2023:DHC:6060-DB

IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 24.08.2023

\+ **W.P.(C)5880/2021**

RAJEEV CHHATWAL ..... Petitioner

versus

COMMISSIONER OF GOODS AND SERVICES TAX (EAST) ..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Gagan Kumar Singhal, Advocate.
For the Respondent : Mr Harpreet Singh, Senior Standing Counsel with Ms Suhani Mathur and Mr Jatin Kumar Gaur, Advocates.

CORAM
HON'BLE MR JUSTICE VIBHU BAKHRU
HON'BLE MR JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondent to release Indian currency amounting to ₹15,92,000/-, which was seized by the respondent during the search conducted on 23.01.2020.

2. The respondent conducted a search under Section 67 of the Central Goods and Services Tax Act (hereafter '**the CGST Act**'), at the residential premises of the petitioner being H. No. B-9/6, Lal Quarter, Krishna Nagar, Delhi-110051. The petitioner claims that prior to the

same, the petitioner had joined the investigation being conducted by the respondent and the respondent had no reason to conduct any search at the petitioner's premises more particularly as he is not a 'taxpayer' under the CGST Act.

3. During the course of the search, the concerned officers seized various documents as well as currency amounting to ₹15,92,000/- lying in a locker at the petitioner's premises. The petitioner claims that he was not present at the time of the search but the family members who were present at the material time requested the officials not to seize the said amount as the same belonged to the family. It is averred that they had explained that the currency was kept in the locker as a precautionary measure because the house was under renovation/ construction and a number of labourers were working at the premises.

4. The petitioner along with one Asif Khan and Arjun Sharma were arrested on 01.03.2020 but were later on released on bail.

5. The respondent claim that the petitioner had made a voluntary statement on 29.02.2020 and admitted that he was involved in a racket of issuance of fake invoices along with other accused namely, Asif Khan and Arjun Sharma. The respondent claims that the said persons have issued invoices from various firms without the supply of goods resulting in Income Tax Credit (ITC) of approximately ₹11 crores being availed. The petitioner was summoned on various dates – 23.01.2020, 27.01.2020, 31.01.2020 and 29.02.2020. However, it is alleged that the

petitioner attempted to evade the investigation but finally appeared before the concerned officers on 29.02.2020.

6. The respondent states that the investigation is not complete yet and therefore, no show-cause notice has been issued.

7. The petitioner also claims that he had also signed various documents and statements under threat and coercion by the concerned officers. He claims that he is not involved in making any supplies and is not a taxpayer and is not concerned with the alleged fake ITC availed by any other entity as alleged.

8. The petitioner has assailed the seizure of Indian currency amounting to ₹15,92,000/- from its premises *inter alia* on the ground that Section 67(2) of the CGST Act does not empower any such seizure. The learned counsel for the petitioner has confined the present petition to the aforesaid issue.

9. The aforesaid question is covered in favour of the petitioner by the recent decision in ***Deepak Khandelwal Proprietor M/s Shri Shyam Metal v. Commissioner of CGST, Delhi West & Anr.: 2023:DHC:5823-DB.***

10. In view of the above, the present petition is disposed of by directing the respondent to remit the amount seized to the petitioner's bank account within a period of two weeks from today along with accrued interest.

11. It is clarified that the respondent is not precluded from taking any such steps or measures as available in accordance with law.

12. All rights and contentions of the parties are reserved.

13. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 24, 2023
RK