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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 12860/2024 & CM APPL. 53682/2024 (interim relief)

M/S JAIN CEMENT UDYOG (THROUGH ITS

PROPRIETOR SH. SANJAY JAIN)

.....Petitioner

Through: Mr. R.P. Singh, Mr. Anant
Vijay and Mr. Yash Agarwal,
Advocates

versus

SALES TAX OFFICER CLASS-II/ AVATO WARD 201

ZONE 11 DELHI

.....Respondent

Through: Mr. Udit Malik, ASC (Civil) for
GNCTD with Mr. Vishal
Chanda, Advocate.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

23.10.2024

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1. We had taken note of the challenge which stands raised in the writ petition in our order of 30 September 2024 and which is extracted hereunder:-

“1We take note of what prima facie appears to be an apparent mistake underlying the passing of the impugned order dated 23 April 2024, a decision which pertains to the tax period of July 2018 to March 2019.

2.On 30 December 2020 the petitioner was served with a Show Cause Notice for the said period. Those proceedings ultimately culminated in the passing of a final order dated 01 February 2021 which presently forms subject matter of challenge in a statutory appeal.

3. However, notwithstanding those proceedings having culminated in the passing of a final order, the impugned order dated 23 April 2024 has come to be framed all over again pertaining to the same tax period and referring to the original Show Cause Notice dated 30 December 2020. It is in the aforesaid backdrop that learned counsel



for the writ petitioner contends that the impugned order would not sustain.

4. We, consequently, request Mr. Malik, learned counsel appearing for the respondent, to obtain instructions.

5. Let the writ petition be called again on 23.10.2024.”

2. Mr. Malik, learned counsel, on instructions submits that the order of 23 April 2024 undoubtedly pertains to the same tax period in respect of which a final order came to be passed on 01 February 2021. We are informed that the writ petitioner has preferred an appeal against the order of 01 February 2021.

3. In view of the aforesaid and admitted facts which emerge, it is apparent that the impugned order of 23 April 2024 would not sustain.

4. Accordingly, and on this short ground alone, we allow the present writ petition and quash the order of 23 April 2024.

5. All rights and contentions of respective parties, insofar as the determination forming part of 01 February 2021 is concerned, are kept open.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 23, 2024/vp

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