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

+ **W.P.(C) 15894/2022**

EBIXCASH MOBILITY SOFTWARE INDIA LIMITED

.....Petitioner

Through: Mr Tarun Gulati, Senior Advocate
with Mr Gautam Swarup, Mr Rajat
Mittal and Mr Ankur Das, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sanjay Kumar, Senior
Government Panel Counsel for R-1.
Mr R. Ramachandran, Senior
Standing Counsel for R-2 to R-5.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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18.11.2022

**CM No.49474/2022 & CM No. 49475/2022 [Application filed on behalf of
the petitioner seeking permission to file lengthy list of dates]**

1. Allowed, subject to the petitioner filing legible copies of annexures, at
least three days before the next date of hearing.

**W.P.(C) 15894/2022 & CM APPL. 49473/2022 [Application filed on
behalf of the petitioner seeking interim relief]**

2. The principal issue which arises for consideration in this case is: whether respondent nos.2 to 5 i.e., official respondents can deny input tax credit (ITC) to the recipient of services provided by the petitioner, on the ground that tax has not been paid, when the liability qua tax got resolved *via* a resolution plan approved by the National Company Law Tribunal (“NCLT”), under the Insolvency & Bankruptcy Code, 2016.

3. In this case, a resolution plan was approved by the NCLT on 04.05.2020.

4. The recipient of services is respondent no.6 i.e., National Informatics Centre (‘NIC’).

4.1 The ITC which has accrued to respondent no.6/NIC, amounts to Rs.3,45,26,014/-.

5. It is the petitioner’s case, that respondent no.6 is refusing to make payments with respect to invoices raised by the petitioner, because it has been denied ITC by the official respondents.

6. The official respondents rely upon Section 16(2)(c) of the Central Goods and Service Tax Act, 2017.

7. Mr R. Ramachandran, who appears on behalf of the official respondents i.e., respondent nos.2 to 5 says that the impugned notice dated 27.10.2022 is directed against respondent no.6/NIC.

7.1 It is Mr Ramachandran’s contention, that the aggrieved party, if at all, in this case, would be respondent no.6/NIC.

8. In our view, the matter requires examination, as the impact of the impugned notice *prima facie* appears to be on the petitioner.

9. Issue notice.

9.1. Mr Sanjay Kumar accepts notice on behalf of respondent no.1/Union of India (UOI) while Mr Ramachandran accepts notice on behalf of respondent nos.2 to 5.

10. On steps being taken, notice shall issue to respondent no.6/NIC *via* all modes, including e-mail.

11. List the matter on 24.01.2023.

12. In case any coercive measures are taken against respondent no.6/NIC, it will be at liberty to approach the Court for appropriate relief.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

NOVEMBER 18, 2022

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Click here to check corrigendum, if any

