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

Judgment pronounced on: 07.03.2018

+ W.P.(C) 2123/2018 & CM Nos.8811-12/2018

CEPCO INDUSTRIES PRIVATE LIMITED Petitioner

Through : Mr. Neeraj Kishan Kaul, Sr.
Adv. with Mr. Jai Sahai
Endlaw, Mr. Sanyat Lodha,
Ms. Hansa Kaul and Mr.
Deepak Joshi, Advs.

versus

UNION OF INDIA Respondent

Through : Mr. Pratyush Miglani, Adv.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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RAJIV SHAKDHER, J. (ORAL)

CM No.8812/2018

1. Allowed, subject to just exceptions.

W.P.(C) 2123/2018 & CM No.8811/2018

2. Issue notice. Mr. Pratyush Miglani, who appears on advance notice accepts notice on behalf of the respondent.

3. Learned counsel for the respondent says that he has obtained instructions from the concerned officer i.e., Mr. Rajnish Kumar Jha, Deputy L&DO. Learned counsel says that he is instructed to convey to the court that the concerned officer will grant a hearing to the petitioner with regard to the representation made qua

imposition of misuse charges and other charges which are sought to be recovered vide the impugned demand notice dated 05.03.2013.

4. To be noted, the demand notice impugned in the writ petition is dated 24.1.2018.

5. It appears, on perusal of the record, that the L&DO vide an intimation dated 28.9.2005 had intimated to the petitioner that it needs to remedy the breaches as adverted to therein. Furthermore, insofar as the charges which the petitioner would have to pay, it was indicated that the said aspect would be intimated at a later date.

5.1 According to Mr. Kaul, who appears for the petitioner, the charges were intimated only after orders were passed by this court in WP(C)No.12436/2009.

5.2. In this behalf, my attention has been drawn by Mr. Kaul to orders dated 25.2.2011 and 3.8.2011, passed by this court.

5.3 Via the order dated 3.8.2011, the L&DO was directed to undertake an inspection of the subject premises within a period of four weeks from the date when the order was passed and thereafter to raise a demand on the petitioner qua unauthorized construction and/or for misuse charges.

6. I am informed by Mr. Kaul that a demand was raised only on 5.3.2013. For this purpose, my attention has been drawn to page 121 (Annexure P5) of the paper book.

6.1. As per this demand notice, the demand raised on the petitioner was for the sum of Rs.1,36,15,38,201/-. However, vide

impugned notice dated 24.01.2018, this demand as of now stands escalated to a sum of Rs.3,91,06,80,928/-.

6.2 Mr. Kaul says that apart from the fact that no details are given, the demand is completely untenable.

6.3. For this purpose, Mr. Kaul has drawn my attention to the extract obtained from the official file of the L&DO vide a RTI route.

6.4. Mr. Kaul says that while it may make some sense if the demand is effected from 19.5.2005, it would make no sense whatsoever, if demand is sought to be made with effect from 1.1.1991.

6.5. This submission is, however, made by Mr. Kaul with a caveat that even if the demand is raised even from 2005, is time barred.

7. Since, the counsel for the respondent says that they will deal with the representation made by the petitioner, this writ petition is disposed of with a direction that needful will be done by the respondent within a period of six weeks from today.

8. For this purpose, petitioner will appear before Mr. Rajnish Kumar Jha, Dy Ld. D.O. on 19.3.2018, at 11:00 am. In case the date given by the court is not convenient to Mr. Jha, he will have liberty to fix another date in the matter which would be proximate to the date given above.

9. At this stage, Mr. Kaul says that the assertions made in the writ petition be treated as representation, with liberty to file additional documents.

9.1. Liberty in that behalf is granted.

10. It is made clear, though, that, pending consideration of the representation, no precipitant action will be taken against the petitioner.

10.1. Needless to say, the respondent will pass a speaking order, a copy of which will be furnished to the petitioner

10.2. In case the order passed is adverse to the interest of the petitioner, the interim protection granted by the court will continue to operate for a further period of one week.

11. *Dasti.*

RAJIV SHAKDHER, J

MARCH 07, 2018

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