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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (T) No. 297 of 2017

Sona Beverages Pvt. Ltd. Sona House, 35/75, Punjabi Colony, Katora Talab, Raipur, Chhattisgarh 492001

---- Petitioner

Versus

Union of India through the Assistant Commissioner (Audit), Central GST and Central Excise 7th Floor, Central Excise Building, Raipur Naka, Hudco, Bhilai, Chhattisgarh

---- Respondent

For Petitioner	:	Shri Vinay K. Jain, Advocate
For Respondent no.3	:	Shri Vinay Pandey, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

20/09/2017

The challenge in the present writ petition is to the notice dated 26.07.2017 (Annexure P-1) whereby in addition to calling for the documents stated in the notice, the respondent has also asked for conducting of an internal audit by the officers of the respondent department.

2. Counsel for the petitioner submits that the petitioner does not come under the provisions of the Central Excise Act in as much as the petitioner is not a Central Excise Assessee. In addition, there is no provision under the Service Tax Law as also under the Finance Act, 1994 for conducting an internal audit by the Department. The only provision available under the Act is that under Section 72 A of the Finance Act, 1994 which refers conducting of a special audit and which could be conducted only by a Charted Accountant and not by a departmental accountant, which is not what has been mandated in the notice under challenge.

3. Be that as it may, since the petitioner has not filed any reply, the petitioner may file their objection/reply to the notice taking these grounds in their objection within a period of 15 days from the date of receipt of certified copy of this order. On such objection being filed, the respondent Authorities are expected to take a decision on the said objection by a reasoned order deciding the objections in an objective manner.

4. Needless to mention that the petitioner would also have a right of raising objection so far as the jurisdiction of the concerned authority issuing the notice is concerned. Pending the objection of the petitioner before the Authority concerned, there shall be a stay of the effect and operation of the impugned notice. The decision to be taken by the respondent shall also be promptly communicated to the petitioner reserving his right to avail the remedy available under law. In the event the petitioner fails to file reply/objection, the order passed by this Court shall lose its efficacy.

5. The petition thus stands disposed of.

Sd/-
(**P. Sam Koshy)**
JUDGE

Bhola