$~44

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

\+ W.P.(C) 15557/2024

MS DEVI ELECTRONICS PVT LTD .....Petitioner

Through: Mr. Puneet Chandra, Mr. Ashish Parashar, Mr. Faraz Ahees, Mr. Kartik Vashisht and Mr. Mukeshwar Nath Dubey, Advs.

versus

COMMISSIONER CGST DELHI SOUTH AND ORS .....Respondents

Through: Mr. Aditya Singla, SSC with Mr. Ritwik Saha and Ms. Arya Suresh Nair, Advs.
Mr. Raj Kumar, CGSC for UOI.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

ORDER

% **16.01.2025**

1. The principal question which arises for our consideration is whether the refund could have been stalled by resorting to Section 54(11) of the Central Goods and Services Tax Act, 2017 and which reads as follows:-

> **“54. Refund of tax**
>
> (11) Where an order giving rise to a refund is the subject-matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.”

2. Prima facie, we are unconvinced that an ongoing investigation could fall within the ambit of the expression "or any other proceedings" on which stress is laid by Mr. Singla, learned counsel appearing for the respondents.

3. This since the same is followed by the provision using the phrase *'likely to adversely affect the revenue'* in those pending proceedings.

4. In order to enable Mr. Singla, learned counsel to address submissions in the aforesaid light, let the matter be called again on 03.02.2025.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

JANUARY 16, 2025/DR