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

\+ **W.P.(C) 9314/2019 & CM APPL. 38408/2019**

HCL INFOSTYSTEMS LTD. ..... Petitioner

Through: Mr. Puneet Agarwal, Advocate with Mr. Deepak Anand, Ms. Hemlata Rawat, Mr. Yuvraj Singh and Mr. Gaurav Gupta, Advocates.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr. Sushil Kumar Pandey, Senior Panel Counsel with Mr. Kuldeep Singh, Advocate for Respondent No.1.
Mr. Rakesh Singh, Advocate with Mr. Anuj Aggarwal, ASC, GNCTD Advocates for Respondent Nos. 2,5,6 & 7.
Ms. Suhani Mathur & Mr. Ankit Singh, Advocates for Respondent No. 4

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 06.09.2019

1. Mr. Ramesh Singh, learned Standing Counsel has appeared along with Ms. Anju Mangla, the Assistant Commissioner. He has also produced the original records which show that the claim of the Petitioner was rejected on the record on 22.07.2019. Mr. Ramesh Singh states that the screenshot of the GST portal annexed with the petition does not properly reflect the position and status “refund sanctioned” reflected on the website is

erroneous.

2. He has also tendered in Court a copy of the Form RFD01-B which shows that the refund claim of the Petitioner was rejected on 22.07.2019. At the same time, Mr. Ramesh Singh fairly concedes that no prior hearing was given to the Petitioner before the said rejection and the rejection order itself is not reasoned.

3. He also states that the Respondents are willing that the order of rejection is set aside, and the Respondents are willing to grant hearing to the Petitioner, and thereafter pass a reasoned order.

4. Accordingly, we set aside the order dated 22.07.2019 rejecting the refund claim of the Petitioner, since the same has been passed without hearing the Petitioner and, admittedly, is unreasoned. We direct the competent officer of the Respondent to grant personal hearing to the Petitioner for consideration of the Petitioner's claim. For that purpose, a notice of hearing shall be issued to the Petitioner indicating the deficiencies/objections, if any. The competent authority shall pass a reasoned order on the refund application of the Petitioner within two weeks positively, failing which Respondent No. 5 shall personally remain present in the Court. We make it clear that we have not examined the merits of the Petitioner's claim for refund, and the competent authority will be free to take an independent view, but in accordance with law.

5. On the last date, we had directed Respondent No. 4 (Principal Chief Commissioner) and Respondent No. 5 (Special Commissioner, Delhi GST) to remain personally present in Court with the complete record. There is non-compliance of this order inasmuch as Ms. Mangla, Assistant Commissioner, has appeared on behalf of Respondent No. 5. Mr. Singh has

explained that there is no incumbent in place as Special Commissioner Delhi GST as of date, since the earlier incumbent has been transferred and the new officer has still not taken charge. However, there is no explanation as to why Respondent No. 4 is not present in Court.

6. Ms. Suhani Mathur, Advocate appearing on behalf of Mr. Harpreet Singh, Counsel for Respondent No. 4 assures that on the next date, Respondent No. 4 shall remain present in Court.

7. We have made it clear that in case of his/her non-appearance, we would have no option but to issue warrants for his/her production.

8. On the next date, Commissioner Delhi GST shall also remain present in Court.

9. List on 18.10.2019.

VIPIN SANGHI, J

SANJEEV NARULA, J

SEPTEMBER 06, 2019

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