

Chief Justice's Court

Case :- WRIT TAX No. - 2160 of 2024

Petitioner :- M/s Laxmi Telecom

Respondent :- State of U.P. and another

Counsel for Petitioner :- Ajay Kumar Yadav, Vijay Maurya

Counsel for Respondent :- C.S.C., Manoj Kumar Kushwaha

Hon'ble Arun Bhansali, Chief Justice

Hon'ble Vikas Budhwar, J.

1. This writ petition is directed against the show cause notice dated 30.05.2024 and the order dated 27.08.2024 passed by respondent no.2, whereby a demand to the tune of Rs.7,41,218/- has been created against the petitioner.

2. The petitioner was issued a show cause notice dated 06.04.2024 intimating discrepancies in the return after scrutiny. The petitioner filed his response, *inter-alia*, pointing out that the discrepancies pointed out between the ITC claimed in GSTR-3B and ITC declared in GSTR-2A/2B was not Rs.7,70,871.20 but the same was only Rs.74,668.61. Along with the reply, requisites were filed by the petitioner. However, the authority, after consideration of the reply, issued notice dated 30.05.2024, *inter-alia*, indicating that as the response filed by the petitioner was not clear, notice under Section 73(1) be issued. In response to the said notice, petitioner again reiterated the same aspect along with certain more documents. Based on the said submissions made by the petitioner, the order impugned dated 27.08.2024 was passed, *inter-alia*, accepting the plea raised by the petitioner partly and raising a demand to the tune of Rs.7,41,218/-. Feeling aggrieved, the present petition has been filed.

3. Learned counsel for the petitioner, with the aid of judgment in **Shantanu Prakash Vs. State Bank of India & Ors. : Writ Petition (Civil) No. 1730 of 2024**, decided on 22.05.2024 by Delhi High Court, made submissions that along with the show cause notice issued on 30.05.2024, it was required of the respondents to annex the requisite documents and as the requisite documents have not been annexed, the notice issued is bad.

4. Further submissions have been made that in the show cause notice issued to the petitioner, the date of hearing fixed was 24.08.2024 whereas the order impugned has been passed on 27.08.2024 and on that count also, the order impugned deserves to be set aside.

5. Learned counsel for the respondents made submissions that once the issue has been determined by the competent authority and a part of the plea raised by the petitioner has been accepted, the petitioner has alternative remedy of filing appeal and filing of the writ petition against the order impugned in the circumstances of the case is not maintainable.

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

7. The submissions sought to be made by counsel for the petitioner regarding non-supply of documents, cannot be countenanced in the circumstances of the present case wherein neither in response to the notice pointing out the discrepancies nor in response to the notice under Section 73(1), the petitioner sought supply of the documents and based on the material available with it, filed the response. The adjudicating authority, after considering plea raised has taken a particular view of the matter and accepted a part of the plea raised by the petitioner, it is too late in the day for petitioner

now to contend that along with the notices issued, the requisite documents should have been supplied.

8. Once the plea raised by the petitioner, has been considered and a particular view has been taken and against the order statutory appeal is available, we do not find any reason to interfere in extraordinary jurisdiction of this Court, in the order impugned.

9. The plea raised regarding difference in the date fixed and the date of order also has no substance inasmuch as no prejudice has been shown.

10. The writ petition is **dismissed**, leaving it open for the petitioner to avail the alternative statutory remedy.

Order Date :- 4.12.2024

AHA/RK

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