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

\+ W.P.(C) 4110/2024, CM APPL. 16777/2024 (Stay)

M/S VIJAY NIRMAN COMPANY PRIVATE LIMITED .....Petitioner

Through: Mr. Anil Bezawada, Ms. Tanvi Dubey, Mr. Mekala Ganesh Kumar Reddy and Mr. Aditya Nema, Advs.

versus

THE ADDITIONAL COMMISSIONER OF CENTRAL TAX & ORS. .....Respondents

Through: Mr. Aditya Singla, SSC with Ms. Arya Suresh Nair and Ms. Medha Navami, Advs.
Mr. KG Gopalakrishnan, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

ORDER

% **17.03.2025**

1. Although and originally the writ petition as framed had raised a constitutional challenge to Notification No.9/2023- Central Tax dated 31 March 2023 and Notification No. 56/2023- Central Tax dated 28 December 2023 issued under Section 168A of the Central Goods & Services Tax Act, 2017 [“**CGST Act**”], the petitioner prays for disposal of the writ petition in light of the disclosures made in the supplementary affidavit which has been filed.

2. The petitioner was principally aggrieved by the denial of Input Tax Credit [“**ITC**”] in the sum of INR 2,68,90,290/- and which was comprised of the following components: - (i) IGST INR 40,48,754/-, (ii) CGST INR 1,14,20,768/- & (iii) SGST INR 1,14,20,768.

3. According to the writ petitioner, the aforesaid had been duly

claimed in the Returns which were filed from March 2019 albeit beyond the time limit as prescribed under Section 16(4) of the CGST Act. It is in the aforesaid backdrop that learned counsel draws our attention to the insertion of sub-section (5) in Section 16 by virtue of Finance (No. 2) Act, 2024 and which reads as follows: -

> "(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021."

4. According to the petitioner, since the claim of ITC stood duly embedded in the Returns which were filed prior to 30 November 2021, the impugned orders would not sustain. It thus seeks to claim benefit of the extended time lines which stand introduced by virtue of the aforenoted amendments.

5. In view of the aforesaid, and while leaving the challenge to the subject notifications open to be addressed by the writ petitioner if need so arise, we dispose of the writ petition by requiring the competent authority of the respondents to duly verify the statements as made in the supplementary affidavit and to pass a fresh order dealing with the claim of ITC bearing in mind the provisions contained in Section 16(5) of the Act.

6. Subject to the aforesaid observations, this writ petition stands disposed of. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

MARCH 17, 2025/DR