

Delhi High Court - Orders

Sh. Nitin Singhania vs Commissioner Of Central Tax Gst, ... on 29 July, 2022

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P. (C) 10389/2022 & CM No.29962/2022

SH. NITIN SINGHANIA

Through:

.....P
Mr R.P. Singh and M
Adv.

versus

COMMISSIONER OF CENTRAL
TAX GST, DELHI (EAST)

.....Respondent

Through: Ms Arunima Dwivedi, Sr. Standin
Counsel with Ms Ashi Sharma a
Mr Ved Prakash, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% 29.07.2022 [Physical Hearing/Hybrid Hearing (as per request)]

1. The substantive prayers made in the writ petition read as follows:

"(a) issue a writ of mandamus or any other appropriate writ or direction to direct the respondent to release/defreeze/allow the operation of the following bank accounts and property:

(i) HDFC Bank Ltd., M-36, Outer Circle, Connaught Place, New Delhi-110001 (Bank A/c No.12201530000590).

(ii) HDFC Bank Ltd., 11/69, Sector-3, Rajender Nagar, Ghaziabad-201005 (Bank A/c No. 50100288245115).

(iii) HDFC Bank Ltd., 11/69, Sector-3, Rajender Nagar, Ghaziabad-201005 (Bank A/c No. 59220042017201).

(iv) Property bearing no. Flat No. A-1902, Country One 'O' Seven, Plot No. GH 01 A/B, Alfa Noida, Sector 107, UP.

(b) issue a writ of; certiorari or any other appropriate writ or direction to quash and set-aside the provisional attachment orders dated 31.03.2021 issued by the respondent in the interest of justice.

(c) issue a writ of certiorari or any other appropriate writ or direction to quash and set aside Order No. 01/2022 dated 28.01.2022 issued by the respondent in the interest of justice."

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2. At the outset, Mr R.P. Singh, who appears on behalf of the petitioner, says that he does not wish to press the prayer made in prayer clause (c) of the writ petition.

3. This matter was listed before the Court, in the first instance, on 11.07.2022, when, after hearing the learned counsel for the parties, the following was recorded:

"W.P.(C) 10389/2022 and CM APPL. 29962/2022[Application filed on behalf of the petitioner seeking interim relief]

2. The principal grievance of the petitioner is that provisional attachment of the bank accounts and immovable property in issue was ordered, as far back as on 31.03.2021.

3. It is the contention of Mr Rakesh Prasad Singh, who appears on behalf of the petitioner, that as per Section 83 of Central Goods and Service Tax Act, 2017, the maximum timeframe available to the respondent for keeping the attachment alive is one year.

4. Ms Anushree Narain, who appears on behalf of the respondent, says that she cannot but agree with the said position. 4.1. It is, however, the submission of Ms Narain, that she would like to return with instructions.

5. List the matter on 26.07.2022.

6. In case instructions are received to resist the petition, counter-affidavit will be filed before the next date of hearing."

4. Thereafter, the matter was listed on 26.07.2022, when instead of Ms Anushree Narain, Advocate, Ms Arunima Dwivedi entered appearance on behalf of the respondent.

5. Since there was a change in counsel, Ms Dwivedi sought a short accommodation to take instructions concerning the issue that was flagged by us on 11.07.2022.

6. To be noted, no counter-affidavit has been filed; leave in that behalf was given on 11.07.2022.

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7. We had queried Ms Dwivedi as to whether the provisional attachment order dated 31.03.2021 has been reviewed and/or extended. 7.1. Ms Dwivedi says that as per instructions received by her, no fresh attachment order has been passed.

8. In these circumstances, on a plain reading of Section 83 of the Central Goods and Service Tax Act, 2017, the attachment order cannot continue. 8.1 Accordingly, the respondent is directed to lift the attachment.

9. The respondent will convey the information in this behalf, to the concerned bank, within three days of the receipt of a copy of the order passed today.

10. Accordingly, the prayer made in clause (a) (i) to (iv) and prayer (b) are allowed.

11. The writ petition is disposed of in the aforesaid terms.

12. Consequently, the pending application shall stand closed.

13. It is however, made clear that this will not come in the way of the respondent carrying out investigation(s), if any, against the petitioner or take next steps in the matter albeit as per law.

RAJIV SHAKDHER, J TARA VITASTA GANJU, J JULY 29, 2022/aj Click here to check corrigendum, if any W.P.(C) 10389/2022 page 3 of 3 Signature Not Verified Digitally Signed By:ATUL JAIN Signing Date:30.07.2022 18:51:17

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