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

\+ W.P.(C) 9292/2024 & CM APPL. 38103/2024 (Stay)

M/S SAM VENTURES THROUGH ITS PROPRIETOR
.....Petitioner

Through: Mr. Aditya Kumar and Ms. Ila Nath, Advs.

versus

ASSISTANT COMMISSIONER, CGST BADLI DIVISION, CGST DELHI NORTH .....Respondent

Through: Mr. Harpreet Singh, SSC with Ms. Suhani Mathur, Mr. Jai Ahuja and Mr. Akshay Saxena, Advs.

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

O R D E R

% **18.02.2025**

1. The writ petitioner is aggrieved by the Order-in-Appeal dated 22 April 2024. The principal ground on which the said order is assailed is an abject failure on the part of the respondent/appellate authority to comply with the principles of natural justice.

2. Learned counsel for the writ petitioner submits that notwithstanding the challenge which stands raised to the review order passed by the Principal Commissioner, **Central Goods and Service Tax**[1], the Appellate Authority has proceeded on the premise that the writ petitioner had been duly placed on notice with respect to the appeal preferred by the respondent. It has been categorically averred in the writ petition that the petitioner was neither placed on notice by

[1] CGST

the Appellate Authority nor apprised of the pendency of the aforesaid appeal. It is in the aforesaid backdrop that the petitioner questions the recital appearing in Para 4 of the order impugned before us.

3. Pursuant to the notice issued, the respondent has filed a counter affidavit and on the basis of which it is sought to be contended that the Appellate Authority had, in fact, issued summons to the writ petitioner and despite service thereof, it chose not to appear. They also rely upon an email communication which is stated to have been addressed to "samventures497@gmail.com". Although the respondent has placed on the record at Annexure R-1 with that affidavit what is stated to be a summon dated 31 August 2023, we find that there has been a complete failure on its part to establish that the aforesaid summons had been duly dispatched.

4. We find that the entire defense of the respondent is based on a tabular statement drawn by the Office of the Commissioner (Appeals) which attempts to capture details of summons sent. What, however, needs to be borne in consideration is a failure on the part of the respondent to either place for our consideration a certificate issued by the Speed-Post authorities or a tracking report which may have indicated service of the summons upon the writ petitioner.

5. Insofar as the email communication is concerned, learned counsel for the appellant has drawn our attention to the particulars of the assessee as captured and recorded on the **Goods and Services Tax Network**[2] portal and where its email address has been mentioned as follows: -

> "Email Id: skpllb2@ gmail.com"

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[2] GSTN

6. It is thus ex facie apparent that the email communication was also not sent to the registered email address of the writ petitioner. Consequently, and on this short ground alone, the order of the Appellate Authority is rendered unsustainable.

7. We accordingly allow the instant writ petition and quash the order dated 22 April 2024. The appeal shall consequently stand revived on the board of the Appellate Authority to be heard afresh and in accordance with the law.

8. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

FEBRUARY 18, 2025/DR