204 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

COCP-1018-2020
Date of Decision:19.08.2020

N Global through its Proprietor Sh.Vaneet Gupta .....Petitioner

vs.

Ms.Arti Agarwal Sriniwas, Commissioner of Customs (Exports)
New Customs House, IGI Airport, New Delhi. .....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Deepak Gupta, Advocate,
for the petitioner.

Mr.Anshuman Chopra, Advocate
for the respondent.

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

On August 10, 2020, the following order had been passed:

> "All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.
>
> This petition has been filed by the petitioner under the provisions of Sections 11 and 12 of the Contempt of Courts Act, 1971, for initiating contempt proceedings against the respondent, who intentionally (as alleged) has not complied with the order dated 04.03.2020, passed by this court in CWP No. 5158 of 2020 (copy Annexure P-1).
>
> Pursuant to notice issued in this petition, learned counsel for the respondent submits that as a matter of fact a final decision has been taken to not release any refund to the petitioner, on account of there being a suspicion as regards the functioning of the firm of the petitioner, including its various units. Thus, a decision has been taken on 06.08.2020, to the effect that the refund cannot be issued as yet to the firm.
>
> Though learned counsel for the petitioner also wishes to argue on the merits thereof to the extent that the refund was to be

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paid in respect of one unit and not the other, with both having different GSTIN numbers, however, without making any comment on the merits of that contention, this being a petition filed under the provisions of Contempt of Courts Act, 1971, the order passed by this Court in CWP No. 5158 of 2020 on 04.03.2020, is reproduced hereinunder:-

> "1. By this petition, the petitioner has challenged the action of the respondents not processing and releasing his refund.
>
> 2. Today, Mr. Chopra, learned counsel for respondents states that there are some queries pending but in any case the final decision in this regard shall be taken within three weeks' from today.
>
> 3. Learned counsel for the petitioner states that he is satisfied with the aforesaid statement.
>
> 4. Accordingly, the petition is disposed of in the above terms.
>
> 5. Since the main case has been disposed of, the pending Civil Misc. Application, if any, also stands disposed of."

Thus, in this petition, it is only to be seen as to whether a final decision on payment of the refund has been taken by the respondent or not.

Very obviously, the decision was not taken within three weeks as was assured in March 2020, but that delay can be condoned in my opinion (at this stage at least), in view of the ongoing pandemic.

However, that apart, learned counsel for the petitioner points to the communication dated 06.08.2020 sent by learned counsel for the respondent to the Reader of this court (as also to learned counsel for the petitioner), wherein it is also stated that the verification process is still in progress.

He therefore submits that not just three weeks but now five months having gone by after the statement was made before the Division Bench, the respondent is already in contempt for not having honoured that statement.

To that limited extent counsel for the petitioner may have a point and consequently, given the circumstances of the current pandemic, learned counsel for the respondent would take specific and final instructions as to by when the verification process would be complete, given the fact that though there was a lock down in the country from the 3rd week of March, the lock down as regards working of Government offices etc. has now been lifted for about one and half months, if not more.

Therefore, a very reasonable time shall be given by the respondent as to by when the verification process shall be complete, for taking a final decision on the matter.

Adjourned to 19.08.2020.

It is obviously made absolutely clear that this court has made no comment whatsoever on the merits of the case of either the petitioner or the respondent, as regards the refund being actually due or not due to the petitioner.

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Mr. Chopra, at this stage in fact submits that the office which is actually conducting the investigation is not that of the present respondent but is that of the Central Goods and Services Tax Commissionerate, South Delhi.

That contention however is rejected, in view of the fact that in the writ petition only the present respondent had been impleaded as a party and the statement made was on behalf of the present respondent and consequently, if that objection was to be raised, it should have been raised before the Division Bench itself on 04.03.2020."

Today, learned counsel for the respondent submits that on an application having been filed before the Division Bench in CWP-5851-2020, the following order had been passed on August 11, 2020:

" xxxx xxxxx xxxx xxxx

CM-4923-CWP-2020

This is an application for extension of time for taking a final decision as granted vide order dated 04.03.2020.

Today it transpires that the final order was passed on 06.08.2020.

For the reasons recorded, the application is allowed. Time for passing of order would be extended upto 06.08.2020."

That being so and the final order having been passed by the respondents and in any case, the writ court having extended time till the date of passing of such order, this petition filed under the provision of the Contempt of Courts Act, 1971, is no longer maintainable and is therefore dismissed.

August 19, 2020 **(AMOL RATTAN SINGH)**
dharamvir **JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO

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