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

Date of Decision: 15th April, 2025

+ **W.P.(C) 8433/2024, CM APPLs. 34828/2024 & 16421/2025**

**M/S BRIJBIHARI CONCAST PVT. LTD. (THROUGH ITS
DIRECTOR SH. RAJEEV AGARWAL)**

.....Petitioner

Through: Mr. R.P. Singh, Mr. Rahul Ranjan, Mr.
Anant Vijay & Mr. Nirmal Dixit,
Advs.

versus

**DIRECTORATE GENERAL OF GOODS AND SERVICES TAX
INTELLIGENCE MEERURT ZONAL UNIT (THROUGH ITS
ADDITIONAL DIRECTOR GENERAL) & ANR.Respondents**

Through: Mr. Atul Tripathi, SSC with
Mr. Shubham Mishra, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- M/s Brijbihari Concast Pvt. Ltd through its Director Mr. Rajeev Agarwal under Article 226 of the Constitution of India, *inter alia*, seeking issuance of an appropriate writ assailing the Order-in-Original bearing no. 01/MEZU/2024 dated 28th March 2024 (hereinafter '*impugned order*') by which the provisional attachment of the bank account bearing no. 201002965063 of the Petitioner has been affirmed.
3. Mr. Atul Tripathi, Ld. Sr. Standing Counsel for the Respondents submits that pursuant to the order dated 27th February, 2025, the records of the Respondents were produced on 20th March 2025. After perusing the records, the Court had directed the Id. Counsel for the Petitioner to seek



instructions as to the manner in which the Petitioner would secure the sum of Rs.15 crores, which is the amount due to which the bank account stands provisionally attached.

4. Ld. Counsel for the Petitioner submits that the query of the Court on the said date *i.e.* 20th March 2025 was as to what are the remaining assets of the Petitioner in order to secure the demand, if any, raised in future.

5. Ld. Counsels for the parties have in their oral submissions relied upon directions which were stated to have been issued by a Co-ordinate bench of this Court on 20th March, 2025. The Registry has reported that the order dated 20th March 2025 is not available as per the information given by the PS to the Hon'ble Judge presiding over the previous Bench. In view of the fact that the order dated 20th March, 2025 is not available, the matter has been heard afresh.

6. The Petitioner is in the business of manufacturing mild steel products such as TMT bars, Billets, Miss Roll End Cutting, Mill Scale and Slage. The Petitioner is also engaged in the business of trading of goods such as Scrap, Sponge, etc. The Petitioner has a Goods and Service Tax (hereinafter, 'GST') registration bearing no. 05AACCB5197NIZA through which it is conducting its business.

7. An investigation was conducted at the Petitioner's premises, by the Respondent - Directorate General of Goods and Services Tax Intelligence (hereinafter, 'DGGI'). In the said investigation, the allegation of the DGGI was that its officials took note of the stock of raw material which was found in heaps in the factory and the same was tallied with the various registers maintained by the Company.

8. According to the DGGI, some of the stock was found in excess and the same was unaccounted for in the books. The DGGI was therefore of the



opinion that the same required a detailed probe and that the goods were liable for confiscation. The goods were then handed over to Mr. Sanjeev Aggarwal of the Petitioner company for safe custody.

9. After conducting the search and seizure, the *Panchnama* was drawn on 13th December, 2023. Subsequent to the drawing of the *Panchnama*, a letter dated 18th December 2023 was issued in the form of 'Form GST DRC-22' by the DGGI provisionally attaching the bank account of the Petitioner. Further, it was observed in the said letter that proceedings would be liable to be initiated against the Petitioner under Section 67 of the Central Goods and Services Tax, 2017 (hereinafter, '*CGST Act*').

10. The DGGI then, passed the impugned order dated 28th March 2024, on the basis that there has been an evasion of GST amounting to Rs.15.09 crores.

Paragraph 8 of the said order reads as under:

"8. The basis, on which, such an opinion (provisional attachment of bank account) is formed have been duly recorded. Further.

(1) The proceedings against M/s BCPL were initiated by way of search under Authorisation for Search which comes under Chapter XIV /Section 67 of the CGST Act, 2017?.

(ii) M/s BCPL have evaded GST amounting to Rs. 15.09 Cr by clandestine removal of goods and the same was accepted by Shri Sanjeev Agarwal. Director of M/s BCPL in his voluntary statement dated 14.12.2023. He also showed his inability to deposit the same. Therefore, in order to protect the interest of revenue, it was necessary to provisionally attach the bank account of M/s BCPL.

(iii) The bank account was provisionally attached by order (Form DRC -22) dated 18.12.2023 in writing and the same was communicated to M/s BCPL.

(iv) The manner as prescribed under Section 83 of the CGST Act, 2017 read with Rule 159(1) of the CGST



Rules, 2017 was duly followed.

(v) M / s BCPL is a taxable person having GSTIN - 05AACCB5197N1ZA.”

11. However, the said order itself acknowledges in paragraph (E) that the stand of the Petitioner is that a substantial amount of GST has been paid by the Petitioner and Income tax has also been paid in the previous years. Paragraphs (E) and (F) of the said order is extracted below:

*“E. That M/s Brijbihari Concast Private Limited has paid huge amount towards taxes of Goods and Service Tax during the last three years without any delay and default. **The company has paid Rs.1,16,57,07,492/- as a GST and Income Tax Rs.40615722/- during the last three years.***

F. The said company is running strictly in compliance of law and with required license and permissions. The company is providing substantial employment and various persons earn their livelihood from the business generated by the company it is stated that around 150 persons are directly and indirectly working with the companies. The applicant company is paying huge amount towards consumption of electricity.”

12. On the basis of the said order, the bank account of the Petitioner was provisionally attached by the DGGI.

13. Ld. Counsel for the Petitioner submits that the investigation and the assessment of evasion of tax was done merely on the basis of an eye-estimation by the officials of the DGGI. Further, till date, no show cause notice has been issued against the Petitioner. Moreover, no proceedings have been initiated till date.

14. Ld. Counsel for the Petitioner further submits that the DGGI cannot dispute that a substantial amount of more than Rs.100 crores as GST and



Rs.4.06 crores as Income tax has been paid by the Petitioner in the last three financial years. He further submits that due to the attachment of the bank account, the Petitioner is made to undergo enormous financial difficulties and the business of the Petitioner is likely to be jeopardised. The bank account of the Petitioner presently is stated to be having a balance of approximately Rs.2.75 crores.

15. Mr. Tripathi, Id. Counsel for the Respondent on the other hand submits that the DGGI is in the process of issuing show cause notice shortly. Id. Counsel further submits that the amount ought to be secured by the Court.

16. Heard. A perusal of the *Panchnama* would show that the same was a surprise investigation which was conducted. On the basis of certain records produced by the Petitioner's officials, a *prima facie* estimation has been made that there is a mis-match. The amount of stock was higher than what was declared in terms of the records of the Petitioner company.

17. It is to be noted that a period of more than 16 months has lapsed since the issuance of the *Panchnama* and one year has elapsed since the passing of the impugned order dated 28th March 2024. As on date, no show cause notice has been issued, though the same, as per the Department, is likely to be issued shortly. Mr. Tripathi submits that the Department has a time period of three years to issue the SCN.

18. As per the impugned order, the alleged evasion of GST is to the amount of Rs.15.09 crores. Even if this amount is taken into consideration, it cannot be said that the entire amount would be payable immediately. The issue relating to evasion has to be adjudicated in accordance with law. Until then, the Petitioner's business cannot be prejudiced by complete attachment of bank accounts. The Petitioner is a running concern and as per the accounts which



have been placed on record, it is conducting business and paying substantial amounts of taxes.

19. A Chartered Accountant's certificate dated 31st March 2025 has been placed on record giving the details of the movable and immovable assets of Mr. Rajeev Aggarwal who is the Director of the Petitioner-Company. As per the Chartered Accountant's certificate, the net worth of the moveable and immovable assets of Mr. Rajeev Agarwal, Mr. Sanjeev Agarwal and Ms. Swata Agarwal is as under:

| | |
|-----------------------------------|-------------------------------|
| <i>Mr. Rajeev Agarwal</i> | <i>Rs.2244.90 lacs</i> |
| <i>Mr. Sanjeev Agarwal</i> | <i>Rs.2264.45 lacs</i> |
| <i>Ms. Swata Agarwal</i> | <i>Rs.520.50 lacs</i> |
| <i>TOTAL</i> | <i>5029.85 lacs</i> |

20. The details of the assets have also been given in the said certificate. The said Chartered Accountant's certificate along with the additional documents is taken on record.

21. Under such circumstances, it would be sufficient at this stage, if 10% of the amount can be secured by way of minimum balance in the bank account of the Petitioner.

22. Accordingly, let the Petitioner's bank account bearing no.201002965063 maintain a minimum credit balance of Rs.1.5 crores.

23. Subject to the said condition being fulfilled, the Petitioner is free to operate its bank account. The details of the said account are as under:

- ***Current account No. 201002965063***
- ***Account Holder Name- M/s Brijbihari Concast Pvt. Ltd.***
- ***Branch - IndusInd Bank Limited, Vivek Vihar Branch, Delhi***



24. In addition, it is directed that in the residential property bearing no.9, Bonjha G.T. Road, Ghaziabad, no third party interest shall be created till the Final Order-in-Original is passed in the present case.

25. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 15, 2025

Rahul/ck

