



\$~98

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

+ W.P.(C) 16744/2024

ICICI LOMBARD GENERAL INSURANCE CO. LTD

.....Petitioner

Through: Mr. Yogendra Aldak, Mr. Kuna Kapoor and Ms. Purvi Sinha, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Premtosh K. Mishra, CGSC with Mr. Manish Vashisth and Ms. Sanya Kalsi, Advs. for R-1. Mr. Avishkar Singhvi, ASC with Mr. Naved Ahmed, Mr. Vivek Kr. Singh and Mr. Shubham Kr., Advs. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **04.12.2024**

CM APPL. 70903/2024 (Ex.)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 16744/2024 & CM APPL. 70902/2024 (Interim Stay)

1. The writ petitioner is aggrieved by the final order referable to Section 73 of the **Central Goods and Services Tax Act, 2017**¹ which has come to be passed by the **Goods and Services Tax**² Officer, observing as follows:-

¹ CGST Act

² GST



“Whereas, a notice GST DRC-01 was issued to the taxpayer for the Financial Year 2019-20 along with the details of proposed tax, interest and Penalty with the direction to pay the due tax along with interest and Penalty along with opportunity of personal hearing.

And whereas, the taxpayer was also conveyed that if the said demand has already been paid or in case any objection, the taxpayer may file objections in DRC-06 within the stipulated period of time given in the notice and also granted opportunity of personal hearing to explain the same.

And Whereas, the taxpayer submitted its reply in DRC-06, but the same is found not comprehensive, conceivable, perspicuous and also no one appeared on behalf of the firm to provide explanation/clarification with regard to the reply submitted against DRC-01.

In view of the above, as the taxpayer failed to attend the personal hearing despite ample opportunity given and after having gone through the reply filed on the GST portal by the taxpayer in respect of each point, no opinion could be drawn in absence of personal hearing by the taxpayer. Since, the reply filed by the taxpayer is not comprehensible, conceivable, perspicuous and ambiguous, therefore, the proposed demand mentioned in the Show Cause Notice i.e. conveyed through notice DRC-01 is confirmed.”

2. We take note of the fact that pursuant to the original Show Cause Notice which had come to be issued, the petitioner had furnished a detailed response. However, the same has been perfunctorily brushed aside and the observations as extracted hereinabove rendered.

3. We take note of an identical challenge which formed the subject matter of **Xerox India Limited vs. Assistant Commissioner**³. Dealing with an identically worded order framed by the said GST Officer, we had observed as follows:-

“3. We are constrained to observe that the order as passed follows lines identical to those which have come before us and have fallen for our notice on earlier occasions. The Assistant Commissioner has clearly adopted a template where the only reason assigned is that the reply filed was “*not comprehensible, conceivable, not perspicuous and is ambiguous*”. This clearly exhibits an abject non-application of mind and the officer repeatedly employing identical phraseology to deal with such

³ W.P.(C) 16451/2024 decided on 28 November 2024



matters.

4. Despite caution having been sounded by us of the said language having attained the status of a template and the concerned officer having chosen to replicate an identical pattern while framing orders, in **Indian Highways Management Company Limited vs. Assistant Commissioner & Anr.**⁴, we find that the officer has failed to make any amends.

5. Accordingly, while we are convinced that the impugned order being wholly unreasoned is liable to be set aside on this short score alone, we also require Mr. Aggarwal, learned counsel for the respondents to place a copy of this order before the Principal Commissioner concerned, so that an appropriate review of the manner in which such applications of assesseees are adjudicated is undertaken.”

Following the aforesaid reasoning, we find ourselves unable to sustain the impugned order dated 31 August 2024.

4. We, consequently, quash the aforesaid order and allow the present writ petition.

5. The respondents shall have liberty to proceed afresh in light of the SCN already issued and the reply submitted. All rights and contentions of respective parties on merits are kept open.

6. The challenge to Notification No.9/2023- Central Tax dated 31 March 2023 and Notification No. 56/2023- Central Tax dated 28 December 2023, issued under Section 168A of the CGST Act/**Delhi Goods & Services Tax Act, 2017**⁵ is kept open to be raised afresh, if need so arises.

YASHWANT VARMA, J

DHARMESH SHARMA, J

DECEMBER 04, 2024/DR

⁴ W.P.(C) 15701/2024 dated 12 November 2024

⁵ DGST Act