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

\+ W.P.(C) 1728/2018, C.M. APPL.7172/2018

LEMON TREE HOTELS LTD. ..... Petitioner

Through : Sh. Sanjeev Anand with Sh. Varun. K. Bala and Sh. Ankit Singh, Advocates.

versus

UNION OF INDIA THROUGH SECRETARY MINISTRY OF FINANCE (DEPARTMENT OF REVENUE) & ANR

...... Respondents

Through : Ms. Sangita Rai, Advocate, for UOI.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **10.08.2018**

The petitioner had approached this Court claiming directions that common investigations be carried out having regard to the nature of its business functioning and having regard to the fact that M/s. Lemon Tree Hotels Ltd. maintains common accounts and, therefore, prepares balance sheets on the basis of common centralized inputs. It is evident from the pleadings and the submissions made that separate investigation at the local levels have been carried out by the authorities against the units at Ahmedabad, Chandigarh, Chennai and Pune. The petitioner claims to be inconvenienced. Learned counsel for the Revenue relies upon a letter addressed to the Chief

Commissioner of Central Goods and Services Tax which firstly stated that on account of this Court's order dated 08.03.2018, the petitioner is not cooperating in the investigation and providing necessary documents. The said letter also states as follows:

"To,

The Chief Commissioner of Central Goods and Services Tax
(Delhi Zone),
CR Building, I.P. Estate,
New Delhi-110109

Madam,

Subject: Writ Petition (C) No.1728/2018 filed by M/s. Lemon Tree Hotels Ltd. v. UOI & Ors.-reg.

Please refer to letter C.No.IV (16) Law/HQ/88/GST-South/Lemon Tree/2018 dated 06.04.2018 of the Commissioner, CGST, Delhi South on the above subject.

2. I am directed to convey that the Hon'ble High Court may please be informed as below-

(i) In the six investigations against the units of M/s. Lemon Tree at Ahmedabad, Chandigarth, Chennai and Pune, the assessee is not providing records to facilitate investigations, citing the High Court's order dated 08.03.2018 and their own pending request for a common investigator. There is a stalemate and hence it is not possible for the department to choose or indicate the unit whose investigations can be proceeded with, in the light of High Court's order dated 08.03.2018.

(ii) Further, the High Court may also be informed that although DGGI has an all India jurisdiction, each and every case involving entities at different locations is not taken up by it. It often requests the local Commissionerates to initiate action. It is practically impossible for DGGI to take up all cases involving multiple locations. In the present case, parallel investigations involving units of M/s. Lemon Tree have been proceeding and ordinarily, would have concluded either by October 2018 or April 2019, keeping in mind the limitation provisions in the Finance Act, 1994. At the moment, investigations are not proceeding because the assessee is not providing the records, which will facilitate an early conclusion of investigations. Hence, investigations may be allowed to proceed and conclude. Thereafter a common adjudicator can be appointed at a location of the assessee's choice so that one common order can be passed by one authority with respect to all the cases.

(iii) The Hon'ble High Court may also be informed that stoppage and recommencement of investigations may also be not in the interest of the assessee. If one investigator has to singly do the work which was being done simultaneously by six investigators, then the time taken to complete investigations will extend. Revenue may become time barred. Assuming but not admitting that the assessee is issued an SCN for tax liability and assuming but not admitting that it is found payable, the later it is, the more the interest liability. Hence it would be in the interest of all concerned to allow the individual investigations to proceed and conclude and then it is open to the assessee to request for a common adjudicator.

(iv) If the High Court is disinclined to consider this plea, then it may only direct which location can proceed

with the investigation since as per reports received from the field formations, none of them are in a position to proceed because of the assessee's refusal to provide records to facilitate investigations.

Sd/-
(Dr. Sreeparvathy S.L.)
Under Secretary (Service Tax)"

It is evident from the above extracts that the nature of investigations carried out in the M/s. Lemon Tree Hotels Ltd. resulted in material and information gathering which are of a different kind. Although the petitioner seeks general directions that common investigations be carried out, the Court is of the opinion that grant of such relief at this stage would not be expedient. Instead, the respondents shall, at a later stage of the investigation, nominate a senior officer or Commissioner to review the evidence gathered in order to purely discern if common approach is essential, after which the investigations may be concluded and the Show Cause Notices (SCNs) issued by appropriate competent authorities. Upon the issuance of such SCNs, the Chief Commissioners of Central Goods and Services Tax of the concerned Zones shall pass an order centralizing the adjudication of such SCNs, which shall be by one competent officer in Delhi. In other words all SCNs of all zones shall be dealt with by one adjudicating Officer, in Delhi, empowered to do so, by the competent authority.

In view of the pendency of investigation and having regard to the interim order made, it is clarified that the period during which the said order operated, i.e. from 08.03.2018 till date shall be excluded from computing the period of limitation for issuing the Show Cause Notices.

All rights and contentions of the parties are reserved.

The writ petition is disposed of in these terms.

Order *dasti*.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 10, 2018