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Ct.551
(S.R.)

WPA 23839 of 2024

Mrs. Anjita Dokania, proprietor of M/s. M I Telecom
v.
The State Tax Officer (GST), Bureau of Investigation
(South Bengal), Durgapur Zone & Ors.

Mr. Ankit Kanodia
Ms. Megha Agarwal
Mr. Piyush Khaitan ... for the petitioner.

Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
Mr. D. Sahu ... for the State.

1. This writ petition assails an order dated July 5, 2024 passed under Section 74 of the WBGST Act, 2017/CGST Act, 2017 (hereinafter referred to as the 'said Act of 2017') as also the search operation conducted under Section 67 of the said Act of 2017 by the respondent GST Authorities.
2. Mr. Kanodia, learned advocate appearing for the petitioner submits that subsequent to the search operation conducted under Section 67 of the said Act of 2017, the petitioner's electronic credit ledger was blocked by the respondent GST Authorities on November 9, 2023 in exercise of powers conferred by Rule 86A of the GST Rules, 2017.
3. It is submitted that in terms of the Rules,

blocking of electronic credit ledger could not have continued beyond the period of one year from the date of imposition thereof, but in the case at hand the blocking has continued unabated since November 9, 2023.

4. In support of his contention that blockage of electronic credit ledger cannot continue beyond one year, Mr. Kanodia relies on the judgments of the Hon'ble High Court of Delhi in the case of ***Parity Infotech Solutions (P.) Ltd. v. Government of National Capital Territory of Delhi, (2023) 7 Centax 169 (Del.)*** and the Hon'ble High Court of Punjab & Haryana at Chandigarh in the case of ***Raghbir Singh Govt. Contractor v. State of Haryana, (2023) 4 Centax 396 (P & H.).***

5. Mr. Kanodia further submits that the respondent GST Authorities must indicate the reasons for continuous and blocking *dehors* Rule 86A of the Rules.

6. It is further submitted that the entire search operation that was conducted under Section 67 of the said Act of 2017 is *dehors* law. Mr. Kanodia submits that in the present case two search operations were conducted. Insofar as the second search operation is concerned, no *reasons to believe* (that any of the acts

mentioned in Section 67 of the said Act of 2017 has been committed), have been indicated to the petitioner. It is, therefore, submitted that the search operation, which forms the basis of the adjudication proceedings is wholly without foundation.

7. It is thirdly submitted that the adjudicating authority in the case at hand being an officer of the Bureau of Investigation lacks jurisdiction to adjudicate upon the proceedings and pass an order under Section 74 of the said Act of 2017. In support of his such contention, Mr. Kanodia invites the attention of this Court to an order No.09/WBGST/PRO/29 dated November 20, 2019 and relies on the judgments of the Hon'ble High Court of Delhi in the case of **Parity Infotech Solutions (P.) Ltd. v. Government of National Capital Territory of Delhi, (2023) 7 Centax 169 (Del.)** and the Hon'ble High Court of Punjab & Haryana at Chandigarh in the case of **Raghbir Singh Govt. Contractor v. State of Haryana, (2023) 4 Centax 396 (P & H.).**

8. It is submitted by Mr. Kanodia that on similar issues writ petitions filed before this Court have been entertained. In support of his such contention, he relies on the order dated December 6, 2021 passed in **WPA 17795 of**

2021 (M/s. Chatterjee Constructions v. The State of West Bengal & Ors.), order dated December 12, 2021 in **WPO 819 of 2024 (Poulami Ghoshal v. Assistant Commissioner of Revenue, Directorate of Revenue Intelligence & Enforcement & Ors.)** and order dated July 21, 2025 passed in **MAT 275 of 2025 (Hahnemann's Jac Olivol Group of Products Pvt. Ltd. & Anr. v. The Deputy Commissioner of State Tax, Bureau of Investigation & Ors.).**

9. Mr. Chakraborty, learned advocate appearing for the respondent State Authorities submits that the order impugned has been passed by an officer having jurisdiction. It is further submitted that the petitioner's writ petition in so far as it lays challenge to the search proceedings, should not be entertained inasmuch as the same is belated.
10. However, in the face of the clear provisions of Rule 86A(3) of the CGST Rules, 2017/SGST Rules, 2017, Mr. Chakraborty has little resistance to offer insofar as Mr. Kanodia's submission to the effect that the blocking of the petitioner's credit ledger could not continue beyond one year, is concerned.
11. Heard learned advocates appearing for the

respective parties and considered the materials on record.

12. Rule 86A(3) of the CGST/SGST Rules, 2017 provides as follows:-

“86-A.(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.”

13. The Rule reads in mandatory terms and leaves no room for any confusion that the restriction would cease after one year from the date of its imposition. In fact such aspect has been considered by the Hon'ble High Court at Delhi in the case of **Parity Infotech Solutions (P.) Ltd.** (supra) at paragraph 30 of the said judgment as well as the Hon'ble High Court of Punjab & Haryana in the case of **Raghbir Singh Govt. Contractor** (supra), in paragraph 8 of the report.

14. In such view of the matter, since the statutory period of one year has long elapsed, blocking of the petitioner's electronic credit ledger cannot be permitted to be continued. Accordingly, the respondents are directed to withdraw the blocking of the electronic credit ledger of the petitioner forthwith.

15. Since, it is evident that this Court has entertained writ petitions throwing challenge to the authority of an officer of the Bureau of

Investigation even in initiating adjudication proceedings and interim orders have been passed restraining the respondents from taking coercive action against the petitioner, as would be evident from order dated December 6, 2021 passed in ***M/s. Chatterjee Constructions*** (supra), therefore there is no reason for this Court to take a divergent view.

16. Accordingly, it is directed the respondent GST authorities shall not take any coercive steps on the basis of the adjudication order impugned till the returnable date.
17. Since, Mr. Chakraborty has vehemently contended that an officer forming part of the Bureau of Investigation has jurisdiction to adjudicate and that the search operations have been conducted in accordance with law on the basis of good *reasons to believe*, it would be proper to call for a report in the form of an affidavit from the respondents in such regard. Let such report be filed by January 20, 2025. A copy thereof shall be served upon the learned advocate appearing for the petitioner prior to the returnable date.
18. List this matter for further consideration on January 28, 2026. Exception to the report may be taken in the meantime.

(Om Narayan Rai, J.)