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

\+ CONT.CAS(C) 736/2017, C.M. No.9045/2018

RAMKY INFRASTRUCTURE LIMITED ..... Petitioner

Through Mr. Rajesh Jain and Mr. Virag Tiwari, Advocates

versus

H RAJESH PRASAD & ORS ..... Respondents

Through Mr. Satyakam, Additional Standing Counsel with Mr. Prabhat, VATO and Mr. Amit Sharma, DTT for GNCTD

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

<u>O R D E R</u>

% 16.07.2018

The present petition instituted on behalf of the petitioner under Section 11, read with Section 2(b) of the Contempt of Courts Act, 1971, prays as follows:

> "i) issue appropriate orders/directions, directing the respondents to appear in person before this Hon'ble Court and to explain their conduct of non-compliance of the undertakings/ direction/ order passed by this Hon'ble Court vide its order dated 08.09.2017 in W.P. (C) No.7324/2017 and thereafter, take suitable action against them and punish them in accordance with law;
> ii) initiate contempt proceedings against the respondents and punish them under Section 12 of the Contempt of Courts Act, 1971 for the deliberate and wilful disobedience of the directions issued vide order dated 08.09.20187 by this Hon'ble Court in W.P. (C) 7324/2017;
> iii) direct the respondents to immediately, comply

> with the order dated 08.09.2017 by issuing refund of Rs.2,64,77,458/- alongwith interest pertaining to fourth quarter of 2013-14;
> iv) impose costs upon the respondents for keeping the petitioner derived of the substantial amount of refund and interest thereon;

A perusal of prayer iii) above would manifest the ground on which contempt is alleged. It is vehemently asserted by Mr. Rajesh Jain, learned counsel appearing on behalf of the petitioner that, in terms of the directions issued by this Court vide order dated 08.09.2017 in W.P.(C) 7324/2017, not only was the Commissioner of Trade and Taxes required to process the refund claim instituted on behalf of the petitioner and issue a refund order within four weeks from the date of the order dated 08.09.2017; they were further directed that, the refund amount along with the interest due thereon, be paid directly to the account of the petitioner within two weeks thereafter.

In this behalf, it is the submission of the petitioner that the refund amount, as well as the interest due thereon, were already quantified by the petitioner in W.P.(C)7324/2017, and stood quantified in the amount of Rs.2,64,77,458/-.

It is in this view of the matter that, it is urged on behalf of the petitioner that, since the Commissioner of Trade and Taxes has only refunded a sum amounting to Rs.2,40,32,088/-, they have wilfully violated the directions of this Court as contained in the said order dated 08.09.2017.

I am unable to agree with the submissions made on behalf of the petitioner for the following reasons:

a) The WP (C)7324/2014 vide order dated 08.09.2017 was disposed of in terms of the statement made on behalf of the Commissioner of Trade and Taxes to the effect that, the refund claim of the petitioner would be processed and a refund order would be issued within four weeks from the date of that order. It was, in this context, that a direction was issued that, subsequent upon the passing of the refund order, the amount determined as refund, along with the interest due thereon, would be credited directly to the account of the petitioner within two weeks thereafter.

b) In the event, the petitioner had any grievance in relation to the refund amount and/or the interest determined by the Commissioner of Trade and Taxes, liberty was reserved to him to seek further appropriate remedies as available, in accordance with law.

c) In this behalf, Mr. Satyakam, learned Additional Standing Counsel appearing on behalf of the official respondents invites my attention to an order dated 11.04.2018, whereby powers to hear objection of a person dissatisfied with the order of a committee set up to approve the refund of more than Rs.50 lakhs have been vested in the Special Commissioner vide file No.F.6(7)/DVAT/ LSJ/2013-14/2917.

Having perused the case record, in my considered view, I do not see any disobedience, much less, any wilful disobedience, of the said directions contained in order dated 08.09.2017 on the part of the official respondent. It is also relevant to observe that an alternative remedy to seek redressal in relation to the quantum of refund, along with interest due thereon, that the petitioner was duly entitled to, was also available to the latter and the same was not availed of.

In view of the foregoing discussion, the present petition is dismissed. There shall be no order as to cost. Pending application also stands disposed of.

SIDDHARTH MRIDUL, J

JULY 16, 2018
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