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

% *Decision delivered on: 26.09.2022*

+ **W.P.(C) 2036/2019, CM Nos.9509/2019 & 14982/2019**

CENTRAL ASSOCIATION OF PRIVATE SECURITY INDUSTRY ..... Petitioner

Through: Mr Vaibhav Gaggar, Ms Sumedha Dang, Mr Prerak Khurana and Mr Mrityunjay Mahendra, Advs.

versus

DEPARTMENT OF REVENUE & ORS. ..... Respondents

Through: Mr Satish Kumar, Sr. Standing Counsel with Mr Anish Raj and Mr Dhruv, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MS. JUSTICE TARA VITASTA GANJU
[**Physical Court hearing/ Hybrid hearing (as per request)**]

RAJIV SHAKDHER, J. (ORAL):

1. This is a writ petition filed by the petitioner, which is a registered society, challenging Notification No.29/2018, dated 31.12.2018, issued by the Union of India, through the Ministry of Finance.

1.1. The record shows that by virtue of the impugned notification, an amendment has been made to Notification No.13/2017 dated 28.06.2017.

1.2. In effect, the relief sought is limited to the amendment made *qua* Entry No.14, which has been inserted *via* Section 9(3) of the Central Goods and Service Tax Act, 2017 [hereafter referred to as "the Act".]

1.3. This entry, concededly, relates to security services.

1.4. The petitioner-society's grievance is that while allowing for payment of service tax based on reverse-charge mechanism, body corporates have been excluded.

2. It is the contention of Mr Vaibhav Gaggar, who appears on behalf of the petitioner, that this amendment has not taken into account the circumstances of smaller body corporates, which are closely held entities.

3. Mr Satish Kumar, who appears on behalf of respondent no.2, on the other hand, says that the instant writ petition, filed at the behest of the petitioner-society, cannot be maintained.

3.1. Apart from this, it is also Mr Kumar's contention that the notification represents a policy decision, taken by the respondents, in the field of taxation.

3.2. It is also Mr Kumar's contention that it is for the State to decide, after taking into account various facets, as to who has to be excluded from the regime of reverse-charge mechanism, encapsulated in Entry No.14.

4. At this stage, Mr Gaggar says that the petitioner-society would be satisfied if this Court were to direct that this writ petition is treated as representation to be dealt with by respondent nos.1 and 2.

4.1. We find no difficulty in disposing of the writ petition, on that basis.

4.2. Although, we must indicate quite clearly that in a taxation matter, the concerned party i.e., the assessee, should approach the Court, and not a third entity, i.e., a society, as in this case.

5. The writ petition is, thus, disposed of, with a direction to respondent nos.1 and 2, to treat the instant writ petition as a representation and, thereafter, pass appropriate orders, as deemed fit.

6. Consequently, the pending applications shall stand closed.

(RAJIV SHAKDHER)
JUDGE

(TARA VITASTA GANJU)
JUDGE

SEPTEMBER 26, 2022/aj