

Court No. - 39

Case :- WRIT TAX No. - 1390 of 2023

Petitioner :- M/S Mgs Palace

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Awadhesh Kumar Malviya

Counsel for Respondent :- C.S.C., Krishna Kant Tiwari

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Manjive Shukla, J.

1. Heard Sri Awadhesh Kumar Malviya, learned counsel for the petitioner and Sri Ankur Agrawal, learned Standing Counsel for the State.
2. Challenge has been raised to the adjudication notice issued under Section 73 of the Uttar Pradesh Goods and Services Tax Act, 2017 dated 19.05.2023.
3. Submission is, though the impugned notice was preceded by the notice issued under Section 61(1) of the Act dated 19.05.2023, respondent no. 2 has failed to consider the reply furnished by the petitioner dated 1.09.2023.
4. Upon instructions received, learned Standing Counsel has informed that the petitioner had submitted his reply through offline mode. It is also admitted to the petitioner that against transaction value of Rs. 11,50,000/- referred to in the notice dated 19.05.2023, the petitioner had originally disclosed transaction value of Rs. 5,91,000/-. Further disclosure has been made of transaction worth Rs. 5,00,000/- upon receipt of notice dated 19.05.2023.
5. In such facts, it cannot be prematurely concluded that there is no dispute that may require adjudication.
6. The satisfaction required to be recorded in terms of Section 61(3) of the Act is primarily subjective. Unless inherent lack of jurisdiction or complete absence of relevant material is alleged and established, no interference may be warranted in exercise of extraordinary jurisdiction of this court under Article 226 of the Constitution of India.
7. In the present case, we do not find any jurisdictional or

fundamental error in the proceedings as to compel us to intervene at this premature stage.

8. Accordingly, the writ petition is ***dismissed*** leaving it open to the petitioner to respond to the adjudication notice which shall be dealt with and decided on its own merits without being prejudiced by the observation made in this order.

Order Date :- 3.1.2024

A. Mandhani

(Manjive Shukla, J.) (S.D. Singh, J.)