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

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Date of Decision: 17.08.2022

+ **CM APPL. 33266/2022 in**
W.P.(C) 10456/2022

M/S APEX TRADERS

..... Petitioner

Through: Mr Harsh Sethi and Mr Anant Nigam,
Adv.

versus

COMMISSIONER OF CENTRAL TAXES,
GST DELHI, (NORTH)

..... Respondent

Through: Mr Aditya Singla, Sr. Standing
Counsel with Mr Adhishwar Suri,
Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

[Physical Court hearing/ Hybrid hearing (as per request)]

RAJIV SHAKDHER, J. (Oral):

CM No.33266/2022

1. On the previous date, i.e., 29.07.2022, we had recorded the following concerning the above-captioned application:

"CM APPL. 33266/2022

6. *This is an application whereby a direction is sought for compliance of the order dated 15.07.2022.*

7. *The matter was listed before the Court for the first time on 12.07.2022, when we had recorded the grievance of the petitioner that the provisional attachment order dated 31.12.2019 had lost its efficacy, and therefore, had to be withdrawn.*

7.1 Given this fact, the matter was directed to be listed on 15.07.2022, with leave to Mr Singla to return with instructions in the matter.

7.2. On 15.07.2022, Mr Singla informed us that the provisional attachment order dated 31.12.2019 had not been extended and accordingly, the same would stand dissolved.

7.3. We were also informed by Mr Singla that necessary instructions would be issued to the concerned bank by the respondent/revenue within the next five days.

7.4. Based on this statement, the writ petition was disposed of.

8. Today, Mr Singla has placed before us, a copy of the statement of the affiant i.e., Mr Surat Singh, which has been recorded in Hindi.

8.1. This statement was recorded in the office of the respondent/revenue, on 18.07.2022.

8.2. Broadly, the thrust of the statement made by Mr Singh appears to be that he was not aware of the fact that a writ petition had been filed in the name of M/s Apex Traders.

8.3. The statement is also suggestive of the fact that the affiant, Mr Surat Singh, was merely a name-lender, and that for this facility, he was paid Rs. 10,000/- per month by one Mr Ravinder Baweja.

8.4. Furthermore, the statement is also suggestive of the fact that the affiant, Mr Surat Singh was informed by Mr Baweja that the brain behind this ploy is one Mr Gaurav Gupta.

9. Mr Harsh Sethi, who, as indicated above, appears on behalf of the petitioner, has stated at the Bar that Mr Surat Singh had instructed him to file the writ petition and that the affidavit accompanying the writ petition was prepared at his behest and in his presence.

9.1. Mr Sethi also confirms that the affidavit accompanying the

writ petition has been signed by Mr Surat Singh.

10. We may also note that Mr Singla has placed before us, apart from the statement of the affiant/Mr Surat Singh dated 18.07.2022, a photocopy of his Aadhar card.

10.1 Facially, the signatures on the Aadhar card seem to match the signatures on the affidavit accompanying the writ petition.

11. For the moment, we would require Mr Sethi to file an affidavit concerning the submissions made by him before us at the Bar today.

11.1. The affidavit will be filed within the next one week.

12. We may also record that the documents furnished by Mr Singla, also include a communication dated 25.07.2022 which has been addressed by Mr Priyadarshi Manish, Advocate, to Mr Mukesh Kumar, Superintendent; who, was instrumental in recording the statement of Mr Surat Singh.

12.1. This communication refers to summons dated 22.07.2022, which required Mr Surat Singh to present himself before the aforementioned officer i.e., Mr Mukesh Kumar.

12.2. The stand taken in this communication on behalf of the affiant/Mr Surat Singh, is that since a comprehensive inquiry had been initiated by Directorate General of GST Intelligence (DGGI), Chandigarh, and a criminal complaint had been filed under Section 132 of the CGST Act, 2017, multiple investigations could not be carried out by embarking upon another enquiry.

12.3. In other words, the plea advanced in the communication dated 25.07.2022, was that the summons should be withdrawn.

13. List the matter on 17.08.2022.

14. Mr Surat Singh will remain present in Court on the next date of hearing.

15. *The documents presented before us by Mr Singla have been handed over to him. Mr Singla will get the said documents to Court on the next date of hearing.*”

2. Pursuant to the directions issued on 29.07.2022, Mr Surat Singh (who has been identified by Mr Harsh Sethi, Advocate) is present in Court.

3. We have recorded the statement of Mr Surat Singh today.

3.1. In the statement made by Mr Surat Singh, he has admitted before us that he had appended his signatures, both, on the writ petition as well as the affidavit accompanying the writ petition.

3.2. Furthermore, on being queried, Mr Surat Singh has stated that the affairs of the petitioner concern were managed by one Mr Ravinder Baweja and that he was unaware of it's working.

3.3. To another query, as to whether he had interacted with Mr Gaurav Gupta, whose name had cropped-up in the statement made before the concerned officer by Mr Surat Singh, we are told by Mr Surat Singh that he has not interacted with Mr Gaurav Gupta.

4. We may also record that Mr Harsh Sethi has filed an affidavit dated 08.08.2022, in terms of our direction issued on 29.07.2022.

4.1. In the affidavit, Mr Sethi has confirmed the fact that both the petition and the affidavit were signed by Mr Surat Singh, *albeit*, in his presence.

5. Mr Aditya Singla, who appears on behalf of the respondent/revenue, has brought to our notice a series of orders passed in W.P.(C)No.5769/2019, titled *M/s Global Suppliers v. Union of India & Ors.*

5.1. The copies of the orders which have been placed before us are dated 20.09.2019, 23.09.2019 and 27.09.2019. These orders were passed by a coordinate bench of this Court.

5.2. Upon a perusal of the aforesaid orders, what emerges is that Mr Surat Singh and Mr Ravinder Baweja have, perhaps, floated various entities and obtained or attempted to obtain benefits from the revenue *albeit*, falsely.

5.3. It is also pertinent to note that Mr Gaurav Gupta's name finds mention in the order dated 20.09.2019.

6. Insofar as the above-captioned matter is concerned, it was listed before us for the first time on 12.07.2022, when we had recorded the following:

“CM No.30207/2022 in W.P.(C) 10456/2022[Application filed on behalf of the petitioner seeking interim relief]

2. *The principal grievance of the petitioner is that the provisional attachment order which was issued on 31.12.2019, has lost its efficacy, despite which, it has not been withdrawn by the respondent.*

3. *Mr Aditya Singla, who appears on behalf of the respondent, says that he will return with instructions in the matter.*

4. *List the matter on 15.07.2022.”*

6.1. On the returnable date, i.e., 15.07.2022, Mr Singla had stated the following:

“W.P.(C) 10456/2022 & CM APPL. 30207/2022[Application filed on behalf of the petitioner seeking interim relief]

1. *Mr Aditya Singla, learned counsel, who appears on behalf*

of the respondent/revenue, has returned with instructions.

2. We are informed by Mr Singla that the provisional attachment order dated 31.12.2019, has not been extended.

3. Accordingly, Mr Singla submits that the provisional attachment order issued qua the subject account, referred to in prayer clause (i) of the writ petition, stands dissolved.

4. Mr Singla says that the necessary instructions will be issued to the concerned bank by the respondent/revenue, within the next five days.

4.1 The statement made by Mr Singla is taken on record.

5. The writ petition is disposed of in terms of the statement made by Mr Singla.

6. The pending application shall accordingly stand closed.”

7. As is evident from the proceedings of 15.07.2022, the writ petition was disposed of in view of Mr Singla's stand, on that date, that the provisional attachment order dated 31.12.2019 had not been extended.

8. The matter was listed once again before us on 29.07.2022, as noticed above, on two applications moved by the petitioner.

8.1. The first application was numbered as CM No.33267/2022, while the second application was the above-captioned application (CM No. 33266/2022); both applications were listed before us on the said date.

8.2. The first application (CM No. 33267/2022) was allowed, as the direction that was sought, concerned correction of the order dated 15.07.2022, inasmuch as it did not reflect the name of Mr Harsh Sethi, Advocate.

8.3. Mr Sethi had indicated to us that he was present on 15.07.2022; a plea which was backed by Mr Singla.

8.4. In these circumstances, a direction was issued to correct the record, insofar as it did not record Mr Sethi's presence. Mr Sethi, was also, directed to file an affidavit in that regard within 10 days.

8.5. As noted above, Mr Sethi has filed an affidavit dated 08.08.2022 which also records the fact that he was present in court on 15.07.2022, apart from the aspect already noticed hereinabove.

9. The above-captioned application, though, was, filed by the petitioner, only to seek compliance of our order dated 15.07.2022.

10. However, in view of what has come to fore, the order dated 15.07.2022 passed by this Court cannot continue to operate. The said order is accordingly, recalled.

10.1. Consequently, the captioned writ petition, i.e., W.P.(C) 10456/2022, shall stand dismissed as, to say the least, the petition has been filed at the behest of a person who is, concededly, not managing the affairs of the petitioner concern.

11. As alluded to hereinabove, it appears that there is another entity which appears to have been floated by the same set of persons, i.e. M/s Global Suppliers; *qua* which as well Mr Surat Singh evidently, had no clue.

12. In the affidavit accompanying the instant writ petition, Mr Surat Singh has stated that it was drafted by the counsel on his instructions and

that the facts stated therein are true and correct to the best of his knowledge and belief.

12.1. It now appears that the petitioner, as noted above, has no knowledge of the affairs of the petitioner concern. It is his say that the affairs of the petitioner concern were managed by Mr Ravinder Baweja.

12.2. The affidavit accompanying the writ petition is clearly inconsistent with the statement made by Mr Surat Singh before us.

13. Given this position, it is obvious that Mr Surat Singh has perjured himself and, therefore, we have no option but to trigger proceedings against him, in consonance with the powers vested in this Court under Sections 340 and 195 of the Code of Criminal Procedure, 1973.

13.1. The Registrar General of this Court is directed to refer the matter to the concerned Judicial Magistrate, so that proceedings, as per law, are triggered against Mr Surat Singh.

14. Accordingly, list the matter before the Registrar General on 06.09.2022.

15. Before we conclude, we may record that the respondents/revenue have an obligation cast upon them, as stipulated in the judgment of the Supreme Court in ***Paramvir Singh Saini v. Baljit Singh and Ors.*** 2021 (1) SCC 184, which, *inter alia*, requires them to record statements in the manner prescribed in the said judgement.

15.1. This is something which respondent/revenue were required to bear in

mind in this case, as well as in other cases.

16. The writ petition and the application are disposed of in the aforesaid terms.

17. For the purposes of good order and record, copies of the orders dated 20.09.2019; 23.09.2019 and 27.09.2019 passed in W.P.(C)No.5769/2019, along with the statements made by Mr Surat Singh and Mr Ravinder Baweja in the said writ petition, shall be scanned and uploaded by the Registry, so that they remain embedded in the case file.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

AUGUST 17, 2022/aj

[Click here to check corrigendum, if any](#)