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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 14th August, 2023*+ **W.P.(C) 2900/2023 & CM APPL. 11322/2023**M/S. HANUMAN ENTERPRISES
(OPC) PVT. LTD

..... Petitioner

Through: Mrs. Anjali Jha Manish & Mr.
Priyadarshi Manish, Advs.

versus

THE ADDITIONAL DIRECTOR GENERAL DIRECTORATE
GENERAL OF GST
INTELLIGENCE & ORS.

..... Respondents

Through: Mr. Harpreet Singh, Sr.SC with
Ms. Suhani Mathur, Adv. for
R1
Mr. Aditya Singla, Sr.SC with
Ms. Charu Sharma & Mr.
Mahesh Aggarwal, Advs. for
R2
Mr. Rajeev Aggarwal, ASC
with Mr. Manbhar Mittal, Advs.
for R3**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 as under:

“(a) Issue a writ, order or direction in the nature of mandamus, directing the Respondents to forthwith withdraw the negative block of



the electronic credit ledger of the Petitioner as visible from the extract of credit ledger annexed at Annexure P-26; and/or

(b) Issue a writ, order or direction in the nature of mandamus to the Respondents to de-seal the office premises of the Petitioner situated at First Floor, H.No.96, Room No.106, Block-A, Wazirpur, Wazirpur Group Industrial Area, North West Delhi, Delhi-110052; and/or

(c) Issue a writ, order or direction in the nature of certiorari to quash and set-aside the investigations initiated by various investigating agencies; and/or

(d) Issue a writ, order or direction in the nature of declaration or any other appropriate writ, order or direction holding and declaring that the investigation / search conducted at the residence of the director of the Petitioner company by the office of Respondent No.1 against panchnama dated 11.02.2023 as is illegal and arbitrary as the same are not in consonance with the Section 25 read with Section 67(2) and Article 19(1)(g) of the Constitution of India; and/or

(e) Grant cost of the petition; and

(f) Pass such other order or further order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.”

2. Ms. Anjali Jha Manish, learned counsel appearing for the petitioner has confined the present petition to prayer ‘c’ as stated above, that is, to challenge the investigation(s) being conducted by the investigation agencies.

3. At present, Directorate General of Goods and Service Tax Intelligence (hereafter ‘**DGGI**’), Zonal Unit, Jaipur is conducting an investigation in respect of the petitioner.

4. Ms. Manish submits that in terms of Section 6(2)(b) of the Central Goods and Services Tax Act, 2017 (hereafter ‘**CGST Act**’), DGGI, Jaipur, cannot conduct any investigation as the petitioner has



already been investigated for the same period by another agency – Delhi Commissionerate (hereafter ‘**Delhi State Authority**’).

5. She also relies on the circular dated 05.10.2018, issued by Government of India, Ministry of Finance / Department of Revenue, Central Board of Excise and Customs, whereby it was clarified that both “Central tax and State tax are authorized to initiate intelligence based enforcement action on the entire taxpayer’s base irrespective of the administrative assignment of the taxpayer to any authority.”

6. The said circular also clarifies that “if an officer of the Central tax authority initiates intelligence based enforcement action against a taxpayer administratively assigned to State tax authority, the officers of Central tax authority would not transfer the said case to its State tax counterpart and would themselves take the case to its logical conclusions.” On the strength of the aforesaid circular, Ms. Manish submits that once the state authorities had initiated investigation, they were required to complete the same and, it is not open for DGGI, Jaipur, to now commence investigation in respect of the petitioner.

7. She submits that the petitioner’s bank account was blocked and the its GST registration was cancelled by the Delhi State Authority on account of an investigation relating to the petitioner’s dealing with one M/s Girdhari Exports. The registration was, subsequently, restored by an order dated 27.12.2021 after the petitioner had responded to the show cause notice issued for cancellation of the petitioner’s registration and had also provided a re-conciliation statement, *inter alia*, relating to the transactions with M/s Girdhari Exports.



8. She submits that in relation to the above, the petitioner's Input Tax Credit ('ITC') was also blocked by the Delhi State Authority but the same has since been unblocked on expiry of the stipulated period of one year.

9. Mr. Rajeev Aggarwal, learned Counsel who appears for the Delhi State Authorities submits that the Delhi State Authority has not conducted any investigation.

10. He states that the petitioner's ITC was blocked on account of a communication received from DGGI, Jaipur and the petitioner's bank account was blocked at the instance of DGGI, Chennai. He submits that the petitioner's registration was proposed to be cancelled on account of, mis-match in returns, however, the said proceedings were withdrawn, on the petitioner furnishing invoices relating to M/s Girdhari Exports.

11. A counter affidavit has been filed on behalf of DGGI, Chennai. Paragraphs V, IX, XVIII and XIX of the said affidavit are relevant and are set out below:

"V. It is submitted that the answering Respondent No.2 was investigating a refund claim filed by one M/s Govind Enterprises, who is registered under the CGST Act, 2017 vide GSTIN 33HEDPS0326R1Z2 with the answering Respondent. The refund claim was filed against accumulated input tax credit (hereinafter referred to as 'ITC') for goods being exported through a Letter of Undertaking by M/s Govind Enterprises. The goods involved therein are sent by M/s Balaji Enterprises, whose proprietor Sandeep Singhal is the sole director of the Petitioner.

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IX. The answering Respondent, having specific intelligence examined the goods of M/s Balaji Enterprises at the Mundra



Port (through their Customs Counterpart) on 03.03.2022 and found the contents to be some brown coloured powdered material with a burada type appearance, possibly being saw dust. Random samples of the goods were drawn and were sent to the Customs Revenue Control Laboratory (hereinafter referred to as 'CRLC'), Kandla for examination of the contents of the shipment. The report of the test revealed that the goods being shipped did not conform to the 'Specifications for Flake Type Chewing Tobacco (Zarda)' and appeared to be spurious product not fit for human consumption.

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XVIII. In order to protect the interests of revenue, a request is made to the jurisdictional officer for cancellation of registration of M/s Balaji Enterprises. Further, the bank accounts of M/s Balaji Enterprises, Shri Sandeep Singhal (Proprietor), immediate family members of Shri Sandeep Singhal and associate firms' have been attached under the provisions of Section 83 of the CGST Act, 2017.

XIX. During the above mentioned attachment of bank accounts, 3 bank accounts pertaining to the petitioner's Mis. Hanuman enterprises were also attached as Mis. Hanuman Enterprises is a one-person company headed by Shri. Sandeep Singhal who is also the sole proprietor of M/s Balaji Enterprises and both these entities share a common principal place of business. Further, Mis. Hanuman Enterprises was one of the major suppliers of goods I input tax credit to M/s Balaji Enterprises."

12. Mr. Aditya Singla, learned counsel appearing for Respondent No. 2 (DGGI Chennai), submits that the DGGI, Chennai had not investigated the petitioner but was concerned with an entity named M/s Balaji Enterprises. The petitioner's bank account was provisionally attached as it was found to be associated with Mr. Sandeep Singhal, who is also the Director of the petitioner company and appears to be in control of its affairs. The DGGI, Chennai had



issued the said order for provisional attachment of the accounts of M/s Balaji Enterprises as well as other entities which were associated with Mr. Sandeep Singhal for protecting the interest of Revenue. However, no investigation was conducted into the transactions of the petitioner company.

13. In view of the aforesaid statements made, on behalf of the Delhi State Authority and DGGI, Chennai, it is apparent that although certain measures were taken, which affected the petitioner – inasmuch as its ITC was blocked and the bank accounts were provisionally attached – no investigation was conducted by any authority regarding the affairs of the petitioner company.

14. In the aforesaid view, the provisions of Section 6(2)(b) of the CGST Act are not attracted.

15. The reliance placed by the petitioner on the circular dated 05.10.2018, issued by Central Board of Excise and Customs, is also misplaced. The said circular merely clarifies that it is not necessary for an Agency that has jurisdiction to conduct the investigation, to transfer the same to the authority to whom the tax payer has been administratively assigned. Thus, the authority, whether central or state, initiating intelligence-based enforcement action is empowered to carry the same to its logical conclusion.

16. In the present case, the Delhi State Authority administratively concerned with the petitioner, has clarified that it has not carried out any investigation but had issued orders regarding blocking of the account at the instance of DGGI, Chennai. As stated above, DGGI,



Chennai, has also stated that it has not carried out any investigation in respect of the petitioner company.

17. The disclosed principal place of business of the petitioner is the same as that of some other connected entities, which have been investigated by DGGI, Chennai. Clearly, no advantage can be drawn by the petitioner on that account.

18. The petitioner has a separate tax registration. If any of the authorities has found it necessary to investigate the petitioner based on certain information, the said investigation cannot be stopped or interdicted on account of investigation conducted with respect of any other entity

19. Thus, we find no reason to interdict DGGI, Jaipur from conducting the investigation in respect of the petitioner company.

20. The petition is, accordingly, disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

AUGUST 14, 2023
“SS”