024 and 01.08.2024 and two days time was sought for personal hearing, 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 each point no explanation could be given in want of personal hearing by the taxpayer till date. 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. 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.

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.**[4], we find that the officer has failed to make any amends.

5. Accordingly, while we are convinced that the impugned order

[4] W.P.(C) 15701/2024 dated 12 November 2024

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.

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.

7. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 28, 2024
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