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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No.6810 of 2020
Date of Decision: 17th March, 2020

Charisma Goldwheels Private Limited through its Director Sh. Pratap Hoon, Chandigarh

Petitioner

Versus

Assistant Commissioner, CGST, Chandigarh and another

Respondents

CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN

Present: Mr. Jagmohan Bansal, Advocate
for the Petitioner.

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Dr. S. Muralidhar, J.

[1] The present writ petition has been filed seeking issuance of writ in the nature of certiorari to quash a show cause notice (SCN) No.02/2019-ST, dated 7th October, 2019 (Annexure P-2) whereby Respondent No.2 has raised demand of service tax.

[2] Notice of motion.

[3] Mr. Rampal, Advocate for Mr. Anshuman Chopra, Advocate accepts notice on behalf of the Respondents.

[4] Since a short point is involved in the present petition, with the consent of the parties the same is being finally disposed of.

[5] The SCN in question has been issued by the Deputy Director/Deputy Commissioner (DC) under the Directorate General

of Goods and Servies Tax Intelligence, Chandigarh Zonal Unit. The limited prayer pressed at this stage by the Petitioner is that proceedings pursuant to the said SCN should continue before the Principal Commissioner (PC) who is seized of the adjudication of a similar SCN issued to an other automobile dealer.

[6] The Petitioner is a dealer of Hyundai. While the proceedings against it pursuant to the SCN is pending before the DC, the proceedings in respect of the other automobile dealer in Chandigarh is stated to be currently pending before the PC.

[7] The Court has been shown a copy of the proceedings dated 9th March, 2020 before the DC which rejects the above request of the Petitioner on the ground that "since the adjudication of the same issue as involved in the present case regarding another tax payer is pending with the Principal Commissioner, the case may be transferred to her in view of Circular No.1053/02/2017-CX, dated 10th March, 2017".

[8] Clearly, the only reason why the said prayer was rejected by the DC is that tax payer in the present case is different from the tax payer whose case is pending before the PC.

[9] The Court sees merit in the contention of the Petitioner that if the subject matter of both SCNs is the same, viz., charging of service tax on discount and incentives received by the Petitioner from the car manufacturer, it would be in the interest of the Respondents themselves that consistent orders are passed in both the cases.

[10] On the above short ground, the Court directs that further proceedings pursuant to the impugned SCN dated 7th October, 2019 be continued before the PC, Central Goods and Service Tax, Chandigarh.

[11] Ordered accordingly.

[12] It is made clear that the authorized representative of the Petitioner will now appear before the PC on the date to be communicated to the Petitioner by the PC at least seven days in advance.

[13] The petition stands disposed of in the above terms.

[S. MURALIDHAR]
JUDGE

[AVNEESH JHINGAN]
JUDGE

March 17, 2020
pankaj baweja

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No