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

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Date of Decision: 04.10.2023+ **W.P.(C) 11453/2023**SAURABH AGGARWAL PROPRIETOR OF
M/S AARAV PLASTICS

..... Petitioner

Through: Mr. Vineet Bhatia & Mr. Bipin
Punia, Advs.

Versus

COMMISSIONER, CGST DELHI NORTH
AND ORS.

..... Respondents

Through: Ms. Neha Malik, Adv. for R1 to 3.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE AMIT MAHAJAN****VIBHU BAKHRU, J.**

1. The petitioner has filed the present petition, *inter alia*, praying that the directions be issued to respondents to refund an amount of ₹2,42,846/- of unutilised Input Tax Credit (ITC) along with the applicable interest.

2. The petitioner had filed an application on 30.03.2022 seeking refund of a sum of ₹2,42,846/- on account of inverted duty structure. The adjudicating authority issued a show cause notice dated 25.05.2022 proposing to reject the petitioner's application on two grounds. First, that there was a mismatch in the reported turnover for the relevant period (April 2021 to September, 2021); and second, that the petitioner's claim was for ITC in respect of goods classified under HSN 6404 (ready footwear), which was also the petitioner's outward



supplies, and therefore, there could be no inverted duty structure.

3. The petitioner filed a response to the show cause notice on 30.05.2022 attaching certain documents in support of its claim. However, the petitioner's application was rejected by an order dated 31.05.2022 on the ground that the petitioner had not filed the requisite documents. There is a serious controversy in this regard as according to the petitioner, a soft copy of the requisite documents was attached as a pdf file.

4. The petitioner appealed the order dated 31.05.2022 before the appellate authority. However, the petitioner's appeal was rejected on the ground that the petitioner had not submitted the copies of the statutory records (GSTR-1, GSTR-3B and GSTR-2A) for the relevant period and therefore, the petitioner's claim could not be co-related.

5. It is not disputed that the petitioner was not asked to furnish the said documents. It is also the petitioner's case that the statutory records were available on its portal with the concerned authorities.

6. In view of the above, we consider it apposite to remand the matter to the appellate authority for consideration afresh. The appellate authority shall issue an appropriate notice calling upon the petitioner to produce all such documents as the appellate authority considers necessary for processing the said claims. The petitioner shall also file such documents as are necessary, including the copies of its statutory returns, which – according to the appellate authority – are necessary to



co-relate the petitioner's claim for refund, within a period of two weeks from today.

7. The appellate authority is requested to consider the petitioner's appeal and decide afresh within a period of six weeks from today.

8. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

OCTOBER 4, 2023

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