<u>CM No.7649-CWP-2015 &</u>
<u>CM No.3082-CWP-2016 in/&</u>
<u>RA-CW-271-2015 in</u>
<u>CWP No.10923 of 2015</u>

Rajender Singh Vs. **Union of India & Ors.**

Present:- None for the Review Applicant/respondent nos.2 & 3.

None for the non applicant-Petitioner.

None for the non applicant-respondent no.1-UOI.

***

<u>CM No.7649-CWP-2015</u>

Instant CM has been filed by respondent nos.2 & 3-Service Tax Authorities seeking cancellation of bail order dated 29.05.2015 granted in favour of non applicant-petitioner-Rajender Singh for the alleged violation of the conditions therein, in as much as certain stated documents have not been supplied by the petitioner-Rajender Singh for conduct of proper investigations.

Upon notice of the application reply dated 21.07.2015 stands filed.

Thereafter **<u>CM No.3082 of 2016</u>** has been moved by the petitioner for placing on record the asked for documents by way of Annexure **P-14** (Colly).

On 11.03.2016 the following order was passed:-

> " Learned Counsel appearing on behalf of the petitioner states that the documents would be supplied by 31.03.2016. The Statement is accepted.
>
> Adjourned to 22.04.2016 to ascertain whether the documents have been furnished or not.
>
> The petitioner seeks exemption from attending the

respondent/authorities every alternate day. It is agreed that the petitioner shall instead appear before the respondent/authorities as and when required by the respondent/Authorities. In respect thereof, notice shall be given by the respondents to the petitioner 48 hours in advance. ”

It appears that grievance raised regarding non furnishing of the documents would no longer survive, hence the **CM No.7649 of 2015** is liable to be disposed of.

CM No.3082 of 2016 is also allowed and Annexure P-14 (Colly) is taken on record.

Accordingly CM stands disposed of.

RA No.271 of 2015

One of the grounds for review is that in para no.9 of the interim order dated 29.05.2015 passed while granting interim bail, certain inadvertent mistake has occurred which needs correction.

We find that undoubtedly inadvertent mistake has occurred. We thus modify the sentence starting in the 4th line in para no.9 as under:-

> “ **It was put to the counsels for the respondents as to whether any time-frame could be indicated as to when the investigation process would be completed or when the adjudication order would be passed or a formal complaint alleging the violations of the provisions of the Act, cognizance of which can only be taken on a complaint if filed, which in the present case has not been done.** ”

We accordingly direct the modification of the aforesaid line in para no.9 of the order.

Ordered Accordingly.

Review application partly **allowed**.

MAIN CASE

Petitioner is a Managing Director of a private limited company M/s Sanga Energy Pvt. Ltd. and had been arrested on 08.04.2015 for evasion of service tax. The petitioner filed the instant writ petition challenging his arrest memo as also the order passed by the CJM, Rohtak declining the bail while granting judicial remand. That apart challenge is also to the amendments made to Sections 89 & 90 of the Service Tax (Chapter V of the Finance Act, 1994), whereby w.e.f. 10.05.2013 whereby certain categories of offences have been treated as cognizable and non cognizable.

This Court without going into the *vires* had extended the benefit of interim bail vide order dated 29.05.2015 (which was under review).

Keeping in view the above as also the fact that a period of more than 04 years has expired, within which the adjudication process in the alleged evasion of service tax would have been completed, the aforesaid order dated 29.05.2015 granting interim bail to the petitioner is hereby confirmed.

The petition stands disposed of accordingly.

(JASWANT SINGH)
JUDGE

(G.S. SANDHAWALIA)
JUDGE

August 16, 2019
Vinay