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

+ W.P. (C) 4338/2020

M/S SARAF INDUSTRIES THROUGH SOLE PROP SH AKHIL
SARAF Petitioner

Through: Ms. Vibhooti Malhotra, Advocate

versus

ASSISTANT COMMISSIONER DIVISION NARELA GST DELHI
NORTH Respondent

Through: Mr. Harpreet Singh, Senior Standing
Counsel

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **20.07.2020**

HEARD THROUGH VIDEO CONFERENCING

CM 15626/2020 (Exemption)

Allowed, subject to all just exceptions.

W.P. (C) 4338/2020

1. The present petition has been filed by the petitioner praying *inter alia* for setting aside an order dated 20.09.2019, passed by the Assistant Commissioner Narela, GST, whereby the application moved by the petitioner for refund under Section 54 of the Central GST Act, 2017, has been rejected.

2. At the outset, Mr. Harpreet Singh, learned counsel for the respondent states that the opening page of the impugned order itself makes it abundantly clear that the said order is appealable before the Additional Commissioner, GST and instead of exhausting the remedy of appeal available to the petitioner, it has directly rushed to this court, which is impermissible.

3. Ms. Vibhooti Malhotra, learned counsel for the petitioner states that the impugned order has been passed by the Assistant Commissioner in a batch of petitions seeking refund orders and no specific order on the merits of the petitioner's has been passed while rejecting its refund application. Learned counsel also seeks to rely on an interim order dated 21.01.2020, passed by a Co-ordinate Bench in **W. P. (C) No. 627/2020** entitled M/s Pitambra Books Pvt. Ltd vs. UOI and Ors. to urge that the Division Bench has expressed a view which goes in favour of the petitioner.

4. We are not inclined to entertain the present petition when the petitioner has an equally alternate efficacious remedy of preferring an appeal before the Additional Commissioner, GST. The present petition is accordingly disposed of with liberty granted to the petitioner to seek its remedies against the impugned order before the Appellate Authority, alongwith an application for condonation of delay. It is made clear that delay alone will not be a ground for the Appellate Authority to reject the appeal that may be preferred by the petitioner on merits. The petitioner is permitted to rely on the interim order dated 21.01.2020, passed by a Coordinate Bench in W.P.(C) No.627/2020, which shall be duly taken into consideration by the Appellate Authority and a speaking order shall be passed thereafter.

5. The present petition is disposed of.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JULY 20, 2020

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