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

% Date of decision: 18.03.2024

W.P.(C) 12466/2023

M/S REVA GIANT IMPLEX LLP Petitioner

Through: Ms. Anisha Agarwal, Advocate.

versus

ASSISTANT COMMISSIONER CGST ROHINI DIVISION &
ANR. Respondents

Through: Mr. Anurag Ojha, Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 26.05.2023 whereby the appeal filed by the petitioner against order dated 05.07.2021 has been rejected being time-barred.
2. Petitioner on 18.05.2021 filed an application seeking refund of Rs 8,37,487/-. Pursuant to the said application, Petitioner was issued a Show Cause Notice dated 03.06.2021 seeking justification of the refund application. Petitioner filed a reply dated 14.06.2021 to the said Show Cause Notice.
3. Thereafter, the Assistant Commissioner, GST vide order dated 05.07.2021 allowed the refund of Rs 1,79,694.33/- and further rejected the refund claim of Rs. 6,57,792.67/-. Petitioner thereafter filed an



appeal but the same has been rejected being time-barred.

4. Learned counsel for respondents submits that he has received instructions that the online portal does not show that any appeal was filed against the filing number. This is disputed by learned counsel for petitioner, who submits that petitioner had filed an appeal on 12.07.2021 at 12:50 PM and acknowledgment was issued to the petitioner in accordance with the rules.

5. She refers to page No. 30, which is the form GST APL-01 and an acknowledgment at page No. 31. She further refers to the impugned order dated 26.05.2023, particularly, paragraph 4.1, where in the Appellate Authority has held that the appeal was filed electronically on 12.07.2021 and the last date of filing of appeal was 04.10.2021.

6. Petitioner has been non-suited by the appellate order on the ground that certified copy of the order appealed against had to be submitted within seven days of the online submissions and since the certified copy was not filed within one week of the online submissions, the appeal was deemed to be barred by limitation.

7. Learned counsel for the petitioner submits that original order was filed along with online submissions.

8. This Court had directed the respondents on 21.02.2024 to produce the digital file that was uploaded by the petitioner at the time of making the online submissions.

9. Learned counsel for respondents submits that there is a glitch in



the system and as per his instructions, the digital data of the online submissions is not available on the online portal of the department.

10. In view of the above submissions, we are of the view that there is no material on record to disbelieve the contention of the petitioner that the copy of the original order in appeal was annexed with the appeal paper book at the time of the online submissions.

11. In view of the above, the impugned order dated 26.05.2023 is set aside. The matter is remitted to the Appellate Authority to consider the appeal of the petitioner on merits in accordance with law.

12. Petition is disposed of in the above terms.

13. It is clarified that this Court has neither commented nor considered the contentions of the parties on merits and the Appellate Authority shall consider the case on merits in accordance with law.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MARCH 18, 2024/vp

