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

\+ W.P.(C) 850/2025

RETROVIS FASHION PVT. LTD .....Petitioner

Through: Mr. Mukesh Gupta, Adv.

versus

ADDITIONAL DIRECTOR, DGGI & ORS......Respondents

Through: Mr. Piyush Beriwal, Mr. Sandip Munian and Ms. Jyotsna Vyas, Advs. for R-1 to R-3.

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

ORDER

% **11.02.2025**

1. The writ petitioner impugns the order dated 27 September 2024 in terms of which the respondents have proceeded to pass a final order of assessment.

2. Before us there were two principal submissions which were addressed. It was firstly averred that the Show Cause Notice [‘**SCN**’] which preceded the passing of the order impugned had been issued by an authority which was clearly not empowered or authorized in light of Circular No. 31/05/2018-GST dated 09 February 2018 which has been enclosed as Annexure P4. The second argument was that Relied Upon Documents [“**RUD**”] which were mentioned in the SCN as Annexure-A, were neither uploaded nor provided to the writ petitioner.

3. We find ourselves unable to countenance either of those submissions and which may have warranted the writ petition being entertained in exercise of our extraordinary jurisdiction under Article

226 of the Constitution for the following reasons.

4. As is manifest from a reading of the Circular dated 09 February 2018, the Central Board of Direct Taxes ["**Board**"] in terms of para 5 thereof, had identified authorities who are liable to undertake an adjudication. Admittedly, the order impugned has been passed by the Additional Commissioner of Income Tax who is duly recognized and enabled in terms of that circular to discharge that function. Merely because the SCN may have been issued by an authority other than the Additional Commissioner, would not constitute a valid ground to strike down the final order which came to be passed by the competent authority.

5. Insofar as the allegation that the RUD had not been provided is concerned, we find the following averments are made in the writ petition:

> "3. That the present writ petition is being filed on the ground mentioned below: -
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> i. That the show cause notice issued by respondent no. 1 is without jurisdiction.
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> ii. That the summary of show cause notice issued by respondent no. 2 in form DRC 01 is without jurisdiction.
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> iii. That the order passed by respondent no. 3 on the basis of such invalid notice is also invalid.
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> iv. That the notice has been issued by without uploading the Relied Upon Documents as per Annexure A of the SCN.
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> v. That the order has been passed by without granting opportunity of personal hearing as provided u/s 75(4) of the Act after the issuance of DRC 01.
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> vi. That a combined show cause notice and order passed for the tax period 2017-18 and 2018-19 is contrary to the provisions of law and against the decisions held by the Hon'ble Supreme Court of India in the case of State of Jammu and Kashmir and Others v. Caltex (India) Ltd., AIR 1966 SC 1350."

6. Learned counsel has in light of para 3(4) asserted that it was the consistent stand of the petitioner that the RUD as per Annexure-A of the SCN had neither been uploaded nor issued.

7. We, however, find from a perusal of the affidavit which accompanies the writ petition that firstly, paragraph 3 is not even verified therein. Secondly, all the other paragraphs of the writ petition are shown as having been sworn based on legal advice which the petitioner believed to be true. We consequently find no justification to countenance that assertion. Although we did indicate to learned counsel for the writ petitioner that remedial steps in this regard could be taken and a better affidavit placed on our record, he chose not to avail the said opportunity.

8. Accordingly, and while this writ petition shall stand dismissed, it shall be without prejudice to the right of the writ petitioner to institute appropriate statutory proceedings against the order impugned.

9. We also leave it open to the writ petitioner to move the respondents for supply of those RUDs' which had allegedly not been supplied.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

FEBRUARY 11, 2025/*akc*