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

\+ W.P.(C) 8060/2021 & C.M.Nos.25072-25074/2021

M/S SUBWAY SYSTEMS INDIA PVT LTD ..... Petitioner

Through Mr.Abhishek A. Rastogi with Mr.Pratyushprava Saha, Advocates.

versus

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

Through Mr.Zoheb Hossain with Ms.Tulika Gupta and Mr.Vivek Gurnani, Advocates for Respondents-NAA and DGAP.

% Date of Decision: 16th August, 2021

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

JUDGMENT

MANMOHAN, J: (Oral)

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

2. Present writ petition has been filed primarily challenging the final order dated 12th March, 2021 passed by National Anti-profiteering Authority (for short NAPA) whereby it has been held that M/s Dough Makers India Pvt. Ltd. has profiteered to the extent of Rs.78,41,754/-. The petitioner also prays for a direction to NAPA to drop the proceedings against the Petitioner as a Respondent in the case of ***DGAP & Ors. Vs M/s Dough Makers India Pvt Ltd. & Ors.***[Case No. 1/2021].

3. On the last date of hearing, Mr.Zoheb Hossain, learned counsel for the respondents had raised a preliminary objection with regard to the maintainability of the present writ petition on the ground that the petitioner does not have *locus standi* to invoke extraordinary jurisdiction under Article 226 of the Constitution of India. He had stated that the petitioner had neither been held guilty of violation of any provisions of the Central Goods and Services Tax Act, 2017 nor any adverse inference had been drawn against it. Accordingly, Mr.Zoheb Hossain was directed to obtain instructions as to whether the NAPA was willing to delete the petitioner from the proceedings in the case of ***DGAP & Ors. Vs M/s Dough Makers India Pvt Ltd. & Ors.***

4. Today Mr.Zoheb Hossain has handed over a photocopy of the email dated 14th August, 2021, which contains the following instructions:-

> *"Please refer to your email dated 09.08.2021 on the above subject. In this regard, I am directed to inform you that this Authority has no objection in deleting the petitioner i.e M/s Subway system India Private Limited from the proceedings carried out by this Authority in the case of M/s Dough Makers India Private Limited and the same may be informed to the Hon'ble High Court of Delhi."*

5. Mr.Abhishek A. Rastogi, learned counsel for the Petitioner points out that after filing of the present writ petition, the Petitioner has been served with a notice dated 17th June, 2021, wherein the Petitioner has been asked to produced proof of payment of the alleged profiteering amount of Rs.78,41,754/-.

6. Having heard learned counsel for the parties, this Court is of the view that it is a settled law that in order to have the *locus standi* to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India, the

applicant should ordinarily be one who has a personal or individual right in the subject matter of the application. In other words, as a general rule, infringement of some legal rights or prejudice to some legal interest inhering in the petitioner is necessary to give him a *locus standi* in the matter. (See: ***Jasbhai Motibhai Desai vs. Roshan Kumar, Haji Bashir Ahmed & Ors. (1976) 1 SCC 671***.

7. Since in the present case, the Petitioner has not been held guilty of violation of the Central Goods and Services Tax Act, 2017 and NAPA has no objection if the Petitioner is deleted from the array of parties, this Court is of the view that the Petitioner has no *locus standi* to maintain the present petition. Further in view of the aforesaid conclusion, the notice dated 17th June, 2021 referred to by learned counsel for the Petitioner is deemed to have been withdrawn.

8. Consequently, the present writ petition along with pending applications are disposed of by dropping the proceedings against the Petitioner as a Respondent in the case of ***DGAP & Ors. Vs M/s Dough Makers India Pvt Ltd. & Ors***.[Case No. 1/2021]. It is however made clear that the present order is passed without prejudice to any inference being drawn against the respondent-M/s Dough Makers India Pvt. Ltd. due to the presence of the Petitioner in the proceedings before NAPA.

9. 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

AUGUST 16, 2021/KA