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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 29.01.2024

+ W.P.(C) 6819/2021 & CM APPL. 21475/2021 & 5109/2024

I AND S COMMUNIQUE PVT. LTD

..... Petitioner

versus

COMMISSIONER OF CGST, AUDIT-II,
DELHI & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Rajesh Jain, Mr. Virag Tiwari, Mr. Ramashish
and Ms. Tanya Saraswat, Advocates.

For the Respondent: Mr. Harpreet Singh, Senior Standing Counsel for
CBIC

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL. 5109/2024 (for condonation of delay)

For the reasons stated in the application, application is allowed.



Delay is condoned. Counter affidavit is taken on record. Rejoinder is already taken on record.

W.P.(C) 6819/2021

1. Petitioner impugns show cause notice dated 27.04.2021 and contends that the show cause notice is beyond the period of limitation prescribed under Section 73 of the Finance Act, 1994.
2. Learned counsel for the respondents raises a preliminary objection with regard to the maintainability of the present petition and submits that the show cause notice has been issued by applying proviso to Section 73(1) and the extended period of limitation has been made applicable. Learned counsel without prejudice submits that this plea could have been raised by the petitioner before the Adjudicating Authority.
3. In view of the above objection, learned counsel for the petitioner seeks leave to withdraw the petition reserving the right of the petitioner to raise all pleas permissible in law including the invocation of extended period of limitation before the Adjudicating Authority. He, however, prays that in view of pendency of the present petition, reply to the show cause notice could not be filed and time be granted to file a reply.
4. In view of the above, the petition is dismissed as withdrawn reserving the right of the petitioner to take all permissible pleas in law



in response to the show cause notice. Petitioner shall file a reply to the show cause notice within a period of 30 days from today. Thereafter, it would be open to the adjudicating authority to adjudicate the show cause notice including the question of invocation of extended period of limitation in accordance with law, after giving an opportunity of personal hearing to the petitioner, without being influenced by anything stated in this order.

5. It is clarified that this Court has neither considered nor commented on the merits and contentions of the either party. All rights and contentions of the parties are reserved. It is further clarified that the time spent in this petition shall not be counted towards the period of limitation prescribed under Section 73(4B) (b) of the Finance Act, 1994.

6. Petition is disposed of in the above terms.

SANJEEV SACHDEVA, J

JANUARY 29, 2024
'rs'

RAVINDER DUDEJA, J