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

\+ **W.P.(C) 4083/2025 & CM APPL. 18963/2025**

MS EEZ PACK PRIVATE LIMITED .....Petitioner

Through: Mr. Gaurav Gupta, Adv.

versus

SALES TAX OFFICER, CLASS II/AVATO, WARD-91, ZONE-8, DELHI .....Respondent

Through: Ms. Vaishali Gupta, Panel Counsel (Civil), GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

<u>O R D E R</u>

% 13.05.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India challenging the show cause notice dated 31st May, 2024 (hereinafter, *'the SCN'*) issued by the Department of Trade & Taxes, Government of N.C.T. of Delhi, pertaining to the Financial Year 2019-20, as also the consequent order dated 28th August, 2024 passed by the office of Sales Tax Officer Class II/ AVATO, Delhi (hereinafter, *'the impugned order'*).

3. Given that the SCN pertains to the Financial Year 2019-20, it is noted that the limitation period in terms of Section 73 of the Central Goods and Service Tax Act, 2017, for issuing the SCN would have lapsed in the year 2023.

4. However, the said limitation was extended by Notification No. 56/2023-Central Tax dated 28th December, 2023 . Hence, the issuance of the

notification in fact enabled the issuance of the present SCN and the passing of the consequent impugned order.

5. A perusal of SCN would show that the same records as under :

> *"Whereas the returns i.e. GSTR-3B, GSTR-I and GSTR-2B have been scrutinized and noticed that the taxpayer had shown less liability GSTR-3B as compared to GSTR-I or claimed excess ITC in GSTR- 3B as compared to ITC accrued in GSTR-2A/2B.*
>
> *Accordingly, the undersigned, relied upon the accounting data available at the GST portal, issues DRC-01 under Section 73 of DGST Act, 2017 with interest and penalty for seeking the explanation along with supporting documents/clarifications as to why the final demand of tax, interest and penalty is not created against the taxpayer*
>
> *Further, you are directed to appear before the undersigned in person or through authorized representative as per the date and time mentioned in issued DRC-01 as per provision of section 75(4) DGST Act.*
>
> *If no explanation is received, it will be presumed that you have nothing to say in the matter and demand order shall be passed without making any further reference to you in this regard."*

6. On behalf of the petitioner, it is submitted that the Petitioner company is run by Mr. Jitender Kumar Sharma, who is aged 86 years and he has missed the SCN as it was issued almost four years after the assessment year period had lapsed. It is submitted by ld. Counsel for the Petitioner that if an opportunity is granted to the Petitioner, the Petitioner would be willing to file a reply to the SCN.

7. In view of the peculiar circumstances and bearing in mind the period

that has lapsed between the assessment years and the issuance of the SCN, the impugned order is set aside.

8. Considering the fact that the Petitioner did not get a proper opportunity to be heard and no reply to the SCN has been filed by the Petitioner, the matter deserves to be remanded back to the concerned Adjudicating Authority.

9. The Petitioner is granted time till 10th July 2025, to file the reply to SCN. Upon filing of the reply, the Adjudicating Authority shall issue a notice for personal hearing to the Petitioner. The personal hearing notice shall be communicated to the Petitioner on the following mobile no. and e-mail address:

Email ID: ggupta.adv@gmail.com
Mobile: 9811013940

10. The reply filed by the Petitioner to the SCN along with the submissions made in the personal hearing proceedings shall be duly considered by the Adjudicating Authority and fresh order with respect to the SCN shall be passed accordingly.

11. All rights and remedies of the parties are left open. Access to the GST Portal, shall be provided to the Petitioner to enable uploading of the reply as also access to the notices and related documents.

12. The present writ petition is disposed of in above terms. All the pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 13, 2025
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