



\$~23

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 23.02.2024

+ **W.P.(C) 2767/2024 & CM APPL. 11319/2024**

AAREM TRAD EX PRIVATE LIMITED

..... Petitioner

versus

SALES TAX OFFICER & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner

Mr. Tarun Gulati, Senior Advocate with Ms. Akanksha Choudhary, Mr. R.K. Naroola, Mr. Udayan Mukerji, Ms. Bhavika Kohli and Mr. Devansh Garg, Advocates.

For the Respondents:

Ms. Samridhi Vats, Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 22.12.2023 whereby the proceedings under Section 73 of the Central Good and Service Tax Act 2017 have been concluded and a demand has been created against the petitioner.

2. Learned counsel for petitioner submitted that the petitioner had,



on account of an error, claimed Integrated GST credit instead of CGST and SGST credit which was a mere bonafide clerical error.

3. He submitted that the amount is still lying to the credit of the petitioner and that the petitioner had duly informed the authorities of the same in response to the Show Cause Notice.

4. He further submitted that the impugned order does not record any finding on the said reply or even advert to the reply filed by the petitioner. It merely states that the reply was not found comprehensive.

5. It is noticed that the order dated 22.12.2023 records that *“Since, no payment has been made within 30 days of the issue of the notice by you; therefore, on the basis of documents available with the department and information furnished by you, if any, demand is created for the reasons and other details attached in annexure”*.

6. Further, the observation in the impugned order dated 22.12.2023 is not sustainable for the reasons that the reply filed by the petitioner is a detailed reply.

7. The proper officer had to at least consider the reply on merits and then form an opinion whether the explanation was sufficient or not. He merely held that “since no payments has been made within 30 days of the issue of notice by you and no proper reply/explanation has



been received” which *ex-facie* shows that proper officer has not even looked at the reply submitted by the petitioner.

8. Accordingly the Impugned order being bereft of any reasoning is not sustainable and is set aside.

9. The matter is accordingly remitted to the proper officer to re-adjudicating the Show Cause Notice after giving an opportunity of personal hearing to the petitioner.

10. At request of learned senior counsel for the petitioner, we permit the petitioner to file additional reply to the Show Cause Notice within a period of one week from today.

11. The challenge to the subject notifications raised by the petitioner is left open.

12. The petition is allowed in the above terms.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

FEBRUARY 23, 2024/ss