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

+ **W.P.(C) 3085/2017**

EBIZ.COM PVT. LTD. & ORS. Petitioners
Through: Mr. J.K. Mittal, Advocate.

versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Jitendra Kr. Tripathi, Advocate for
R-1.
Mr. Amish Aggarwala and Mr. Satish Aggarwala,
Advocates for R- 2 & 3.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE NAJMI WAZIRI

ORDER

% **12.04.2017**

CM No. 13434/2017 (Exemption)

1. Allowed subject to all just exceptions.

WP(C) 3085/2017 & CM No. 13433/2017 (Stay)

2. This writ petition prays for the following three reliefs:

“A) issue a Writ of certiorari/ mandamus or any other appropriate Writ/ order/ direction against the Respondents by declaring that the Respondent No. 1 has no authority under the Finance Act, 1994 or under any other law to confer any power to the Respondent No. 2 and the Respondent No. 3 under the Finance Act, 1994, when power is already conferred with the Respondent No.4, which have already been exercised and/or are being exercised over the Petitioner No. 1 time to time;

B) issue a Writ of certiorari/ mandamus or any other appropriate Writ/ order/ direction against the Respondents by declare that the Respondent No. 3 has acted without jurisdiction and without authority under the law and ex parte impugned order dated 29.03.2017 passed by the Respondent No. 3 and quashed the impugned order dated 29.03.2017 as bad under the law;

C) issue a Writ of certiorari/ mandamus or any other appropriate Writ/ order/ direction against the Respondents by declare that the Respondent No. 2 has acted without jurisdiction and without authority under the law by issuing the impugned Notice to Show Cause dated 18.10.2016 for the same very period for which proceeding have already been initiated and/or concluded by the jurisdictional authority i.e. officers of the Respondent No. 4 and quashed the impugned Notice to Show Cause dated 18.10.2016 as bad under the law;...”

3. As far as prayer (A) is concerned, the Court is of the view that it is vaguely worded and incapable of being granted unless the Petitioner is able to spell out with specificity what precise circular, notification or order is being challenged. This will require recasting the entire petition, including the pleadings and grounds. In other words, a fresh petition would have to be filed. It is not possible for the Court to entertain prayer (A) in its present form.

4. As far as prayer (B) is concerned, the order under challenge is an adjudication order against which the Petitioner has a statutory right of appeal. In fact, prayer (C) is also part of prayer (B) itself since the adjudication order has been passed pursuant to the Show Cause Notice

(SCN) dated 18th October, 2016.

5. The Court does not consider this to be an appropriate case where it should exercise its extraordinary jurisdiction under Article 226 to entertain a challenge to either the SCN or the consequent adjudication order. All grounds that the Petitioner may have to challenge both the SCN and the consequent adjudication order are available to be urged before the concerned appellate forum.

6. The writ petition and the application are, accordingly, dismissed.

S.MURALIDHAR, J

NAJMI WAZIRI, J

APRIL 12, 2017/kk