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

\+ W.P.(C) 5731/2024

ICONNECT GLOBAL PRIVATE LIMITED ..... Petitioner

Through: Mr. Rajesh Jain, Mr. Virag Tiwari, Mr. Ramashish and Ms. Tanya Saraswat, Advocates.

versus

COMMISSIONER OF DELHI GOODS AND SERVICES TAX & ANR. ..... Respondents

Through: Mr. Rajeev Aggarwal, ASC with Mr. Prateek Badhwar and Ms. Shaguftha H. Badhwar, Advocates

CORAM:
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% **07.05.2024**

1. Petitioner impugns order dated 27th/29th March, 2024 passed by the Additional Commissioner, State Tax (Zone-IX) whereby the refund claim of the petitioner has been rejected.

2. Petitioner further seeks a declaration that the Commissioner of Delhi Goods and Service Tax Act, 2017 is not empowered to appoint an Appellate Authority under Section 107 of the Delhi Goods and Service Tax Act, 2017 (hereinafter referred to as the Act).

3. Learned counsel for the petitioner submits that the impugned order has been passed by an Additional Commissioner and Additional Commissioner cannot be an Adjudicating Authority since Additional

Commissioner has been designated as an Appellate Authority by Notification No. 28/2018 pertaining to Rule 109A of the Delhi Goods and Service Tax Rules, 2017.

4. Learned counsel submits that any person aggrieved by a decision or order passed by the Deputy Commissioner/Assistant Commissioner/Goods and Service Tax Officer may file an appeal to Special Commissioner/Additional Commissioner/Joint Commissioner. Learned counsel further submits that since by the Notification issued by the State Government, Additional Commissioner has been notified as an Appellate Authority, said Commissioner ceases to function as an Adjudicating Authority in view of the definition of an Adjudicating Authority in Section 2(4) of the Act. He submits that Section 2(4) of the Act, specifically excludes an Appellate Authority from the definition of an Adjudicating Authority.

5. Learned counsel for the petitioner further submits that Section 4(2) of the Act stipulates that Special and Additional Commissioner would have jurisdiction over the whole of the State or where the State Government so directs over any local area thereon and in respect of other officers, the Commissioner has the power to assign jurisdiction to them over whole of the State or such area as he may deem appropriate.

6. Learned counsel for the petitioner submits that in view of the statutory provisions as referred to herein above, the Commissioner does not have power to segregate areas for conferring jurisdiction on

the Additional/Special Commissioner as has been sought to be done by orders dated 11.06.2019, 29.09.2023 and 07.11.2023.

7. Issue notice. Notice is accepted by learned counsel appearing for the respondent who prays for time to file counter affidavit.

8. Let the same be filed within six weeks. Rejoinder, if any, be filed within four weeks thereafter.

9. List on 29.07.2024.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MAY 7, 2024
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