(2020) 07 DEL CK 0118

In the Delhi High Court

Case No : Civil Writ Petition No. 4414 Of 2020

M/S Sachin Enterprises Through Sole Prop. Sh. Sachin Bansal APPELLANT

Vs

Assistant Commissioner Division – Narela RESPONDENT

Date of Decision : 22-07-2020

Acts Referred:
Central Goods And Services Tax Act, 2017 — Section 54

Citation : (2020) 07 DEL CK 0118

Hon'ble Judges : Manmohan, J;Sanjeev Narula, J

Bench : Division Bench

Advocate : Vibhooti Malhotra, Harpreet Singh

Final Decision : Disposed Of

Judgement

Manmohan, J

CM APPL. 15897/2020

Allowed, subject to just exceptions.

W.P.(C) 4414/2020

1. The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video

conferencing.

2. Present writ petition has been filed challenging the order dated 19th September, 2019 passed by the respondent under Section 54 of the Central

Goods and Services Tax Act, 2017 whereby the petitionerâ??s refund application has been rejected on the ground that it involves multiple tax

periods.

3. At the outset, Mr. Harpreet Singh, learned counsel for the respondent states that the opening page of the impugned order itself makes it abundantly

clear that the said order is appealable before the Additional Commissioner, GST and instead of exhausting the remedy of appeal available to the

petitioner, it has directly rushed to this Court, which is impermissible. In support of his contention, he relies upon the order dated 20th July, 2020 passed

by a Coordinate Division Bench of this Court in M/s Saraf Industries Through Sole Prop Sh Akhil Saraf v/s Assistant Commissioner Division Narela

GST Delhi North bearing W.P. (C) No. 4338/2020.

4. Ms. Vibhooti Malhotra, learned counsel for the petitioner states that the impugned order has been passed by the Assistant Commissioner in a batch

of petitions seeking refund orders and no specific order on the merits of the petitionerâ??s case has been passed while rejecting its refund

application. Learned counsel also seeks to rely on an interim order dated 21st January, 2020, passed by a Coordinate Division Bench in W.P. (C) No.

627/2020 tilted M/s Pitambra Books Pvt. Ltd vs. UOI and Ors. to urge that the Division Bench has expressed a view which goes in favour of the

petitioner.

5. Keeping in view the aforesaid order dated 20th July, 2020 passed by a Coordinate Division Bench, we are not inclined to entertain the present

petition when the petitioner has an equally alternate efficacious remedy of preferring an appeal before the Additional Commissioner, GST. The present

petition is accordingly disposed of with liberty granted to the petitioner to seek its remedies against the impugned order before the Appellate Authority,

along with an application for condonation of delay. It is made clear that delay alone will not be a ground for the Appellate Authority to reject the

appeal that may be preferred by the petitioner on merits. The petitioner is permitted to rely on the interim order dated 21st January, 2020, passed by a

Division Bench of this Court in W.P. (C) No. 627/2020, which shall be duly taken into consideration by the Appellate Authority. The Appellate

Authority shall dispose of the appeal by way of a speaking order within eight weeks of its filing.

6. With the aforesaid directions the present petition stands disposed of.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

