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

\+ **W.P.(C) 4785/2025 & CM APPLs. 22020/2025, 22021/2025**

MIS IMS MERCANTILES LTD .....Petitioner

Through: Mr. Bimal Jain and Mr. Keshav Jatwani, Advocates.

versus

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

Through: Mr Aakarsh Srivastava, Senior Standing Counsel with Mr. Anugya Gupta, Advocate (Mob. 9871094948).

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% **16.04.2025**

1. This hearing has been done through hybrid mode.

2. The present writ petition has been filed by the Petitioner under Article 226 and 227 of the Constitution of India *inter alia* challenging the impugned Order-in-Original bearing reference number NO 108/CGST WEST/GST/SKG/ADC/2024-25 dated 10th January, 2025 (hereinafter '*impugned OIO')* passed by Commissioner, Central Tax (Delhi West) and Show Cause Notice dated 3rd August, 2024 (hereinafter *'impugned SCN*').

3. The brief facts of the case are that the Petitioner-firm engaged in the wholesale and retail business of Lithium Ion and other batteries. The GST Department upon gathering certain intelligence on tax evasion had conducted a search at the Petitioner premises on 8th March, 2021. Subsequently the impugned SCN was issued to the Petitioner alleging evasion of tax by way of misdeclaration of duty slab (18% instead of 28%) and short payment of tax.

4. Thereafter, the impugned OIO is stated to have been passed against the

Petitioner *inter alia* confirming the demand to the tune of Rs.50,51, 96,165 /- and imposing other penalties as well.

5. Therefore, the primary issue in this case is as to whether the Petitioner is bound to discharge GST at the rate of 18% or 28% in respect of its products *i.e.,* electronic charger with rechargeable batteries. The grievance of the Petitioner is that the subject product constitutes only 3 % of its turnover but *vide* the impugned OIO, the differential tax has been imposed on the entire turnover of the Petitioner. It is also contended that the said submission was in fact made in the reply, which was not considered by Respondent No.2 while passing the impugned order.

6. The Court has queried the Petitioner's Counsel as to where is the breakup of the turnover of the remaining products which unfortunately are not on record. However the ld. Counsel for the Petitioner informs the Court that a rectification application has been filed by the Petitioner before the Respondent No.2-Additional Commissioner, Central GST, Delhi West seeking rectification of the impugned order which includes certain documents to this effect.

7. The Court has perused the said application and the attached annexures placed on record. Even in the said application, certain figures are provided but there is no clarity as to what are the other products the Petitioner firm deals with and the actual GST being paid on them. Considering the fact that the rectification application is still pending before Respondent No.2, let the Petitioner be given a personal hearing before the concerned official so that the submissions can be heard on the same and an appropriate order in accordance with law can be passed.

8. The stand of the Petitioner that the said product constitutes only 3 % of

the total turnover shall be taken into consideration while passing an order on the rectification application, after the same is duly verified.

9. The Petitioner shall be given notice of personal hearing at the following contact details:

e-mail : Bimaljain@922taxcorp.in

Mob. : 9810609563,

e-mail : service@922taxcorp.in

Mob. : 9811566920

10. If the Petitioner wishes to file any documents, the Petitioner may do so and after the hearing is concluded, the order shall be passed within a period of one month.

11. Accordingly, the present writ petition is disposed of in above terms. All the pending applications are also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

APRIL 16, 2025/*MR/Ar.*