

\$~13

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL. M.C. 1581/2020 & CRL. M.A. 9443/2020
M/S INDITEX INDIA PVT LTD & ANR. Petitioners
Through: Mr. Pradeep K. Bakshi, Senior Advocate
with Ms. Mehak Bakshi, Advocate

Versus

GOVT OF NCT OF DELHI THROUGH CHIEF SECRETARY &
ANR Respondents
Through: Ms. Radhika Kolluru, APP for State
Mr. Kush Sharma, Advocate for Respondent No. 2

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER
% **21.07.2020**

1. By way of the present petition, the petitioner has impugned the summoning order dated 16.01.2020 passed by the learned ACMM, Central, Tis Harzari Courts, in CC No. 7475/2019, whereby the petitioner has been summoned for the offences under Section 25 r/w Sections 44 & 49 of the Water (Prevention and Control of Pollution) Act, 1974 and under Section 21 r/w Sections 37 & 43 of the Air (Prevention and Control of Pollution) Act, 1981.
2. Learned Senior Counsel for the petitioner submits that after being incorporated in the year 2009, the petitioner company has been carrying out its business of manufacturing Electrical Control Panels after obtaining all

the necessary permissions under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974. He submits that the last such Consent was taken on 21.12.2016 which was valid till 10.03.2019 however, due to inadvertence of its officers, the petitioner could not apply for renewal in time but on noting the error, the same was immediately applied for vide applications dated 14.05.2019 & 22.05.2019. Copies of the abovementioned applications have been placed on record.

3. Learned Senior Counsel for the petitioner has also referred to the order dated 21.06.2019 passed by this Court in W.P.(C) 6858/2019 titled as '*M/S Inditex India Pvt. Ltd. Vs. Govt. of NCT of Delhi & Ors.*', wherein while noting the undertaking given by the petitioner to the Court to not to conduct any manufacturing till the requisite consent was obtained, it was directed that no further action be taken against the petitioner at that stage. Subsequently, vide order dated 10.07.2019, while declining the petitioner's request to operate without consent, the petition was disposed of with a direction that the petitioner's request for Consent to Operate be processed expeditiously.

4. Learned Senior Counsel for the petitioner further submits that despite the petitioner having applied for the Consent on 14.05.2019 & 22.05.2019, the respondent authority carried out a survey and noting the absence of the Consent, filed the subject complaint before the learned ACMM on 29.06.2019. He submits that requisite Consent order under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and under Sections 25/26

of the Water (Prevention & Control of Pollution) Act, 1974 has since been granted by the respondent on 19.07.2019 validating the Consent from 30.05.2019 to 29.05.2024.

5. It is the grievance of the petitioner that while filing the aforesaid complaint, neither the factum of petitioner's application for renewal of Consent vide applications dated 14.05.2019 & 22.05.2019 was placed on record nor the orders passed in the aforesaid writ petition were brought on record. It is contended that the aforesaid action has caused prejudice to the case of the petitioner.

6. Learned counsel for respondent No. 2 submits that the survey was carried out in pursuance to the order of NGT and on that date, the consent had elapsed.

7. Without getting into the merits of the case and the effect of subsequent grant of consent, I deem it apposite that the interest of justice would be met if the matter is remitted back for fresh consideration. Accordingly, the impugned summoning order dated 16.01.2020 is set aside and the matter is remanded back to the Court of learned ACMM to consider the matter afresh, in accordance with law.

8. So far as the first prayer seeking quashing of the complaint is concerned, Mr. Bakshi seeks leave to press the same at the appropriate stage. Leave and liberty granted.

9. With the above directions, the petition is disposed of alongwith pending application.

10. A copy of this order be communicated to the concerned Court.

MANOJ KUMAR OHRI, J

JULY 21, 2020

p'ma