

112 CWP-25351-2023

M/S Mitsubishi Electric India Pvt. Ltd. Vs. Union of India & others

Present:- Mr.Rajat Bose, Advocate, Mr.Ankit Sachdeva, Advocate
Mr.Rishab Singla, Advocate for the petitioner (s).

Inter alia contends that the petitioner has entered into Secondment & Cost Reimbursement Agreement dated 31.03.2019 (Annexure P-2) with Mitsubishi Electric Corporation, Japan, the parent company wherein certain employees have been seconded for service in India. While referring to the salary component it is pointed out that certain amounts are paid in Indian currency whereas certain amounts are paid in Japanese Yen, to be remitted abroad. It is submitted that on account of the judgment of the Apex Court in **C.C., C.E. & S.T., Bangalore [Adjudication] V. Northern Operating Systems Pvt. Ltd., 2022 [61] GSTL 129**, the law was clarified regarding providing of manpower supplying service being a taxable service on 19.05.2022. In view of the same, investigation started on 11.08.2022 (Annexure P-4) regarding the GST implications and of conducting an internal due diligence.

The petitioner-Company paid a sum of Rs.8,00,46,776/- on the total amount of Rs.4,44,704,312/- paid by it to its parent company in view of the decision by the Apex Court and interest element of Rs.2,79,80,800/- was also paid which is mentioned in the letter dated 31.10.2022 (Annexure P-6). Having received the same, the respondent-authorities closed the proceedings without issuance of the show cause notice as per the provisions of Section 73(6) of the Central Goods Service Tax Act, 2017 (for short, the 'Act') leaving its right open to investigate for remaining tax duties and liabilities and other issues for the similar period.

Thereafter, vide communication dated 02.08.2023(Annexure P-8), petitioner was put to notice as to whether proper tax along with applicable interest had been deposited by the petitioner on the Indian component for payment or not. Detailed reply was filed on 31.08.2023 (Annexure P-9) leading to the amount being quantified vide order dated 18.09.2023 (Annexure P-10) wherein after noticing the amounts deposited an additional sum of Rs.20,46,87,723/- + applicable interest was quantified and the petitioner was advised to pay the same by 22.09.2023 failing which show cause notice was to be

112

CWP-25351-2023

-2-

issued under Section 73(1) of the Act. Petitioner again submitted a detailed representation dated 27.09.2023 (Annexure P-11) wherein specific objections were then raised that the amount deposited in Indian currency of the salary component was not covered and secondly a closure letter had already been issued. In spite of that, notice dated 29.09.2023 (Annexure P-1) was issued under Section 73(8) of the Act that if the amount be paid within 30 days no penalty will be payable in respect of the such tax and interest.

It is contended that a similar issue has also come up for consideration before the High Court of Karnataka in WP-23915-2023 titled *M/s Alstom Transport India Ltd. Vs. The State of Karnataka* and an interim order has been passed on 02.11.2023 keeping in view the fact that the writ petition would be rendered infructuous if there is no interim protection.

Notice of motion.

Mr. Deepak Kakkar, Advocate accepts notice for Mr. Tejinder K. Joshi, Sr. Standing Counsel, for respondents No.1 to 3.

To come up for service of respondent No.4 on 13.02.2024.

Further proceedings are stayed in pursuance of the show cause notice dated 29.09.2023 (Annexure P-1).

(G.S. SANDHAWALIA)
JUDGE

November 9, 2023
Sailesh

(LAPITA BANERJI)
JUDGE