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

+ **W.P.(C) 5149/2021**

GURCHARAN SINGH

.....Petitioner

Through: Mr. Sudhir Nandrajog, Sr. Advocate
with Mr. Siddharth Bambha, Mr.
Shyam D Nandan and Mr. Chirag
Ahluwalia, Advocates.

versus

MINISTRY OF FINANCE (DEPARTMENT OF REVENUE),
GOVERNMENT OF INDIARespondent

Through: Mr. Chetan Sharma, ASG with Mr.
Zoheb Hossain, Senior Standing
counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% **05.05.2021**

[Court hearing convened via video-conferencing on account of COVID-19]

1. *Via* the captioned writ petition, a challenge has been laid to the notification bearing no. 30/2021-Customs, dated 01.05.2021, issued by the respondent.

2. This writ petition represents one of those rare writ actions, whereby, a notification issued in the realm of a tax statute has been, *inter alia*, assailed under Article 21 of the Constitution.

2.1. That tax is an exaction by the State is well known. That its levy and collection, ordinarily, does not encompass equity, is also, well known. But, presently, we are living in difficult times and, therefore, perhaps, the petitioner has invoked Article 21 of the Constitution.

3. Yesterday, i.e., 04.05.2021, we had requested the learned Additional Solicitor General of India [in short “ASG”] to join the proceedings.

3.1. Today, Mr. Chetan Sharma, learned ASG along with Mr. Zoheb Hossain has joined the proceedings. Yesterday, i.e., on 04.05.2021 we had also noticed [a fact brought to our attention by Mr. Sudhir Nandrajog, learned senior counsel, who appears on behalf of the petitioner], that the respondent had issued a notification bearing no. 4/2021 - Customs dated 03.05.2021.

4. We are informed by the learned ASG that this notification has exempted imposition of IGST on oxygen concentrators imported by the State Government, or via any entity, relief agency or statutory body, authorised by the State Government. This exemption, according to the learned ASG, is, presently, available till 30.06.2021.

5. We are of the view that since the respondent has gone this far, it could move further, and extend the exemption, to even individuals, to enable them to obtain imported oxygen concentrators by way of a gift, albeit, without having to pay IGST.

6. Both the learned ASG and Mr. Zoheb Hossain have stated before us that they will revert with instructions.

7. Accordingly, list the matter on 06.05.2021.

8. Learned ASG is requested to place the order passed by us today before the Hon'ble Finance Minister, Government of India.

RAJIV SHAKDHER, J

TALWANT SINGH, J

MAY 5, 2021

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Click here to check corrigendum, if any

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