$~8

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

\+ **W.P.(C) 11481/2017 and CM Nos. 46805/2017 & 46806/2017**

X AND ANR. ..... Petitioners

Through: Ms Bina Gupta and Mr Rohit Ghosh, Advocates.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr Ripu Daman Bhardwaj, CGSC with Mr T.P. Singh, Advocate for UOI/R-1.
Mr Amit Bansal and Ms Titasha Banerjee, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 04.02.2019

1. The petitioners are persons who claim to have provided information to the respondents regarding evasion of Service tax by four funds, namely, (i) Army Group Insurance Fund (AGIF); (ii) Air Force Group Insurance Society (AFGIS); (iii) Naval Group Insurance Fund (NGIF); and (iv) Assam Rifles Group Insurance Scheme (ARGIS) to the extent of several crores of rupees.

2. The interest of the petitioner is limited to recovering the reward under Circular No. 20/2015 dated 31.07.2015.

3. By the Finance Act, 2017, Section 105 was introduced in the Finance Act, 1994, thereby granting exemptions in certain cases relating to life insurance services provided to members of the Armed Forces of

the Union.

4. This Court is informed that in view of the aforesaid provision, service tax by AGIF, AFGIS and NGIF in regard to certain services is not payable. According to the petitioner, even though service tax on certain insurance services are exempt, nonetheless, the aforementioned entities are providing several other services, which are eligible for service tax. It is in the aforesaid context that the petitioners have filed the present petition, *inter alia*, praying as under:-

> a) Call for the relevant records and after examining the same issue an order / direction in the nature of writ of certiorari or any other appropriate writ quashing and/or treating as null and void Section 105 introduced by the Finance Act, 2017 as being ultra vires the Constitution.
>
> b) Call for the relevant records and papers from the office of respondent authorities and after examining the same direct the respondents to pay the reward accrued in favour of the petitioners as per Circular No 202015 dated 31.07.2015.
>
> c) Direct the respondent No 2 and 3 to recover the service tax on the services not falling under the 'Life Insurance Services' forthwith from the AGIF, AFGIS and NGIF within a time bound period.
>
> d) Direct the respondent No 3 to finalize the adjudication proceedings against the ARGIS within one month.
>
> e) Pass any other just and equitable orders in favour of the Petitioners as the nature and circumstances of this case may require.
>
> f) Cost of the petition.

5. Insofar as the prayer for setting aside Section 105 of the Finance Act, 1994, as introduced by the Finance Act, 2017 is concerned, the said prayer was given up by the petitioners and is not required to be considered by this Court.

6. Insofar as the prayer regarding the reward accrued in favour of the petitioner is concerned, this Court is informed that as of yet, the respondents have not recovered any amount on the basis of the information as provided by the petitioners. It is also clarified by the respondents that in the event any such recovery is made, the petitioners' case would be considered in terms of the circular.

7. In view of the above, no further orders are required to be passed with regard to the aforesaid prayer.

8. Insofar as the prayers relating to directions to respondent nos. 2 (Commissioner, CGST Commissionerate) and 3 (Director General, DGGSTI Headquarters) to concluded adjudication proceedings against and AGIF, AFGIS, NGIF and ARGIS are concerned, it is important to bear in mind that the adjudication proceedings are proceedings between those assessees and the respondents. Thus, this Court does not consider it apposite to issue any directions in this regard. The interest of the petitioners is limited to the recovering the reward, if any, in respect of any recoveries made pursuant to the information provided by the petitioners. The petitioners have no *locus* to interfere in the proceedings that have been initiated by the respondents against the said assesses.

9. It would also not be apposite to issue any directions in this regard

for the reason that the said entities – AGIF, AFGIS, NGIF and ARGIS – are not parties to the present petition and it would not be open for this Court to enter into any controversy, which is related to the assessment of those assesses.

10. Having stated the above, this Court is also of the view that the petitioners must be informed as to the current status of the proceedings against those entities.

11. Accordingly, the present petition is disposed of by directing the respondents to duly inform as to the current status of the adjudication proceedings in respect of the aforementioned entities. The said information would be provided to the petitioners within a period of four weeks from today.

12. The pending applications are also disposed of.

VIBHU BAKHRU, J

FEBRUARY 04, 2019
RK