

# M/S. Samsonite South Asia Pvt. Ltd vs Union Of India & Ors on 20 July, 2020

**Author: Manmohan**

**Bench: Manmohan, Sanjeev Narula**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (C) 4131/2020

M/S. SAMSONITE SOUTH ASIA PVT. LTD. . . . . Petitioner

Through: Mr. Rohan Shah, Advocate with  
Mr. Alok Yadav and Mr. Srisabari,  
Advocates.

versus

UNION OF INDIA & ORS.

. . . . . Respondents

Through: Mr. Asheesh Jain, Advocate with  
Mr. Adarsh Kumar Gupta, Advocate  
for R-1.  
Mr. Zoheb Hossain, Advocate for  
R-2.  
Mr. Ravi Prakash with Mr. Farman  
Ali, Mr. Aman Malik and  
Mr. Mohammad Shahan Ulla,  
Advocates for R-3.  
Mr. Amit Bansal, Sr. Standing  
Counsel with Ms. Vipasha Mishra,  
Advocate for R-5.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 20.07.2020 The petition has been heard by way of video conferencing. Present writ petition has been filed challenging the constitutionality and legality of National Anti Profiteering Authority as well as Section 171 of the Central Goods and Services Tax Act and Rule 126 of the Central Goods and Services Tax Rules.

Learned counsel for petitioner states that in the absence of a methodology the entire proceeding before National Anti Profiteering Authority is in breach of natural justice and due process and has resulted in arbitrary and contradictory orders. He points out that in thirty-four similar matters this Court has issued notice and listed the matters for hearing on 24 th August, 2020.

Learned counsel for petitioner states that the total alleged profiteered demand as per the findings of the National Anti-Profiteering Authority under the impugned order dated 28th April 2020 passed against the Petitioner, is Rs.25,73,82,482/-, which includes Rs.3,92,61,734/-, the GST imposed on the net profiteered amount-which has already been deposited by the Petitioner with the Tax Department.

On the last date of hearing, after extensive arguments, this Court had informed the petitioner that it intended to direct the petitioner to deposit the principal profiteered amount i.e. Rs.21,81,20,748/- (i.e. Rs.25,73,82,482/- minus Rs.3,92,61,734/-).

Today, learned counsel for the petitioner prays that due to COVID-19 pandemic the petitioner be allowed to deposit the aforesaid amount in instalments.

Issue notice.

Mr. Asheesh Jain, learned counsel accepts notice on behalf of respondent no. 1. Mr. Zoheb Hossain, learned counsel accepts notice on behalf of respondent no. 2. Mr. Ravi Prakash, learned counsel accepts notice on behalf of respondent no. 3. Mr. Amit Bansal, learned counsel accepts notice on behalf of respondent no. 5.

They pray for and are permitted to file their counter affidavits within two weeks. Rejoinder affidavits, if any, be filed within two weeks thereafter.

Though learned counsel for respondent-Authority objects to the grant of instalments to the petitioner, yet this Court keeping in view the COVID-19 pandemic situation, directs the petitioner to deposit the principal profiteered amount i.e. Rs.21,81,20,748/- (i.e. Rs.25,73,82,482/- minus Rs.3,92,61,734/-) in six equated monthly instalments, as under:-

S.No.	Instalment Date	Amount
1.	15th August, 2020	Rs.3,63,53,458/-
2.	15th September, 2020	Rs.3,63,53,458/-
3.	15th October, 2020	Rs.3,63,53,458/-
4.	15th November, 2020	Rs.3,63,53,458/-
5.	15th December, 2020	Rs.3,63,53,458/-
6.	15th January, 2021	Rs.3,63,53,458/-
	Total	Rs.21,81,20,748/-

The interest amount as well as the penalty proceedings initiated by the respondents are stayed till further orders.

Learned counsel for the parties are directed to file short written submission not exceeding five pages each at least one week prior to the next date of hearing.

List the matter on 24th August, 2020 along with other connected matters.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J SANJEEV NARULA, J JULY 20, 2020 rn