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

\+ W.P.(C) 10641/2019

RAVINDER KUMAR ..... Petitioner

Through: Mr. Ravi Kant Kaushal, Adv. with the petitioner.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr. Asheesh Jain, Central Government Standing Counsel with Mr. Adarsh Kumar Gupta and and Mr.Abhishek Khanna, Advs. for R-1.
Mr. Amit Bansal, SSC with Mr. Aman Rewaria and Ms.Vipasha Mishra, Advs. for R-2 and 3.
Mr. Yogendra Aldak, Mr. Karan Sachdev and Mr. Kunal Kapoor, Advs. for R-4 and 5.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 08.01.2020

1. The petitioner in the present petition is an informer who intimated the relevant authorities of suspected fraud in respect of availing CENVAT credits being committed by M/s Trusine Electronics (P) Ltd. (hereinafter, "TEPL"). This led to a Show Cause cum Demand notice dated 08.01.2010 being issued to TEPL and others ("Noticees") proposing denial and recovery of credit along with interest and penalties. The matter was adjudicated by the Commissioner, Central Excise, Delhi-II vide Order-in-Original dated 10.02.2011 confirming the demand made in Show Cause Notice and

imposing penalties amounting to Rs. 256,846,380/- in total. An appeal was filed to CESTAT which was disposed of vide its Final Order dated 31.01.2012, whereby, the matter was remanded to the Commissioner for deciding the matter after allowing cross-examination of the persons on whose statement the Department wish to rely on. The matter was again adjudicated by the Adjudicating Authority and disposed of vide Order-in-Original dated 31.10.2013. In appeal, CESTAT vide Final Order dated 02.12.2014, again remanded the matter to the Adjudicating Authority as no cross-examination had been conducted. The matter has been finally disposed of by the Commissioner, Delhi-II vide its Order-in-Original dated 14.02.2017, imposing a penalty of Rs. 2,250,000/- on TEPL and dropping the entire demand of Rs. 5,01,69,276/-. Though the order was anti-revenue, the committee of Chief Commissioners, comprising of the Chief Commissioner of Central Excise, Delhi & the Chief Commissioner of Service Tax, Delhi vide order dated 13.04.2018 in CCO(DZ)CT/RTI/RK/261/17 reviewed the same and decided to drop the demand against the noticees. Aggrieved with the above, the petitioner prays for the following reliefs:

> "1. It is therefore respectfully prayed that the Hon'ble court may kindly allow the petition by directing the respondents to review again the Review Order no CCO(DZ)/REVIEW/D-II/08/2016-17 in regards to impugned A.O. NO. 24-29/SS/CE/D-II/2016-17 dated 14-02-2017 passed by Adjudicating Authority Sh. Sanjiv Srivastava, Commissioner, Central Excise, Delhi-II for a fare proceedings. Therefore, this Hon'ble court may direct the respondents to review the case again properly and penalize the defaulters as per the rule with heavy cost.
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> 2. The respondents may be directed to pay the remuneration to the petitioner as per central excise rule for providing information."

2. On the last date of hearing, the respondents were directed to produce the original record wherein the consideration with regard to dropping of proceedings against the assessee has been undertaken. Today, Mr. Amit Bansal has produced the original record. We have perused the orders passed by two different Chief Commissioners, who have arrived at the respective decisions to drop the proceedings against the assessee. From the orders, it appears that after the matter was remanded to the Assessing Officer (AO) to enable the assessee to cross examine the witnesses, the prime witness Mr. Mamraj Singh Negi, Manager, TEPL retracted the statement with regard to receiving only invoices without any goods from BIPL and SMI and the assessee availing credit against those invoices. He further stated that the goods corresponding to the bills were always received and there was no case where the goods covered by the invoices were not received. The AO also verified the fact that every transaction amongst them was a recorded transaction and the payments were made through banking channel i.e. by way of cheque from the ledger and bank statements. The AO found that the noticee had maintained detailed account of every transaction and payments made by TEPL to the BIPL and SMI were in cheques only.

3. It appears that the genuineness of transaction was in question on the basis of the complaint made by the petitioner. However, the fact that the transactions were not genuine has not been established since Mr. Mamraj Negi, Manager, TEPL retracted on his earlier statement in support of the complaint. That being in position, we are of the view that the grievance raised by the petitioner in the present petition, is not merited.

4. We, therefore, do not find any merit in the present petition and accordingly, the same is dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

JANUARY 08, 2020
Pallavi