



\$~9

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

%

Date of decision: 08.02.2024

+ **W.P.(C) 10244/2023**

M/S BHARTI ENTERPRISES

..... Petitioner

versus

COMMISSIONER, VALUE ADDED TAX, DEPARTMENT OF
TRADE AND TAXES & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Himanshu Koyarh, Mr. Ronit Ranjan,
Advocates.

For the Respondent: Mr. Rajeev Aggarwal, ASC with Mr. Aadish
Jain and Ms. Samridhi Vats, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Issue notice.
2. Mr. Rajeev Aggarwal, learned counsel accepts notice on behalf of respondents. With the consent of parties, petition is taken up for final disposal.
3. Petitioner impugns order dated 27.07.2022 (hereafter 'the impugned order'), passed by Respondent No. 2, rejecting the application filed by the petitioner seeking refund of accumulated input



tax credit (hereafter 'ITC'). Petitioner had filed the subject application on 12.04.2022, seeking refund of the ITC relating to tax periods July 2020 to December 2020. A Tabular statement indicating the details of the said application is set out below:

S.No	Period/Month	Amount	Application No.	Date of filing
1	July 2020- December 2020	Rs. 17,70,982/-	AA070422031244R	12.04.2022

4. Respondent issued Show Cause Notice dated 23.05.2022, proposing to reject the aforesaid application on the ground that the same was filed belatedly.

5. Apparently, petitioner did not respond to the said Show Cause Notice. Respondent No. 3 rejected the application solely on the ground that petitioner had not responded to the Show Cause Notice.

6. It is relevant to note that after the impugned order was passed, the Central Board of Indirect Taxes and Customs issued a Notification dated 05.07.2022 in line with the orders passed by the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 3 of 2020 In Re : Cognizance for Extension of Limitation*. In terms of the said circular, the Board directed that the period from 01.03.2020 to 28.02.2022 is excluded for purposes of computing the period of limitation, inter-alia, for applications filed under Section 54 of the Central Goods and Services Tax Act, 2017. By virtue of the said



circular, petitioner's application for refund would be within the period of limitation.

7. Appeal filed by the petitioner impugning the order dated 27.07.2022 was dismissed on the ground of limitation along with four other similar appeals. Petitioner had approached this Hon'ble Court in respect of the said four appeals in W.P. (C) 10235/2023. By order dated 09.08.2023, orders of remit have been passed in the said appeals.

8. Considering the peculiar circumstances of this case, where the benefit of exclusion of the period from 01.03.2020 to 28.02.2022 has been made available subsequent to the impugned order rejecting the application for refund, this Court considers it apposite to allow the present petition and remand the matter to Respondent No. 3 to consider the petitioner's application afresh in the light of the circular dated 05.07.2022.

9. Respondent No. 3 shall process the application of the petitioner for refund as expeditiously as possible and, in any event, within a period of eight weeks from today.

10. Petition is disposed of in the aforesaid terms.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J



FEBRUARY 08, 2024/vp

HIGH COURT OF DELHI



सत्यमेव जयते