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IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE AMAR NATH (KESHARWANI)

ON THE 11<sup>th</sup> OF NOVEMBER, 2022

WRIT PETITION No. 24000 of 2022

BETWEEN:-

M/S ASHOO ROAD LINES THROUGH ITS AUTHORIZED PARTNER MR. SAJID PANJA S/O MOHAMMED HUSSAIN PANJA, AGED ABOUT 54 YEARS, R/O 19, BROOKE BOND COLONY, INDORE. FIRM ADDRESS; 225, NEW LOHA MANDI, INDORE (MADHYA PRADESH)

.....PETITIONER

(SHRI ABHINAV DHANODKAR, LEARNED COUNSEL FOR THE PETITIONER ).

AND

1. UNION OF INDIA CENTRAL THROUGH THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, DEPARTMENT OF REVENUE MINISTRY OF FINANCE NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI.

2. THE ADDITIONAL DIRECTOR DGGI, ZONAL UNIT AT BHOPAL, 48, ADMINISTRATIVE AREA, HOSHANGABAD ROAD, ARERA HILLS, BHOPAL (MADHYA PRADESH)

3. THE DEPUTY DIRECTOR DGGI, REGIONAL UNIT AT INDORE, CGO COMPLEX, AB ROAD, INDORE (MADHYA PRADESH)

4. THE ADDITIONAL ASSISTANT DIRECTOR DGGI, REGIONAL UNIT AT INDORE, CGO COMPLEX, AB ROAD, INDORE (MADHYA PRADESH)

5. ASSISTANT COMMISSIONER CENTRAL GOODS AND SERVICES TAX AND CENTRAL EXCISE DIVISION-III, CGO COMPLEX, AB ROAD, INDORE (MADHYA PRADESH)

6. THE COMMISSIONER OF GOODS AND SERVICES TAX MANIK BAGH PALACE, MANIK BAGH ROAD, INDORE (MADHYA PRADESH)

.....RESPONDENTS

(SHRI PRASANNA PRASAD, LEARNED COUNSEL FOR THE RESPONDENTS)

*This petition coming on for orders this day, JUSTICE VIVEK RUSIA passed the following:*

O R D E R

Heard on I.A. No.7745/2022 which is an application for amendment.

Keeping the reasons mentioned in the application, I.A. No.7745/2022 is allowed.

Necessary amendment be incorporated.

Heard on the question of admission.

The petitioner has filed the present petition seeking the following relief:-

[i] To issue an appropriate writ declaring all search, seizure, actions and prepared panchnama dated 09/10.06.2020 be illegal and thereof quash the same and all proceedings relating and consequent thereto;

[ii] To issue an appropriate writ declaring release of 5 seized trucks which were empty and not loaded with any goods, as illegal and direct the respondents, which have been released to allow to operate;

[iii] To direct the respondent No.4 to get the goods stored under seized 20 barrels be tested for its characteristics, specification and ingredients by appropriate government laboratory; and

[iv] Any other relief, this Hon'ble Court thinks fit in the facts and circumstances of the case be also granted to the petitioner.

The facts of the case are as under:-

1. The petitioner is a partnership firm duly constituted under the provision of the Indian Partnership Act, 1932 and engaged in the business of transportation of goods. Respondent No.4 with his team visited the office premises of the petitioner situated at 302, Sector-F, Industrial Area, Sanwer Road, Indore ( in short " Premises of the petitioner") with authorization under Section 67(2) of the CGST Act, 2017 (hereinafter will be referred as "Act, 2017" for convenience"). During the search total 10 trucks were

found parked there. Out of said 10 trucks 5 trucks were found loaded with Vimal Brand Pan Masala, VI Brand Tobacco, Raw Tobacco Sacks, Misx Compound, Vimal Elaichi and other Misc. goods and the remaining five trucks were found empty. Bilty booklets of M/s Ashoo Roadlines disclosed the name of consignor M/s AAA Enterprises. The officials of the GST Department contacted the proprietor of the said enterprises who denied any relation with the goods found in the aforesaid five trucks. The drivers of the petitioners informed that the said vehicles are being used for transportation of Pan Masala without invoices. Accordingly, 10 trucks containing goods were seized vide panchnama dated 09/10.06.2020.

[2] Vide panchnama dated 01.10.2020, 5 trucks were released in which nothing was found loaded, however, the remaining five trucks were handed over to Mr. Sajid Panja with instructions not to use them without permission from the GST department.

[3] The grievance of the petitioner is that because of the aforesaid condition, the petitioner is not in a position to use the said trucks which were purchased by way of loans from the Bank, hence unable to repay the loan, hence, respondents be directed to remove the said condition. The petitioner is also seeking relief to the effect that respondent No.4 be directed to get the goods stored under seized 20 barrels be tested for its characteristic, specification and ingredients by the appropriate laboratory.

[4] Shri P. Prasad learned counsel, appearing on advance notice on behalf of the GST Department submits that the entire petition is misconceived. The petitioner is challenging the search, seizure preparation and panchnama dated 09/10.06.2020 after period of 2 years especially when the investigation has been completed and show cause notice dated 04.12.2020 has been issued to the

petitioner and 7 others. So far as the release of any goods or trucks is concerned, it is within the jurisdiction of adjudicating authority to consider the same. The adjudication proceedings have been transferred to the GST Authority, at Bhopal which is not a party before this court in this Writ Petition. The petitioner has submitted a representation to respondent No.4 which is not a competent authority now to consider such a request.

[5] Since a show cause notice dated 04.12.2020 has been issued to the petitioner and others in which the validity of the panchnama is under consideration, hence the petitioner is having efficacious remedy to contest the show cause notice before the adjudicating authority. The petitioner is free to apply to the adjudication authority. The Writ Petition is disposed of with a direction to the competent authority that if such an application is filed by the petitioner, the same be considered in accordance with the law expeditiously.

In view of the above, no interference is called for. The writ petition is dismissed.

**(VIVEK RUSIA)**  
**JUDGE**

**(AMAR NATH (KESHARWANI))**  
**JUDGE**

praveen