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

\+ **W.P.(C) 5040/2021 & CM APPL. 15429/2021**

KOENIG SOLUTIONS PRIVATE LIMITED ..... Petitioner

Through: Mr.J.K. Mittal, Ms.Vandana Mittal & Ms.Aashna Suri, Advs.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr.Ravi Prakash, CGSC for R-1 with Ms.Shruti Shivkumar, Adv.
.Sonu Bhatnagar, Sr. Standing Counsel for R-2 & R-3 with Ms.Venus Mehrotra & Ms.Kanak Grover, Advs.
Mr.Devesh Singh, ASC (C) for R-4 with Ms.Sukriti Ghai, Advocate for R-4.

% Date of Decision: 20th July, 2021.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

1. The petition has been heard by way of video conferencing.

2. The present Writ Petition has been filed with the following prayers:-

"A) issue a Writ of

Declaration/certiorari/ mandamus or any other appropriate Writ/ order/ direction against the Respondents by declaring that the Central Tax Officers (GST officer) (Respondents No. 2 and 3) have no jurisdiction over the Petitioner as the jurisdiction has been assigned to State Tax Officers in view of the decisions taken by the GST Council vide Circular No. 01/2017 dated 20.09.2017, a constitutional body constituted under Article 279A of the Constitution of India, for which the Respondent No. 1 is one of the members;

B) issue a Writ of Declaration/certiorari/ mandamus or any other appropriate Writ/ order/ direction against the Respondents by declaring that the Central Tax Officers (GST officer) (Respondents No. 2 and 3) are barred to exercise the power in terms of the provisions of section 6(2)(b) of the Central Goods and Services Tax Act, 2017, as the power already exercised by the State GST officer;

C) issue a Writ of certiorari/ mandamus or any other appropriate Writ/ order/ direction against the Respondents by quashing the proceeding/ inquiry initiated by the Respondents against the Petitioner by declaring the same is arbitrary, illegal, without jurisdiction and motivated, and the quashed the impugned summons dated 30.03.2021 issued by the Respondent No. 3 from the *office of the Respondent No. 2 as without application of mind, illegal and arbitrary just to harass the petitioner;"*

3. Today, the learned counsel for the respondent states that the respondent have withdrawn and closed the inquiry proceedings initiated against the petitioner vide Impugned Summons dated 30.04.2021. The relevant portion of the affidavit screen shared by the learned counsel for the respondent is reproduced hereinbelow:-

> *"Para 13.......In fact, this office has confirmed this fact from state GST authority and State GST authority vide e-mail dated 18.05.2021 informed & confirmed deposition of above referred amount, so this office has withdrawn and closed the inquiry proceeding initiated vide summons dated 30.03.2021. This has been communicated to the party vide this office even numbered letter 7299 dated 20.05.2021."*

4. The learned counsel for the respondent has also screen shared the letter dated 20.05.2021 and the same is reproduced hereinbelow:-

> *"**Subject: Withdrawal of inquiry proceedings with regards to M/s Koenig Solution Pvt. Ltd.-reg***
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> *Please refer to the inquiry proceedings initiated under Section 70 of the CGST Act, 2017 vide which summon was issued under C. No. DW/GST/AE/PE/Group-4/GSTR-9C/782/2021/6282 dated 30.03.2021 for recovery of Rs. 20,94,361/-. This*

amount of Rs. 20,94,361/- was shown as additional liability in the GSTR-9C (copy enclosed). As deposition of this amount was not disclosed/declared in GST returns, a recovery proceedings were initiated as above.

Since this was admitted liability, the above action was taken. No reply or response was received from your end in this regard, until notice filing of Writ Petition No. 5040/2021 dated 22.04.2021 was received wherein it was stated that all dues have been discharged in the matter. Consequent upon the confirmation received from GSTO Ward 55, Department of Trade and Taxes, vide e-mail dated 18.05.2021 inquiry proceedings initiated vide aforesaid summons dated 30.03.2021 are withdrawn and closed.

This issue with the approval of Competent Authority."

5. However the learned counsel for the petitioner states that the Central Tax Officers (GST Officers) have no jurisdiction over the petitioner as the jurisdiction has been assigned to the State Tax Officers in view of the decisions taken by the GST Council vide Circular No. 01/2017 dated 20.09.2017 and he insist that this issue must be decided.

6. However, this Court is of the view that as the Impugned Summons have been withdrawn and the inquiry proceedings have been closed, the issue sought to be adjudicated upon by the petitioner cannot be decided in a vacuum. Consequently the present writ petition

and application are disposed of leaving the aforesaid question of law open to be decided in the event a fresh proceeding is initiated or summons are issued to the petitioner by the Central Tax Officers (GST Officers).

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

JULY 20, 2021/*rv*