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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-33348-2024
DECIDED ON: 11.12.2024

M/s. MAG FILTERS AND EQUIPMENTS PRIVATE LIMITED
.....**PETITIONER**

VERSUS

COMMISSIONER OF CGST AUDIT GURUGRAM AND OTHERS
.....**RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Kavita Jha, Senior Advocate, (through VC mode),
Mr. Shammi Kapoor, Advocate,
Mr. Vishal Kumar, Advocate, (through VC mode), and
Mr. Ajiteshwar Singh, Advocate,
for the petitioner.

Mr. Sourabh Goel, Senior Standing Counsel,
for the respondents – CBIC.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. Petitioner, by way of present writ petition, assails the proceedings initiated by the respondents under Section 65 of the CGST Act, 2017, (hereinafter referred to ‘the Act’), for conducting audit.

2. It is submitted by learned Senior counsel for the petitioner that the impugned notice demands several documents which were already made available while conducting anti-evasion action and notices were issued to the petitioner under Section 73 of the Act, whereafter tax demand from the period 2017-18 up to 2021-22, amounting to Rs.70,35,44,181/- and interest amounting to Rs.43,29,194/- was raised and deposited by the petitioner.



3. Learned Senior counsel for the petitioner further submits that after the said proceedings had ended, a fresh proceedings under Section 65 of the Act ought not have been initiated, and the same is a cause of great harassment to the petitioners, who are ready to get audit done for the year 2022-23.

4. Learned Senior counsel for the petitioner has also pointed out that for FY 2018-19, a demand has been raised totalling to Rs.94,86,762/-, which was later on dropped, and an amount of Rs.11,84,867/- was confirmed towards the excess Input Tax Credit (ITC). In view thereto, there was no occasion for the respondents to initiate the audit afresh for the concerned Financial Year 2017-18 to 2021-22.

5. We have considered the submissions addressed by learned Senior counsel for the petitioner and examined the provisions of Section 65 of the CGST Act of 2017, which provides as under:-

“65. Audit by tax authorities.—

(1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

(2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.

(3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.

(4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit: Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be



completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.—For the purposes of this sub-section, the expression—commencement of audit shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

(5) During the course of audit, the authorised officer may require the registered person,— (i) to afford him the necessary facility to verify the books of account or other documents as he may require; (ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.”

6. From the perusal of the aforesaid provision, it is apparent that the Commissioner can conduct the audit at such frequency and in such manner as may be prescribed. There is no embargo on conducting audit of a registered person and there is also no time period prescribed therein.

7. In the opinion of this Court, the audit is akin to a preliminary inquiry and the Department ought not be prevented from conducting preliminary inquiry relating to the books of accounts of a registered person



and no prejudice can be said to have been caused to the concerned registered person.

8. We therefore, do not find any reason to interfere with the audit proceedings.

9. The submission of learned Senior counsel for the petitioner that the respondents have already taken action under Section 73 of the Act, would not be a ground to restrain the authorities from conducting audit, as the audit may result in detection of tax not paid or short paid or erroneously refunded or it may be even otherwise, to the benefit of the concerned registered person. In the event that it is found that the tax has been evaded fraudulently, the power is available to the Department to initiate proceedings under Section 74 of the Act, independent of the proceedings which may have been undertaken under Section 73 of the Act.

10. In view of the above, we do not find any reason to interfere with the proceedings initiated. The writ petition is accordingly, dismissed.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

SAG||blog

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

11.12.2024

Lavisha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*