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

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Date of decision: 19.03.2024

W.P.(C) 1039/2024

PEDERSEN CONSULTANTS INDIA PVT LTD Petitioner

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner:

Ms. Sangita Gulati, Advocate.

For the Respondents:

Mr. Anish Roy, Senior Standing Counsel, CBIC
with Mr.Dileep Singh Rajpurohit, Advocate for
R-1.

Mr. Mahesh K. Chaudhary, Advocate for R-3.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Mr. Mahesh K. Chaudhary, Advocate enters appearance for Respondent No. 3. The office report indicates that Respondent No. 3 is not residing at the given address. Accordingly, Respondent No. 3 is directed to file his latest residential address on record.

2. Petitioner seeks direction to the respondents to grant benefit of Input Tax Credit that was paid by the? Petitioner on the same invoices for the period 2019-2020, on which, Respondent No. 3 has also paid



the tax.

3. Learned counsel for Petitioner submits that Petitioner had been coerced into depositing the tax on the said invoices as Respondent No. 3 had not filed returns within time. Subsequently, it transpired that Respondent No. 3 has filed the returns and claimed Input Tax Credit for the same invoices. Consequently, double payment has been made to the department. She submits that Petitioner now seeks refund of the amount that Petitioner was made to deposit on the said invoices.

4. Learned counsel appearing for the Respondent submits that the claim of the Petitioner was not considered as Petitioner had failed to file an appropriate refund application as required under Section 54 of the Central Goods & Service Tax Act, 2017.

5. Learned counsel for Petitioner submits that since the objection of non-filing of an appropriate application has been raised, Petitioner shall within one week file an appropriate application with the concerned Authority claiming refund. She relies upon Notification No. 13/2022 dated 05.07.2022 to contend that the period between 01.03.2020 to 28.02.2023 is to be excluded for the purposes of computation of period of limitation for filing a refund application under Section 54 or 55 of the Act. She further submits that the period between the filing of the subject petition i.e. 19.01.2024 till today be also excluded.

6. In view of the above, this petition is disposed of permitting the petitioner to file an appropriate application as mandated by Section 54



of the Act claiming refund. The period between 19.01.2024 till today shall be excluded for the purposes of limitation. Further, the claim of the Petitioner that Petitioner is covered by Notification No. 13/22 shall be considered by the Proper Officer in accordance with law while entertaining the application for refund filed by the Petitioner.

7. Petition is accordingly disposed of in the above terms. It is clarified that this Court has neither considered nor commented upon the merits of the contentions of either party. It would be open to the Proper Officer to adjudicate the claim of the Petitioner for refund in accordance with law.

8. All rights and contentions of parties are reserved.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MARCH 19, 2024

RM