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

% Date of decision: 29.10.2026

\# **CNR No. DLHC010085442024**

\+ W.P.(C) 2728/2024 & CM APPL. 11120/2024

ADIT BUILDWELL PVT. LTD .....Petitioner

Through: Mr. Puneet Rai & Ms. Srishti Sharma, Advs.

versus

COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX, SOUTH COMMISSIONERATE NEW DELHI & ANR. .....Respondents

Through: Mr. Aditya Singla, SSC with Ms. Arya Suresh Nair, Adv.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MR. JUSTICE AMIT SHARMA

AVNEESH JHINGAN, J. (ORAL)

1. This petition is filed seeking quashing of the order dated 24.11.2023 passed by the Commissioner, Central Goods and Service Tax, Delhi South Commissionerate, New Delhi.

2. The brief facts are that the petitioner was registered dealer with the Service Tax Department. A show cause notice (for short 'SCN') was issued to the petitioner. The reply to the SCN was filed on 23.05.2022. The petitioner was afforded an opportunity of personal hearing on 07.11.2023. The matter was adjourned to 15.11.2023 at request of the petitioner. On 15.11.2023, the petitioner sought further time till 24.11.2023 to produce the requisite documents. The request

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was not considered and impugned order was passed on 24.11.2023.

3. Learned counsel for the petitioner submits that a reasonable opportunity to defend the case was not granted. *Vide* email dated 15.11.2023 the petitioner sought a further period of ten days but without considering the request the impugned order was passed.

4. *Per contra* the petitioner was granted sufficient opportunities to defend the case. The opportunity of personal hearing was afforded to the petitioner on 07.11.2023 and time till 15.11.2023 was granted to place on record the additional material but no attempt was made to file additional material. No document was filed till 23.11.2023 and only then the impugned order was passed on 24.11.2023.

5. Heard the learned counsels for the parties.

6. The contention of learned counsel for the respondents that after waiting for nine days the impugned order was passed lacks merit. Once the request for further time was not considered then there was no occasion for the petitioner to file the additional documents and even otherwise the impugned order was passed on 24.11.2023 whereas the time sought was till 24.11.2023.

7. The petitioner has an alternative remedy of appeal, however, the self-imposed restrictions of not interfering in the writ jurisdiction and relegating the petitioner to the statutory remedy is subject to the exceptions carved out in ***Whirlpool Corpn. v. Registrar of Trade Marks, (1998) 8 SCC 1***. The relevant paragraph is as under: -

> "**15.** Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition.

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> But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

8. In the case in hand a reasonable opportunity to defend the case was not granted to the petitioner. The request made for producing the additional material by 24.11.2023 was neither considered nor rejected. It would be relevant to quote paragraph no.5.6 of the counter filed by the respondent:-

> "5.6 That the Respondent authorities, trusting the *bona fides* of the Petitioner, granted the Petitioner an opportunity to place additional material on record and/or make additional submissions, as had been sought by the Petitioner, and allowed the Petitioner time till 15.11.2023 for such purpose. However, it is pertinent to note that no such additional material and/or additional submissions were made by the Petitioner, even though the Respondent authorities waited for an additional period of 9 days subsequent to the aforementioned date of 15.11.2023, before passing the Impugned Order on 24.11.2023."

9. It is the admitted case of the department that an additional time

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till 15.11.2023 was granted to place the additional material on record and to make further submissions. From perusal of the impugned order, it is evident that the request by email of the petitioner seeking extension of time till 24.11.2023 was not even noted. One of the grounds for passing the impugned order was failure of the petitioner to produce the relevant documents. The minimum that was expected from a quasi-judicial authority was at least to deal with the request for grant of further time and thereafter take an appropriate decision thereon.

10. The impugned order is violative of principles of natural justice and is set aside. The matter is remanded back to the respondent no.1 to decide afresh from the stage at which the proceedings stood on 15.11.2023.

11. In order to avoid any further complication, let the petitioner or its authorised representative appear in the office of the respondent no.1 on 02.12.2026 at 11.00 a.m. Needless to say the respondent no.1 shall proceed in accordance with law.

12. The petition is disposed of in the aforesaid terms.

13. Pending application is also disposed of.

AVNEESH JHINGAN, J

AMIT SHARMA, J

OCTOBER 29, 2026
Ch

Reportable: **Yes**

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