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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 09.05.2024

+ W.P.(C) 4145/2024 & CM APPL. 16942/2024

AJAYRAJ CONSTRUCTION PVT. LTD. & ANR. Petitioners

versus

THE COMMISSIONER OF CENTRAL TAX, GST,
DELHI , EAST, NEW DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Jitin Singhal, Advocate

For the Respondents: Mr. R. Ramachandran, Advocate

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns Order in Original dated 19.12.2023 whereby the show cause notice dated 28.04.2021 has been disposed of.
2. Reference may be had to paragraph 21 of the impugned order which records as under:-



21. Written Submission of the Noticee:

The Noticee did not submit any written reply in response to Demand-cum-Show Cause Notice No.27 /JC/2022-23 dated 28.04.2022 issued by the Joint Commissioner CGST, Delhi East.

3. We may, however, note that personal hearing opportunity was granted to the petitioner repeatedly. However, none appears for the petitioner. The impugned order notes that as neither any reply was received from the noticee nor any one attended the hearing. The matter was proceeded further.

4. Learned counsel appearing for the respondent concedes that a reply was filed by the petitioner, however, appears to have escaped the notice of the Adjudicating Authority when the final order was passed.

5. As noticed hereinabove and as conceded by the respondent that a reply was filed but the same was not taken into account by the Adjudicating Authority while passing the impugned order. The impugned order is accordingly set aside. The show cause notice is restored on the record of the Adjudicating Authority. The Adjudicating Authority shall decide the show cause notice in accordance with law after giving one opportunity of personal hearing to the petitioner.



6. It is clarified that in case petitioner once again fails to appear pursuant to the hearing being granted, the Adjudicating Authority would be at liberty to proceed further with the adjudication of the show cause notice ex parte. However, after taking into consideration the reply filed by the petitioner.

7. The petition is accordingly disposed of in the above terms.

8. It is clarified that this Court has neither considered nor commented on the merits and contentions of either party. All rights and contentions of the parties are reserved.

SANJEEV SACHDEVA, J

MAY 9, 2024/‘rs’

RAVINDER DUDEJA, J