Neutral Citation No. - 2024:AHC:189293-DB

Chief Justice's Court

Case :- WRIT TAX No. - 2096 of 2024

Petitioner :- M/S Kashi Vishwanath Mfg and another
Respondent :- State of U.P. and another
Counsel for Petitioner :- Anurag Mishra, Pragya Pandey
Counsel for Respondent :- C.S.C., Ankur Agarwal (S.C.)

Hon'ble Arun Bhansali,Chief Justice
Hon'ble Vikas Budhwar,J.

1. This petition is directed against show cause notice issued in Form GST DRC-01 dated 30.05.2023 and DRC-7 order dated 24.07.2023 passed by the respondents.

2. The petitioner was issued notice dated 01.04.2023 under Section 74(5) of the Uttar Pradesh Goods and Services Tax Act, 2017 ('Act') to which reply was filed. By order dated 30.05.2023, rejecting the reply, show cause notice was issued under Section 74(1) granting time till 30.06.2023 to file reply, it is claimed that on account of some family dispute, the petitioner, being unaware of the issuance of notice, could not attend the said hearing as fixed, which resulted in passing of the order dated 24.07.2023 raising a demand of Rs. 73,87,225.92/-.

3. Various submissions have been made seeking to question the validity of the order passed including the fact that though a detailed response was given to DRC-01A, however, only part of it was reproduced in the notice DRC-01, even the same was not considered. Further submissions have been made that the petitioner has already lost the limitation as provided under Section 107 of the Act and as such, in case, the petitioner is not afforded opportunity, which it could not avail on account of family circumstances, the

petitioner would suffer.

4. Learned Government counsel made submissions that the plea, sought to be raised pertaining to the family dispute, cannot be a reason enough for the petitioners to seek a rehearing when the orders have been passed after due consideration by the Assessing Authority and in those circumstances, no interference is called for in the impugned order.

5. We have considered the submissions made by counsel for the parties and have perused the material available on record.

6. A perusal of the show cause notice, issued under Section 74(1) (Annexure-6), reveals that though the reply filed by the petitioner has been considered, apparently, only part of it (para 18 to 22 of the same) has been quoted and the other pleas which were raised, apparently, have not been taken into consideration. As apparently, no response to the show cause notice was filed and no appearance was made, while passing the order in DRC-01, the same show cause notice has been reproduced noticing that no response has been given and no appearance has been made.

7. In the overall fact situation of the case, wherein the respondent on account of circumstances, as noticed hereinbefore, has lost the limitation for filing appeal and the fact that to some extent, the pleas raised by the petitioner have not been taken into consideration while issuing the notice under Section 74(1) of the Act, in the peculiar circumstances of the case, we deem it appropriate and therefore, order that in case, the petitioner deposits 50% of the demand Rs. 73,87,225.92/- raised, after taking into consideration the amount, if any, already deposited, within a period of four weeks, the order dated 24.07.2023 (Annexure-7) shall stand set aside, the respondent would afford opportunity of hearing to the petitioner and pass fresh order.

8. If the requisite is not deposited within the said period of four weeks, it shall be deemed that the writ petition filed by the petitioner has been dismissed.

9. With the above directions, the writ petition stands disposed of.

Order Date :- 3.12.2024
Mukesh Pal/Rajesh

(Vikas Budhwar, J)   (Arun Bhansali, CJ)