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

\+ **W.P.(C) 7025/2025 &CM APPLS. 31615/2025, 31616/2025**

ADAM SMITH COMMODITIES PVT. LTD. THROUGH ITS DIRECTOR ASHISH MADAN .....Petitioner

Through: Mr. Rajesh Jain, Mr. Virag Tiwari, Mr. Ramashish, Mr. Rishabh Jain and Ms. Tanya Saraswat, Advs. (M:9810042928)

versus

THE COMMISSIONER OF DELHI GOODS AND SERVICES TAX .....Respondent

Through: Ms. Urvi Mohan, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% **22.05.2025**

1. This hearing has been done through hybrid mode.

2. The present petition has been filed on behalf of the Petitioner under Article 226 of the Constitution of India, *inter alia,* assailing the order dated 27th February, 2025 passed by the office of Sales Tax Officer Class II/AVATO *(hereinafter, the 'Sales Tax Officer')* pursuant to the Show Cause Notice dated 26th November, 2024 issued by the Sales Tax Office.

3. Vide the impugned order, various demands have been raised *qua* the Petitioner, in respect of tax on outward supplies, excess Input Tax Credit on account of non-reconciliation of information, etc.

4. Mr. Jain, ld. Counsel submits that a reply was filed by the Petitioner on 24th February, 2025, however, no personal hearing was held and the main issue in respect of taxable and exempt supplies has not even been considered in the impugned order. The reply of the Petitioner is set out below:

"We, Adam Smith Commodities Private Limited (herein referred as 'the Company') is registered with your good-office vide GST no. ***07AAMCA0036D1Z6*** *having registered principal place of business at 8th Floor, Commercial Tower, Hotel Le Meridien, Windsor Place, Janpath, New Delhi, Central Delhi, Delhi, 110001.*

The Company is in receipt of the captioned notice, whereby your good office has asked for information for FY 2020-2021. (Hereinafter referred as 'relevant period'). In response to the same we are submitting the below response.

1. ***The tax on outward supplies under declared on reconciliation of data in GSTR-09***

Basis the notice issued, office of your good self has noticed that the company has short paid liability on outward supplies amounting to INR 20,000.

In response to the same we would like to submit that the company has already paid requisite taxes via DRC 03. The copy of DRC 03 is enclosed (ARN ***4D070821021139A*** *dated 27 August 2021)*

2 ***The excess input tax credit (ITC) claimed on account of non-reconciliation of information***

The goodself has contended in the notice that the noticee has underre

versed the Input Tax Credit on exempt supplies as per Rule 42 & 43 of the CGST Rules, 2017

According to Rules 42 and 43 of the CGST Rules, 2017, the Common Input Tax Credit (ITC) refers to ITC for inputs or input services that are partially used for making taxable supplies, including zero-rated supplies, and partially for making exempt supplies

The noticee wishes to submit that they deal in both taxable and exempt supplies. The Company itself does not avail any ITC which is pertaining to the Exempt Business, as it is more of a trading line of business, where buy from the manufacturer and directly ship to the Customer. The calculated ITC reversal on exempt supplies as per notice is incorrect as it considers the

entire input tax credit as common Office.
The noticee has correctly availed ITC and therefore, there is no outstanding liability to be paid concerning this matter, in accordance with the notice.
In light of the submissions made above, it is most humbly prayed before your goodself to set aside the impugned SCN and drop the legal proceedings in this context
Should your good-self require any further document(s} information, we shall be glad to provide the sane"

5. On a perusal of the said reply, it is observed that very specific issues have been raised by the Petitioner, however, the same were not considered as the impugned order merely records that the reply is unsatisfactory.

6. Under these circumstances, the impugned order is set aside. Let a personal hearing be afforded to the Petitioner. Notice of the same be issued on the following email address and mobile no.:

- ***Email ID: rajeshroshanjain@gmail.com, infotax@rediffmail.com***
- ***Mobile No.: 9810042928***

7. After affording a personal hearing to the Petitioner, the Adjudicating Authority shall pass a reasoned order in accordance with law.

8. The petition is disposed of in these terms. Pending application(s), if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 22, 2025
dj/rks