$~7

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

\+ W.P.(C) 1397/2025

M/S CA INTERNATIONAL .....Petitioner

Through: Mr Abhishek Sharma, Adv.

versus

ASSISTANT COMMISSIONER,PALAM DIVISION,CGST DELHI, SOUTH .....Respondent

Through: Mr. Ruchesh Sinha, SSC (CGST) with Ms. Upasna Vashistha, Adv.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

O R D E R

% 27.04.2026

1. Heard.

2. The prayer in the petitions read thus:

"A. Issue a writ of mandamus to set aside the Order-In-Appeals dated 14.06.2024 passed by Joint Commissioner, CGST Appeals and to set aside the Order-In-Original dated 11.10.2023 passed by Respondent; and

B. To direct Respondent to allow the IGST refunds of Rs. 3,88,309.05/- along with applicable interest, and/or"

3. *Vide* impugned order 14th June, 2024, the prayer of the petitioner seeking refund of the IGST came to be rejected.

4. According to the petitioner, the refund application was moved by the petitioner on 17th August, 2023 in the Form GST RFD-01, which was duly acknowledged by the respondent.

5. Based on the same, on 25th September, 2023, the petitioner was served

with the show-cause notice calling upon him to produce the documents which were mentioned in the said communication by 10th October 2023 by 11:45 AM.

6. It appears that the petitioner failed to appear on 10th October, 2023 and through an e-mail dated 10th October, 2023, informed the respondent that the authorised representative of the petitioner will not be able to attend the proceedings owing to his health issues.

7. Reliance is placed on the medical certificate issued by the competent medical authority, thereby certifying that the representative of the petitioner *Mr. Chirag Mittal* was indisposed on the said date. Accordingly, the petitioner moved an application for postponement of the date of hearing.

8. It appears that instead of considering the request of the petitioner, the respondent rejected the prayer of the petitioner for refund by observing that the petitioner was given an opportunity to submit the documents by 10th October, 2023, which he has failed to do so, and as such, the prayer for refund came be to be rejected by recording the reasons.

9. The contention is that in the show-cause notice when the petitioner was given an opportunity to produce the documents by 10th October, 2023 and the petitioner well within time requested the respondent to defer the hearing because of the ill health of the authorised representative, the least that was expected of the respondent was to grant at least one opportunity to the petitioner.

10. According to him, as to what transpired on 10th October, 2023 is not reflected in the impugned order rather what is recorded by the authority is that the tax payer's requests for postponement was made and he could not appear.

11. There is no specific order on 10th October, 2023 recording as to what transpired on the said date *i.e.*, whether the request of the petitioner was accepted or rejected.

12. Based on above, the contention of the learned counsel for the petitioner is that the impugned order is liable to be quashed and set aside and there is denial of opportunity of hearing.

13. As against above, the counsel for the respondent would support the impugned order, as according to him, the show-cause notice in categorical terms asked the petitioner to furnish the documents and sufficient time was given to the petitioner to report compliance thereof.

14. According to him, almost one month's time was given to the petitioner to produce the documents, which he failed to do and as such, the respondent was justified in proceeding by rejecting the prayer for adjournment.

15. It is claimed that the impugned order is a speaking order and as the alternate remedy is available, this Court should be slow in causing interference.

16. Having appreciated the submissions, it is not in dispute that the petitioner, who holds a registration under the CGST Act, 2017, applied for refund on 17th August, 2023, which was duly acknowledged by the respondent and based on the same, a show-cause notice dated 25th September, 2023 was issued to the petitioner.

17. The petitioner in response to the same on 10th October, 2023 sent an e-mail requesting an adjournment, as the authorized representative of the petitioner was indisposed.

18. Once, the date for production of the documents and the appearance of

the petitioner was fixed on 10th October, 2023 and the petitioner well within time and by acting reasonably, sought an adjournment on the ground of ill health of its representative, the least that was expected of the respondent, was to consider such request on humanitarian ground.

19. The request of the petitioner is also substantiated by medical certificate. The medical certificate certifying that the petitioner's representative was indisposed can be located on record as *Annexure P-8*.

20. The impugned order does not deal with as to what business transpired on 10th October, 2023, regarding the request of the petitioner for an adjournment.

21. It is apparent from the perusal of the impugned order that the respondent, without granting an opportunity of hearing, has proceeded to pass the impugned order.

22. That being so, we are of the view that the impugned order dated 11th October 2023, is liable to be quashed and set aside and is accordingly, quashed and set aside.

23. The petition stands partly allowed.

24. We permit the petitioner to submit his response to the show-cause notice dated 25th September, 2023 in any case by 11th May, 2026 with his written notes of arguments and supporting documents.

25. The petitioner shall not, thereafter, seek any further adjournment on whatsoever ground in support of his claim for refund.

26. We direct the respondent to conclude the proceedings by passing a speaking order dealing with the claim of the petitioner for refund expeditiously and in accordance with law, in any case by 31st May, 2025.

27. Let the order be communicated to the petitioner.

28. In case, the order so passed is adverse to the interest of the petitioner, liberty to take recourse to the remedy as is available and advisable in law.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

APRIL 27, 2026/DM/SK