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

+ **W.P.(C) 3684/2020**

**HARDCASTLE RESTAURANTS
PRIVATE LIMITED AND ANR**

..... Petitioner

Through: Mr. Rohan Shah, Advocate with
Ms. Vanita Bhargava, Mr. Ajay
Bhargava, Mr. Mayanak Jain and
Ms. Shweta Kabra, Advocates.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Ravi Prakash, CGSC with Mr. Samir
Malik, Mr. Aman Malik and
Mr. Mohammad Shahan Ulla,
Advocates.

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Date of Decision: 23rd June, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J:- (Oral)

CM Appls. 13193/2020 & 13233/2020 (exemption)

Allowed, subject to just exceptions.

W.P.(C) 3684/2020

1. The petition has been listed before this Bench by the Registry in view of the urgency expressed therein.
2. The same has been heard by way of video conferencing.

3. Present writ petition has been filed seeking a direction to prohibit the respondents from taking any action including conducting hearing as also passing any order in the anti-profiteering proceedings under Section 171 of Central Goods and Services Act, 2017 (for short “CGST Act”) qua petitioner No.1 till such time this Court passes appropriate orders in W.P. No. 3536/2019 transferred from High Court of Bombay to this Court.

4. In the present petition, it has been averred that the initial investigation against the petitioner under Section 171 of CGST Act culminated in an order dated 16th November, 2018 passed by respondent No.2 confirming the allegation of profiteering along with other directions. However, vide order dated 01st October, 2019 in W.P. No. 3492/2018, the High Court of Bombay remanded the matter to the respondent No.2 for fresh determination with all issues open.

5. Thereafter, the petitioner filed W.P. No.3536/2019 before the High Court of Bombay praying that the entire proceedings before respondent No.2 be quashed as they were arbitrary and illegal or in the alternative, the seminal clarifications requested by the petitioner No.2 be clarified by respondent No.2. The High Court of Bombay had passed the interim orders directing the respondents to adjourn the proceedings beyond the next date of hearing.

6. Upon transfer petition being filed by the Union of India, the Apex Court transferred the W.P. No.3536/2019 to this Court with liberty to the parties to apply for interim relief or the like. Till date, W.P. No. 3536/2019 filed before the High Court of Bombay has not been listed before this Court.

7. Mr. Rohan Shah, learned counsel for the petitioner states that the petitioner has been forced to file the present writ petition as respondents are trying to make W.P. No.3536/2019 infructuous by seeking to decide the proceedings pending before them. He emphasises that High Court of Bombay

in W.P. No.3536/2019 had granted interim protection by restraining respondent No.2 from conducting any hearing.

8. Admittedly, the petitioner had orally mentioned the matter before the Apex Court on 04th and 06th March, 2020 seeking the same interim relief that was granted by the High Court of Bombay vide order dated 30th January, 2020. However, the Supreme Court directed the Registry to process the transfer on an expedited basis and did not pass any interim order.

9. Subsequently, the petitioner had even filed a miscellaneous application for interim relief seeking prohibition against respondent No.1 to conduct any hearing qua petitioner No.1. However, the application was withdrawn by the petitioner to approach this Court.

10. In the opinion of this Court, the Supreme Court has granted liberty vide order dated 19th February, 2020 to the petitioners to apply for interim relief in W.P. No.3536/2019 which has been transferred to this Court. Today, this Court is informed that W.P. No.3536/2019 has been transferred by the Bombay High Court Registry to this Court. At the cost of repetition, it is pointed out that the Supreme Court has transferred only W.P. No.3536/2019 to this Court. Supreme Court has neither directed this Court nor given it liberty to entertain any fresh writ petition filed by the petitioner. Consequently, this Court is of the view that it cannot entertain a fresh writ petition pending transit of W.P. No. 3536/2019 to this Court, especially when the Supreme Court did not pass any interim order.

11. However, to balance the equities, this Court directs the Registry of this Court to list W.P. No.3536/2019 if already received by it on 29th June, 2020.

12. In the event, the paper book has not been received from the High Court of Bombay, the petitioner is given liberty to file a complete set of paper book along with an application to list the matter on 29th June, 2020.

13. With the aforesaid direction, present writ petition stands disposed of.
14. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

JUNE 23, 2020

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