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

\+ **W.P.(C) 16745/2023, CM APPL. 67455/2023, CM APPL. 21043/2024**

ANKIT JAIN .....Petitioner

Through: Ms. Ayushi Srivastava, Ms. Tejasvi Jat and Ms. Reema Jain, Advs.

versus

SALES TAX OFFICER CLASS II / AVATO, WARD 78 ZONE 7 .....Respondent

Through: Mr. K.G. Gopalakrishnan, Ms. Nisha Mohandas and Mr. Kunwar Raj Singh, Advs for GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 23.04.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner– Ankit Jain under Article 226 of the Constitution of India challenging the show cause notice dated 22nd September, 2023 bearing Reference No. ZD070923024217G *(hereinafter, 'the SCN')* issued by the Sales Tax Officer, Class II, AVATO Ward 78 Zone 7 *(hereinafter, the Respondent-Department)* upon the Petitioner with respect to the Financial Year 2017-18.

CM APPL. 21043/2024 (for amendment of writ petition)

3. This is an application filed by the Petitioner under Order VI Rule 17, CPC, 1908, seeking amendment of the writ petition.

4. In this application, the Petitioner has sought permission to challenge the order dated 30th December, 2023 which has been passed by the

Respondent-Department further to the SCN challenged herein, during the pendency of the present writ petition.

5. It is the case of the Petitioner that after the issuance of the SCN, a reply thereto was filed by the Petitioner. Subsequently, a notice for personal hearing was also served upon the Petitioner with respect to the SCN. However, the opportunity for personal hearing was not availed by the Petitioner.

6. A perusal of the order dated 30th December, 2023 reveals that a detailed order has been passed by the Respondent-Department after considering the reply of the Petitioner and after affording an opportunity for personal hearing. The relevant portion of the summary of order dated 30th December, 2023 is reproduced herein below:

> *"6. Accordingly, as per Section 73(7) notice of tax and amount is to be given while section 73(9) prescribed for imposition of penalty equivalent to 10% of the tax or Rs. 10,000/- whichever is higher. The penalty is consequently and mandatorily as per the provisions of the Act, as such the registered person is liable to pay penalty equivalent to 10% of the tax or Rs. 10,000/- whichever is higher along with tax amount in each head already conveyed through the above mentioned SCN/DRC01. Keeping in view the above, I hereby order for issuance of DRC-7 on the above mentioned ground where the reply of the taxpayer is not found satisfactory after taking into account the reply filed by him and supporting documents annexed and available on the portal."*

7. Considering that the order dated 30th December, 2023 has been passed after due consideration of the reply filed by the Petitioner, this Court is of the opinion that the same does not warrant any interference of this Court.

8. However, the Petitioner is free to avail its rights and remedies in terms of Section 107 of the Central Goods and Service Tax Act, 2017.

9. Thus, the Petitioner is permitted to file an appeal before the Appellate Authority upon the payment of requisite pre-deposit. If the appeal is filed within a period of 30 days, it shall be adjudicated upon merits and shall not be dismissed on limitation.

10. The petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

APRIL 23, 2025/*n/dk/ss*