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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 14th February, 2023

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W.P.(C) 1897/2023

ANIL KUMAR

Through:

..... **Appellant**
Mr. Kamlesh Kumar Mishra, Mr. Akhil Rexwal, Mr. Kailash, Mr. Aditiya, Mr. Bibhuti Bhushan Mishra, Ms. Renu & Ms. Anjani Mishra, Advs.

Versus

**THE GST COMMISSIONER, CGST AND CENTRAL
EXCISE AND ORS.**

..... **Respondents**

Through:

Mr. Harpreet Singh & Mr. Jatin Kumar Gaur, Advs. for R-1&5.
Mr. Rajeev Aggarwal, Adv. for R-2,3&4 & Delhi GST.
Mr. Himanshu Pathak & Mr. Krishna Kumar, Advs. for R-6.
Inspector Pushpendra, P.S. Kotwali.

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:

“I. Pass an order directing the respondent no.1, GST Commissioner to Act on the representation dated 10.01.2023 (Annexure P4) Made by the petitioner and further take steps for the suspension of fake GST account bearing no. 07EHCPK6460H1Z9 which has fraudulently been opened in the name of the petitioner, with immediate effect.

II. Pass an order directing the respondents to trace out the fraudsters/gang who had created fake GST Account bearing no. 07EHCPK6460H1Z9 without the knowledge of petitioner and further to ensure that other such fake accounts opened by the said gang is acted upon.

III. Pass an order directing the respondents to make appropriate provisions to ensure that, where account has fraudulently been opened without the knowledge or consent of the person, then the said person shall not be made liable under section 29(5) of GST Act.

IV. Pass an order directing the respondents to consider and act upon the representations made by the petitioner as detailed in para 12 at page 19 And ANNEXURE P4 of the present petition.

V. Pass and order directing the respondents to grant a compensation of appropriate amount to be paid to the petitioner for the mental agony and pain caused to the petitioner for the fraudulent account having been opened in the name of the petitioner.”

2. It is the petitioner's case that he is a street vendor and had recently become aware that a GST registration has been obtained in his name without his knowledge or consent. The petitioner claims that he vends food items from a stall that he puts up at the boundary wall, Old Delhi Railway Station, Exit Gate, S.P. Mukherjee Marg, Opposite Baba Balak Nath Mandir, Delhi-110006. He also claims that he has a valid Vending Certificate bearing URI No.2202246.

3. The petitioner claims that he was desirous of obtaining a GST registration in respect of his business carried out from the said stall and, in the process of applying for the same, found that a firm by the name and style of M/s Sheel Industries (GST No.07EHCPK6460H1Z9) has already been registered by some unknown persons by misusing his Identity Card, that is, Aadhar Card

and PAN Card. The said firm is registered with the GST Department at Division Shahdara, Zone-7, Ward 82 since 10.08.2021 and is active.

4. The petitioner claims that he apprehends that a demand of GST may be raised on him on account of fraudulent actions of the persons who have registered a firm in his name. He also claims that the said unknown persons have been filing returns without his knowledge. In the aforesaid context, the petitioner had also made a representation to the Delhi Police, which is pending action.

5. Mr. Harpreet Singh, learned counsel who appears for respondent nos.1 and 5 (namely, The GST Commissioner and The Directorate of Revenue Intelligence), submits that respondent nos.1 and 5 have no role to play in the present petition as the registration has been obtained from the State GST authorities.

6. Mr. Rajeev Aggarwal, learned counsel appearing for respondent nos.2, 3 & 4 (Delhi Police) submits that a representation has been received from the petitioner and the same would be examined by the concerned authorities. He further states that although the State GST Commissioner has not been made a party, he would accept notice on behalf of the State GST Commissioner as well.

7. He further submits that if the averments made in the petition are accepted at their face value, it would indicate that a fraud has been committed; however, the averments cannot be accepted at their face value and require to be properly examined and the State GST authorities would do the same. He also points out that the petitioner has made an averment in the petition that he has handed over his Identity Card, that is, Aadhar Card and PAN Card to one of his friends

for obtaining a loan. The implication of the averment is that the petitioner apprehends his aforesaid documents have been misused. However, the petitioner has not disclosed the name of the said friend in the present petition

8. We direct that the present petition be treated by the Commissioner GST/ State GST Authorities as a representation and the grievance of the petitioner be examined as per law. The petitioner shall disclose the identity of his friend to whom he claims to have handed over his identity documents, to the Police Authorities as well as to the State GST authorities. The petitioner shall fully cooperate with the concerned authorities and provide them all the information as required.

9. In the event the petitioner's grievance is not allayed, the petitioner is at liberty to avail of such remedies as available in law.

10. It is clarified that this Court has not expressed any opinion on the merits of the allegations made in the present petition.

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

 VIBHU BAKHRU, J

AMIT MAHAJAN, J

FEBRUARY 14, 2023

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