

M/S Patanjali Ayurved Ltd vs Union Of India & Ors on 24 July, 2020

Author: Manmohan

Bench: Manmohan, Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (C) 4375/2020 & CM APPL. 15751/2020

M/S PATANJALI AYURVED LTD Petitioner
Through: Mr. Aman Sinha, Senior Advocate
with Mr. Pravesh Thakur and
Ms. Vidhushi Nishank, Advocates

versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Chetan Sharma, ASG with
Mr. Ravi Prakash, CGSC,
Mr. Farman Ali, Mr. Aman Malik and
Mr. Mohammad Shahan Ulla,
Advocates for R-1.
Mr. Ravi Prakash, Mr. Farman Ali,
Mr. Aman Malik and Mr. Mohamad
Shahan Ulla, Advocates for R-2&3.
Mr. Zoheb Hossain, Advocate for
R-2.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA
ORDER

% 24.07.2020 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 Rules 122, 126, 127 and 133 of the Central Goods and Services Tax Rules. Petitioner also challenges the order dated 12th March, 2020 passed by respondent no. 2 in Case No. 16/2020 primarily on the grounds that it is without jurisdiction, contrary to statutory provisions and respondent no. 2 cannot be a complainant as well as an adjudicating authority.

Learned senior 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 violative of Articles 14 and 19(1)(g) of the Constitution. He points out that in thirty-five similar matters this Court has issued notice and listed the matters for hearing on 24 th August, 2020.

Learned senior counsel for the petitioner further states that the petitioner is willing to deposit ten per cent of the remaining amount of the tax in accordance with Section 107(6)(b) of the Central Goods and Services Tax Act, 2017.

He further states that in the event this Court is inclined to direct the petitioner to deposit the entire principal profiteered amount like in Phillips India Limited vs. Union of India & Ors., W.P.(C) 3737/2020 (dated 25th June, 2020) and M/s. Samsonite South Asia Pvt. Ltd. vs. Union of India, W.P.(C) 4131/2020 (dated 20th July, 2020), then in view of the COVID-19 pandemic situation the petitioner be permitted to deposit the same in instalments.

Issue notice.

Mr. Ravi Prakash, learned counsel accepts notice on behalf of respondent nos. 1 and 3. Mr. Zoheb Hossain, learned counsel accepts notice on behalf of respondent no. 2. They pray for and are permitted to file their counter affidavits within two weeks. Rejoinder affidavits, if any, be filed within two weeks thereafter.

Keeping in view the orders passed by this Court in Phillips India Limited vs. Union of India & Ors. (supra) and M/s. Samsonite South Asia Pvt. Ltd. vs. Union of India (supra) as well as the fact that no ground of financial hardship has been pleaded in the present writ petition, this Court directs the petitioner to deposit the principal profiteered sum.

Though learned counsel for respondent no1 and 3 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. 75,08,64,019/- (Rupees Seventy Five Crore Eight Lakhs Sixty Four Thousand and Nineteen only) in six equated monthly instalments commencing 15th August, 2020.

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 24, 2020/rn