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

+ **W.P.(C) 5073/2021 & CM APPL. 15529/2021**

VENKATESHWAR HOSPITAL Petitioner

Through: Ms. Petal Chandhok, Advocate.

versus

GOVT OF NCT OF DELHI & ORS. Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Mr. Amit Mahajan, CGSC, Ms. Monika Arora, CGSC, Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Mr. Rajat Nair, Advocates.

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae) and Mr. Anandh Venkataramani, Ms. Mansi Sood, Ms. Sonal Sarda and Mr. Areeb Amanullah, Advocates.

Mr. Aseem Chaturvedi with Mr. Ajay Bhargav, Advocates for INOX.

+ **W.P.(C) 3031/2020 & C.M. No. 15227/2021, C.M. No. 15228/2021
C.M. No. 15229/2021, C.M. No. 15358/2021, C.M. No. 15359/2021
C.M. No. 15360/2021, C.M. No. 15361/2021, C.M. No. 15362/2021
C.M. No. 15363/2021**

RAKESH MALHOTRA

..... Petitioner

Through: Petitioner in person.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
INDIA AND ORS

..... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Amit Mahajan, CGSC Mr. Anil Soni, CGSC, Mr. Anurag Ahluwalia,CGSC Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC, Mr. Santosh Tripathi, ASC, Mr. Aditya P. Khanna and Mr. Chaitanya Gosain, Advocates for GNCTD.

Ms. Malvika Trivedi, Sr. Advocate Mr. Tanmay Yadav, Ms. Eysha Marysha, Mr. Abhisree Sujanya Ms. Nihaarika Jauhari, Advocates.

Ms. Garima Prashad, Sr. Advocate with Mr. Abhinav Agrawal, Advocate.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae) and Mr. Anandh Venkataramani, Ms. Mansi Sood, Ms. Sonal Sarada and Mr. Areeb Amanullah, Advocates.

Mr. Ankur Mahindro & Ms Sanjoli Mehrotra, Advocates for intervener Mr. Aseem Chaturvedi with Mr. Ajay Bhargav, Advocates for INOX.

+ **W.P.(C) 4970/2021 & CM APPL. 15223/2021, CM APPL. 15224/2021, CM APPL. 15225/2021, CM APPL. 15226/2021,CM**

**APPL. 15249/2021,CM APPL. 15250/2021,CM APPL. 15251/2021
CM APPL. 15252/2021**

BALAJI MEDICAL AND RESEARCH CENTER Petitioner

Through: Mr.Mahesh Agarwal with Mr.Rishi
Agrawala, Mr.Karan Luthra,
Mr.Ankit Banati, Advs.
Mr. Ajay Kohli, Ms. Priyanka
Ghorawat, Mr. Raghav Marwaha,
Advocates for Delhi Heart and Lung
Institute.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Tushar Mehta, SGI, Mr. Chetan
Sharma, ASG, Amit Mahajan, CGSC
Ms. Monika Arora, CGSC, Mr. Anil
Soni, CGSC, Mr. Shriram Tiwary,
Mr. Amit Gupta, Mr. Akshay
Gadeock, Mr. Sahaj Garg, Mr. Vinay
Yadav, Advocates.
Mr. Rahul Mehra, Senior Advocate
with Mr. Satyakam, ASC Mr. Gautam
Narayan, ASC, Mr. Anuj Aggarwal,
ASC and Mr. Chaitanya Gosain,
Advocate for GNCTD.
Mr. Rajshekhar Rao, Senior Advocate
(Amicus Curiae) and Mr. Anandh
Venkataramani, Ms. Mansi Sood, Ms.
Sonal Sarda and Mr. Areeb
Amanullah, Advocates.
Mr. Anil Grover, Sr. Additional
Advocate General for Haryana with
Ms. Bansuri Swaraj, Additional
Advocate General for Haryana with
Mr. Siddhesh Kotwal, Ms. Manya
Hasija, Ms. Ana Upadhyay,
Advocates.
Mr. Aseem Chaturvedi with Mr. Ajay

Bhargav, Advocates for INOX.

+ **W.P.(C) 4971/2021**

GANESH DAS CHAWLA CHARITABLE TRUST (REGD)

..... Petitioner

Through: Ms. Prabhsahay Kaur, Advocate.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Mr. Amit Mahajan, CGSC, Ms. Monika Arora, CGSC, Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae) and Mr. Anandh Venkataramani, Ms. Mansi Sood, Ms. Sonal Sarda and Mr. Areeb Amanullah, Advocates.

Mr. Aseem Chaturvedi with Mr. Ajay Bhargav, Advocates for INOX.

+ **W.P.(C) 4984/2021 & CM APPL. 15279/2021**

M/S. BRAM HEALTH CARE PRIVATE LIMITED..... Petitioner

Through: Mr. Priyadarshi Manish with Mrs. Anjali J. Manish, Advocates.

Mr. Ajay Kohli, Ms. Priyanka Ghorawat, Mr. Raghav Marwaha, Advocates for Delhi Heart and Lung

versus

UNION OF INDIA & ANR.

Through:

Institute

..... Respondents

Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Mr. Amit Mahajan, CGSC, Ms. Monika Arora, CGSC, Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae) and Mr. Anandh Venkataramani, Ms. Mansi Sood, Ms. Sonal Sarada and Mr. Areeb Amanullah, Advocates.

Mr. Aseem Chaturvedi with Mr. Ajay Bhargav, Advocates for INOX.

+ **W.P.(C) 4985/2021**

BATRA HOSPITAL AND MEDICAL RESEARCH CENTRE

..... Petitioner

Through:

Mr. Sidharth Dave, Sr. Advocate with Ms. Varuna Bhandari with Ms. Bhakti Vardhan, Mr. Tushar Thareja, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondent

Through:

Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Amit Mahajan, CGSC Mr. Anil Soni, CGSC, Mr. Shriram

Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae) and Mr. Anandh Venkataramani, Ms. Mansi Sood, Ms. Sonal Sarda and Mr. Areeb Amanullah, Advocates.

Mr. Aseem Chaturvedi with Mr. Ajay Bhargav, Advocates for INOX.

+ **W.P.(C) 5001/2021**

MAHARAJA AGRASEEN HOSPITAL CHARITABLE TRUST

..... Petitioner

Through: Mr. Alok Kr. Aggarwal, Adv. Ms. Anushruti, Adv. Ms. Supreet Bimbira, Adv and Ms. Simran Arora, Advocate.

versus

UNION OF INDIA AND ORS

... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Amit Mahajan, CGSC Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae) and Mr. Anandh Venkataramani, Ms. Mansi Sood, Ms. Sonal Sarada and Mr. Areeb Amanullah, Advocates.
Mr. Aseem Chaturvedi with Mr. Ajay Bhargav, Advocates for INOX.

+ **W.P.(C) 5002/2021**

M/S BHAGAT CHANDRA HOSPITAL Petitioner

Through: Mr, Sachin Datta, Sr. Advocate, Mr. G. Tushar Rao, Sr. Advocate with Ms. Ritika Jhurani
Mr. Dinesh Sharma, Ms. Ritika Jhurani, Ms. Jipsa Rawat, Advocates
Mr. Ajay Kohli, Ms. Priyanka Ghorawat, Mr. Raghav Marwaha, Advocates for Delhi Heart and Lung Institute

versus

UNION OF INDIA THROUGH SECRETARY & ANR... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Amit Mahajan, CGSC
Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.
Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.
Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae) and Mr. Anandh Venkataramani, Ms. Mansi Sood, Ms.

Sonal Sarda and Mr. Areeb Amanullah, Advocates.

Mr. Aseem Chaturvedi with Mr. Ajay Bhargav, Advocates for INOX.

+ **W.P.(C) 5003/2021**

M/S JAIPUR GOLDEN HOSPITAL

..... Petitioner

Through: Mr, Sachin Datta, Sr. Advocate with Mr. Dinesh Sharma, Ms. Ritika Jhurani, Ms. Jipsa Rawat, Advocates with Mr. D.K. Baluja, Medical Director, Jaipur Golden Hospital Mr. Ajay Kohli, Ms. Priyanka Ghorawat, Mr. Raghav Marwaha, Advocates for Delhi Heart and Lung Institute.

versus

UNION OF INDIA THROUGH SECRETARY & ORS.. Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan Sharma, ASG, Ms. Monika Arora, CGSC, Mr. Amit Mahajan, CGSC Mr. Anil Soni, CGSC, Mr. Shriram Tiwary, Mr. Amit Gupta, Mr. Akshay Gadeock, Mr. Sahaj Garg, Mr. Vinay Yadav, Advocates.

Mr. Rahul Mehra, Senior Advocate with Mr. Satyakam, ASC Mr. Gautam Narayan, ASC, Mr. Anuj Aggarwal, ASC and Mr. Chaitanya Gosain, Advocate for GNCTD.

Mr. Rajshekhar Rao, Senior Advocate (Amicus Curiae) and Mr. Anandh Venkataramani, Ms. Mansi Sood, Ms. Sonal Sarda and Mr. Areeb Amanullah, Advocates.

Mr. Aseem Chaturvedi with Mr. Ajay Bhargav, Advocates for INOX.

+ **W.P.(C) 5024/2021**
SHANTI MUKAND HOSPITAL Petitioner
Through: Mr. Maninder Singh, Sr. Advocate,
and Mr. Aarush Bhatia, Advocate.

versus
UNION OF INDIA & ORS .. Respondent
Through: Mr. Tushar Mehta, SGI, Mr. Chetan
Sharma, ASG, Ms. Monika Arora,
CGSC, Mr. Amit Mahajan, CGSC,
Mr. Anil Soni, CGSC, Mr. Shriram
Tiwary, Mr. Amit Gupta, Mr. Akshay
Gadeock, Mr. Sahaj Garg, Mr. Vinay
Yadav, Advocates.
Mr. Rahul Mehra, Senior Advocate
with Mr. Satyakam, ASC Mr. Gautam
Narayan, ASC, Mr. Anuj Aggarwal,
ASC and Mr. Chaitanya Gosain,
Advocate for GNCTD.
Mr. Sacchin Puri, Sr. Adv. with
Mr. Sudhir Mishra, Mr. Ritwika
Nanda, Ms. Petal Chandhok,
Ms. Rupali Gupta, Mr. Raghav Sethi,
Adv. for Venkateshwar Hospital.
Mr. Rajshekhar Rao, Senior Advocate
(Amicus Curiae) and Mr. Anandh
Venkataramani, Ms. Mansi Sood, Ms.
Sonal Sarada and Mr. Areeb
Amanullah, Advocates.
Mr. Neeraj, Sahaj Garg, GP and Mr.
Vedansh Anand, Advocates.
Mr. Aseem Chaturvedi with Mr. Ajay
Bhargav, Advocates for INOX.

+ **W.P.(C) 5050/2021 & CM No. 15464/2021, CM No. 15465/2021
CM No. 15466/2021**

BHAVREEN KANDHARI

..... Petitioner

Through: Mr. Krishnan Venugopal, Sr.Adv.,
Mr. Manan Verma, Adv., Mr. Aditya
N Prasad, Adv., Mr. Kaushik Mishra,
Adv.

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondent

Through: Mr. Tushar Mehta, SGI, Mr. Chetan
Sharma, ASG, Ms. Monika Arora,
CGSC, Mr. Amit Mahajan, CGSC Mr.
Anil Soni, CGSC, Mr. Shriram
Tiwary, Mr. Amit Gupta, Mr. Akshay
Gadeock, Mr. Sahaj Garg, Mr. Vinay
Yadav, Advocates.
Mr. Rahul Mehra, Senior Advocate
with Mr. Satyakam, ASC Mr. Gautam
Narayan, ASC, Mr. Anuj Aggarwal,
ASC and Mr. Chaitanya Gosain,
Advocate for GNCTD.
Mr. Rajshekhar Rao, Senior Advocate
(Amicus Curiae) and Mr. Anandh
Venkataramani, Ms. Mansi Sood, Ms.
Sonal Sarada and Mr. Areeb
Amanullah, Advocates.
Mr. Aseem Chaturvedi with Mr. Ajay
Bhargav, Advocates for INOX.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

29.04.2021

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C.M. No. 15603/2021 in WP.(C) No. 4970/ 2021

1. Issue notice. Notice is accepted by Mr. Satyakam on behalf of the

GNCTD. This application has been moved on behalf of the State of Haryana to seek clarification in respect of our order dated 27.04.2021 whereby we have, inter alia, directed taking over of the operations of Seth Air Products at Palwal, Haryana whereat Seth Air Products was undertaking gasification of liquid Oxygen, and supplying to Delhi. It is pointed out that Seth Air Products undertakes the said process not only to supply Oxygen to Delhi, but also to State of Haryana. It is stated in the application that as per the allocation made by the Government of India, 21 MT of liquid Oxygen is to be gassified in favour of the State of Haryana, and for the NCT of Delhi it is 38.05 MT. We make it clear that the directions to take over the supervision of the plant of Seth Air Products situated at Palwal, Haryana by the officers of the GNCTD should not adversely affect the supply of Oxygen to the State of Haryana in terms of the allocation made by the Central Government.

2. The application stands disposed of.

W.P.(C) 5073/2021, W.P.(C) 3031/2020, W.P.(C) 4970/2021, W.P.(C) 4971/2021, W.P.(C) 4984/2021, W.P.(C) 4985/2021, W.P.(C) 5001/2021, W.P.(C) 5002/2021, W.P.(C) 5003/2021, W.P.(C) 5024/2021, W.P.(C) 5050/2021

3. Mr.Mehra, learned senior counsel for the GNCTD has projected before us on the screen the hospital beds position both at ICU and non-ICU beds in the NCT of Delhi. He submits that these figures have been uploaded on the mobile application and website of the GNCTD, which is used to reflect the availability of beds. As per the said data, there are 16,272 non-ICU beds in the large hospitals in Delhi with over 100 beds. By applying the formula worked out by the Central Government – in consultation with

the ICMR, the requirement of oxygen for the said 16,272 beds per day is 304 MT. There are a large number of other hospitals and nursing homes with less than 100 beds and their requirement put together is estimated at 120 MT of liquid oxygen per day.

4. Mr.Mehra submits that looking to the surge of cases and the intimation that the pandemic may peak around 15th of May, the GNCTD is making arrangements to add another 15,000 non-ICU beds, which would require 280MT of liquid oxygen per day.

5. As at present, there are 4,866 ICU beds and they are planned to be augmented by another 1200 beds by 10.05.2021. The existing requirement of liquid oxygen for the 4,866 ICU beds is 272 MT. Mr.Mehta submits on the basis of the existing hospital bed situation, the existing demand itself is 704 MT per day. This does not take into account the oxygen requirement to treat patients at home, since there is severe scarcity of COVID beds in the hospitals. He points out that from the beginning, the demand raised by the GNCTD from the Central Government for liquid oxygen has been 700 MT per day, whereas allocation made was initially 480 MT, and the same was revised to 490 MT. The demand of liquid oxygen after the aforesaid augmentation of the bed capacity would be 976 MT, say 1000 MT. The grievance of Mr.Mehra is that the allocation of 480 MT or 490 MT of liquid oxygen per day to Delhi is far less than its requirement.

6. The learned Amicus Mr.Rao has drawn our attention to the allocation made by the Central Government as on 20.04.2021. He submits that while Delhi was allocated 480 MT – when its demand was 700 MT per day, there are other instances, where the allocation was higher than the demand. Two such instances are the States of Madhya Pradesh and Maharashtra. The

demand raised by the Madhya Pradesh was 445 MT per day and the allocation was 543 MT per day, and in the case of Maharashtra demand raised was 1500 MT per day, and the allocation was 1661 MT per day.

7. We have been shown the projected demands raised by other States and the actual allotment made to them vide order dated 20.04.2021. From the same, it is pointed out that similar is the position with regard to allotment of liquid oxygen to several other states, as opposed to their projected demand.

8. Mr.Mehra states that the aforesaid figures in relation to the other States have been picked up from the allocation order issued by the Central Government on 20.04.2021.

9. At this stage itself, we may make it clear that by no means we are interested in securing, for NCT of Delhi, Oxygen more than what is required, and that too at the cost of any other State, or Union Territory. However, if the submissions of the learned Amicus and Mr. Mehra are to be accepted, it would appear that the Central Government needs to explain the aforesaid aspect, for which we are granting time. Mr.Mehta wishes to take instructions and file reply/affidavit in this regard. Let the reply/ affidavit be brought on record before the hearing tomorrow. We would consider the same tomorrow in view of the extremely urgent need of more medical oxygen for the residents of the NCT of Delhi.

10. It goes without saying that the aforesaid reflect the arguments advanced by learned Amicus, and Mr. Mehra, and our finding would be premised on the affidavit/ response that the Central Government may file, and the submissions advanced on this aspect.

11. With regard to the 8 PSA Plants which were sanctioned by the Central

Government to be set up in Hospitals in Delhi, the position informed to us is that 2 Plants are already installed, and 2 Plants would be made operational by tomorrow i.e. 30.04.2021. In respect of the remaining 4 Plants, Mr.Mehra submits that there were certain amendments in the specifications by the vendor of the Central Government, who is to install the said Plants, and these changes have been carried out and communicated to all concerns. Looking to the critical situation being faced by the NCT of Delhi, the Central Government should instruct the vendor to expedite the installation of the remaining 4 PSA Plants at the earliest. A status report clearly stating by when the said 4 plants would be installed and made operational be filed by 01.05.2021.

12. Mr. Tushar Rao, Senior Advocate, and Mr. Malhotra have pointed that the U.P. State Government has requisitioned certain equipment called “On Board Oxygen Generation System”, which produces 1,000 Litres of Oxygen per minute, from the DRDO. He submits that similarly the GNCTD should make requisition of the said equipment/ Plant from the DRDO so that the same could be installed at the earliest. We direct the GNCTD to take immediate steps in this regard, and raise a similar request, as was raised by the State of UP to the DRDO and all the concerned authorities. All the concerned authorities are expected to respond with immediate dispatch looking to the urgent and emergent need of Medical Oxygen in Delhi at this point of time.

13. During the hearing, our attention has been drawn to the order passed by the learned Single Judge in W.P.(C) No. 5026/2021 and W.P.(C) No. 5066/2021 on 28.02.2021. It is submitted by all the counsels before us that the issues being considered in those writ petitions by the learned Single

Judge are overlapping with the issued being considered by this Court in these batch of petitions. We have gone through the said order and it appears to us that the issues dealt with by the learned Single Judge in the said order are some of the issues that we are considering. Learned counsels submit that to avoid any incongruent orders or conflicting and divergent orders, the said proceedings may be called for by this Court.

14. Normally, such a request would be made before Hon'ble the Chief Justice. However, since Hon'ble the Chief Justice is not holding Court today, the said request has been made to one of us (*Vipin Sanghi, J*). Having considered the order dated 28.04.2021 passed in the aforesaid writ petitions, and submissions of learned counsels, and the fact that the said petition is listed before the learned single judge today itself, it is directed that the said writ petitions may be placed before this Court today itself, and be clubbed with the batch of petitions that we are dealing with.

15. Mr. Aggarwal submits that a writ petition, namely W.P.(C) No. 5096/2021 is listed before the learned Single Judge today at 02:30 P.M, wherein issue with regard to allocation of beds at Maharaja Agrasen Hospital is being considered. Let the said writ petition be also placed before this Court.

16. Mr. Kawal Jeet Arora, learned Secretary, DSLSA is present. He states that the Delhi Police has made seizures of Remdesivir Drug, as well as Oxygen Cylinders upon their conducting raids on premises of persons alleged to be hoarding, and selling these essentials in black market. He submits that as on 27.04.2021, about 200 Oxygen Cylinders and 279 vials of Remdesivir have been seized.

17. Mr. Arora submits that when there is huge shortage of the medicines, the same should not be retained as case property, and the same should be

released for use by the patients after ensuring that the same is in usable condition and is genuine. Similarly, for the cylinders, he submits that the same should be put back in circulation for use by the needy patients. He submits that an application was moved before the concerned CMM for release of the said case property. However that application has been rejected on the ground that the District Commissioner is empowered to pass the order under the Essential Commodities Act. Mr. Satyakam points out that while CMM, North has rejected the application for release of the said case property, other CMMs have been passing orders for release. In any event, since the power to pass release orders lie with the District Commissioners, we direct the District Commissioner to pass orders for release of both – the Oxygen Cylinders and the medicines, at the earliest. The released medicines and Oxygen cylinders be made available for use by the Hospitals of the GNCTD as allocated by the Secretary, Health.

18. Whenever any seizure is made of the medicines/ Oxygen cylinders, , the IOs should immediately inform the concerned District Commissioner about the same, and they should also proceed, without waiting for any further orders, to ascertain the genuineness of the said medicines. They should also ensure that the said case property is kept in refrigerated environment, so that the same does not lose its efficacy and become non-usable. The District Commissioners should proceed to pass orders for release of the same without any delay.

19. We also direct the Delhi Police to immediately release the seized Remdesivir or other Drug used for treating COVID-19, or any Oxygen cylinders, which are seized from the possession of the patients or their attendants, since they would have procured the same only out of desperation,

and in need. However, the Delhi Police would be bound to conduct the investigation in the case with the assistance and cooperation of all concerned, which shall be rendered by the public at large. While releasing the case property, it shall be ensured by the Delhi Police that photographs/ copies of the relevant documents are retained, so that the case could proceed before the court concerned.

20. During the course of hearing, the Executive Director–Batra Hospital has appeared and raised a grievance that in terms of the allocation order dated 27.04.2021, the said hospital has not been supplied gas. He states that two vendors have been allocated for supply of gas to the said hospital namely INOX and Goyal Gases. Whereas INOX has made the supplies, Goyal Gases has not made the supplies.

21. Endeavors have been made to contact the representative of Goyal Gases. However, his mobile phone is not answered, and he has not been contacted. Mr.Mehra submits that all the suppliers of LMO should be called upon to remain present on the next date of hearing and it should be emphasized that they bound to comply with the allocation order dated 27.04.2021.

22. Let notice be issued to all the suppliers of liquid medical oxygen to the NCT of Delhi. Notice be served through Nodal Officers of the GNCTD. When the suppliers present themselves, they should also keep available the data with regard to the supplies made by them hospital-wise; quantity-wise and time-wise since 27.04.2021.

23. It is pointed out by Mr.Tushar Rao that the allocation order qua supply to hospitals/ nursing homes in cylinders needs correction. Insofar as the Vinayak Oxygen is concerned, the allocation made against their name is

far in excess of their obligation to supply. Mr.Mehra states that the said allocation order will be again examined and necessary changes be made therein.

24. It is pointed by Mr.Sacchin Puri as well by Mr.Aditya Prasad that there are several individuals and organizations of NRIs and others abroad, who are keen to provide aid and assistance for battling the COVID 19 pandemic by gifting medical equipment, such as, oxygen concentrators and other equipment. They submit that there is no mechanism created by the GNCTD to accept such imports. Let the GNCTD create a portal on their website for the said purpose so that any person located abroad, desirous of making the import of medical equipments to GNCTD, is in a position to provide details and ship the equipment to India in the name of GNCTD. Status report in this regard be filed by tomorrow i.e. 30.04.2021.

25. Mr.Chetan Sharma, learned ASG brought to our notice that the Central Board of Indirect Taxes and Customs(CBIC)has taken the following steps to encourage and smoothen the import of medicines and medical equipment into India.

“A. All directions issued for facilitating import of all materials related to Covid 19 Since 20th April;-

1. CBIC has issued instructed all the field formations vide letter dated 22.04.2021 to clear all the RT-PCR Equipments and other covid related materials on priority.

2. CBIC has issued Instruction No. 07/2021 – Customs dated 24.04.21 directing all Customs formations for urgent clearances of COVID related imports.

3. CBIC has nominated Sh. Gaurav Masaldan, Joint Secretary(Customs) as nodal officer for expeditious clearance of covid related imports and handholding trade.

4. CBIC has nominated nodal offices at the local level to co-ordinate the clearances and also published the same on the CBIC

Website.

5. *Dedicated Helpdesk comprising of Toll free Helpline and email ID has been set up on 25th April 2021 to handhold the trade and handle grievances of the trade across the country.*

B. Waiver of any duty/ cess for material related Covid 19 management

1. *CBIC has issued Notification No. 27/2021-Customs (NT) dated 20.04.2021 to exempt customs duty on import of Remdesivir injection, Remdesivir API and Beta Cyclodextrin (SBEB CD) used in the manufacture of Remdesivir, up to 31st October, 2021.*

2. *CBIC has issued Notification No.28/2021-Customs (NT) dated 24.04.2021 to grant full exemption from Basic Customs Duty and health cess on import of the following items related to Oxygen and Oxygen related equipment for a period of three months with immediate effect:*

1. *Medical grade Oxygen*
2. *Oxygen concentrator along with flow meter, regulator, connectors and tubing*
3. *Vacuum Pressure Swing Absorption (VPSA) and Pressure Swing Absorption (PSA) oxygen plants, Cryogenic Oxygen Air Separation Units (ASUs) producing liquid/ gaseous oxygen*
4. *Oxygen Cannister*
5. *Oxygen Filling Systems*
6. *Oxygen Storage tanks, Oxygen cylinders including cryogenic cylinders and tanks*
7. *Oxygen Generators*
8. *ISO Containers for Shipping Oxygen*
9. *Cryogenic Road transport tanks for Oxygen*
10. *Parts of the above to be used for the manufacturer of equipment for production, transportation, distribution or storage of Oxygen*
11. *Any other device from which Oxygen can be generated*
12. *Ventilators (capable of functioning as high-flow devices) with nasal cannula; Compressors including all accessories and tubing; humidifiers and Viral filters*

13. High flow nasal canula device with all attachments

14. Helmets for use with non-invasive ventilation

15. Non-invasive ventilation oronasal masks for ICU ventilators

16. Non-invasive ventilation nasal masks for ICU ventilators

Apart from the above, it was also decided that Basic Customs Duty on import of Covid vaccines be also exempted with immediate effect for a period of 3 months.”

26. He further submits that for general queries an email link has been set up at Icegate Help Desk @ icegate.gov.in, as also a TOLL FREE No.i.e. 1800-3010-1000

27. Let the said notifications and directives issued by the CBIC be placed on record. Mr.Sharma states that the status report with regard to the cargos, which are waiting clearance on customs ports – in relation to the COVID detection and treatment, shall be placed on record by tomorrow i.e. 30.04.2021 in a sealed cover.

28. With regard to the development of a portal for bringing in transparency in the matter of distribution of medicines, such as Remdesivir, and other medicines, Professor Sanjay Dhir from IIT Delhi & Mr. Rajiv Chauhan and Mr. Ravi Omar from NIC are present. Professor Dhir has explained that the portal developed by the NIC has one shortcoming, namely it does not have last stage disclosure about the identity of the patients to whom medication would be administered. He states that he has already communicated it to the NIC and suggested the modifications required in the portal. He states that the NIC has agreed to carry out the necessary modifications. Mr. Ravi Omar and Mr. Chauhan from the NIC state that the Health Department of the GNCTD has to now provide their inputs so that

final shape to the portal could be given. We direct that this exercise should be completed between NIC, GNCTD and Professor Dhir from IIT within the next one day. The said portal shall be made operational by 01.05.2021.

29. List on 30.04.2021.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 29, 2021

Sr/N.Khanna