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

\+ **W.P.(C) 7871/2025 & CM APPL. 34767/2025**

BALAJI LEATHER EXPORTS PROP RAKESH KUMAR AGARWAL .....Petitioner

Through: Mr. Abhishek Sharma, Adv.

versus

SALES TAX OFFICER CLASS 2 AND ANR .....Respondents

Through: Ms. Vaishali Gupta, Panel Counsel.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

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

% 07.08.2025

1. This hearing has been done through hybrid mode.

2. Issue notice.

3. The present petition has been filed by the Petitioner challenging the order dated 26th April, 2024 on the ground that none of the contentions raised by the Petitioner in the three replies filed by the Petitioner to the Show Cause Notice dated 4th December, 2023, along with the supporting documents have been considered by the Department and the same has been dealt with in just one line.

4. The order dated 26th April, 2024, while considering the reply, merely states as under:

> ***<u>"And whereas, it is noticed that the Taxpayer has submitted his/her reply and the same is not found satisfactory."</u>***

5. The Court has perused all the three replies filed by the Petitioner dated 6th January, 2024, 15th April, 2024 and 18th April, 2024. All the said replies have proper annexures and detailed reasoning as to why the Input Tax Credit

has not been wrongly availed of. Further, it is the submission of the ld. Counsel for the Petitioner that even for the previous financial year i.e., 2017-18, the Petitioner had succeeded before the Adjudicating Authority and the said order can also be relied upon by the Petitioner to show that there has been no illegality.

6. Ld. Counsel for the Respondent submits that the Petitioner has approached this Court almost one year and three months after the order dated 26th April, 2024 has been passed and therefore, even the limitation for filing the appeal has lapsed. Thus, no discretion ought to be exercised in favour of the Petitioner.

7. Ld. Counsel for the Petitioner submits that the matter was handed over for filing of the appeal to their Chartered Accountant. However, for a period of one year, the Chartered Accountant did not take any steps. Hence, the delay.

8. The Court has considered the matter. After perusing the replies filed by the Petitioner to the show cause notice dated 4th December, 2023, it becomes clear that there is a detailed explanation given by the Petitioner in respect of the tax invoices and the ITC which has been availed of. The question whether the explanation is correct or not is not being commented upon by this Court.

9. The Court notes however, that there is not a whisper of discussion in respect of the same in the order dated 26th April, 2024. There is no doubt that the Petitioner has belatedly filed the present writ. However, considering the matter on merits, this Court is of the view that the matter deserves to be remanded to the adjudicating authority for reconsideration.

10. However, due to the delay in filing of this writ petition, the Petitioner shall pay a cost of Rs.1 lakh which is to be deposited with the Respondent No. 1– Department. Accordingly, the order dated 26th April, 2024 is set aside.

11. Subject to deposit of costs, let a fresh hearing notice be given to the Petitioner on the following phone number and email address:

- ***Email:*** ***333abhishek333@gmail.com***
- ***Mobile No.: 9310300003***

12. After hearing the Petitioner and considering the submissions made in the three replies/documents filed by the Petitioner, the Adjudicating Authority shall pass a fresh order in accordance with law. All rights and remedies are left open.

13. The present petition is disposed of in said terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

AUGUST 7, 2025

Rahul/ss