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

+ **W.P.(C) 5698/2023 & CM APPL. 22331/2023**

SRG PLASTIC COMPANY Petitioner

Through: Mr. Rakesh Kumar, Adv.

versus

THE COMMISSIONER DELHI GOODS AND
SERVICES TAX TRADE AND TAX
DEPARTMENT & ORS. Respondents

Through: Mr. Rajeev Aggarwal, ASC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

02.05.2023

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1. Issue notice.
2. Mr. Rajeev Aggarwal, learned counsel for the respondent accepts notice.
3. The petitioner has filed the present petition impugning an order dated 09.11.2022 / 21.11.2022, whereby the petitioner's appeal against an order dated 07.03.2022, passed by the Proper Officer, was rejected.
4. By the said order dated 07.03.2022, the Proper Officer had rejected the petitioner's refund for an amount of ₹ 4,99,880/-, *inter alia*, on the ground that the petitioner had not provided the relevant documents and had not appeared before the concerned officer.

5. It is the petitioner's case that he had filed all documents as required under Rule 89 of the Central Goods and Services Tax Rules, 2017 (hereafter '**the Rules**') and therefore, was not required to provide any further documents.

6. He also relies on the Circular No. 125/44/2019 – GST dated 18.11.2019, in support of the aforesaid contention.

7. Undeniably, if an application for refund is accompanied by all relevant documents as prescribed under Rule 89 of the Rules, the said application cannot be rejected as incomplete and is required to be processed. However, that does not preclude the concerned officer from calling upon the applicant to furnish any other relevant documents that he considers necessary for processing the application for refund.

8. In the aforesaid circumstances, we are unable to accept that the petitioner was not required to submit the documents as sought for by the Proper Officer.

9. Considering that the petitioner had provided most of the relevant documents as also the fact that if the Appellate Tribunal was constituted, the petitioner would be entitled to seek an opportunity to furnish the relevant documents before the Tribunal; this Court considers it apposite to set aside the impugned order and remand the matter to the Proper Officer to adjudicate the petitioner's claim for refund afresh.

10. The petitioner shall furnish all documents available with the petitioner, as sought for by the Proper Officer, within a period of three weeks from today.

11. The Proper Officer is requested to adjudicate the petitioner's claim as expeditiously as possible and preferably within a period of four weeks thereafter.

12. It is clarified that this Court has not expressed any view on the merits of the petitioner's claim, which shall be considered on its own merits.

13. The petition is disposed of in the aforesaid terms.

14. Pending application is also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

MAY 2, 2023
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