

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

231-1

CWP No. 8562 of 2022
Date of decision:10.08.2023

M/S S.P. SINGLA CONSTRUCTIONS PVT. LTD. Petitioner
Versus

INITIATING OFFICER, DEPUTY COMMISSIONER OF INCOMES TAX,
BENAMI PROHIBITION UNIT, CHDANDIGARH Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. D.S.Patwalia, Sr. Advocate with
Mr. Ashwani Taneja and Mr. Baljeet Beniwal, Advocates
for the petitioner.

Ms. Gauri Neo Rampal Opal, Sr. Standing Counsel
for the respondent.

RITU BAHRI, J. (oral)

This petition has been filed seeking direction to the respondents to
quash the show cause notice dated 24.04.2022(Annexure P-7) issued under
Section 24(1) of the Prohibition of Benami Property Transaction Act, 1988

Learned Sr. counsel for the petitioner has produced a copy of the
judgment passed by the Hon'ble Supreme Court in case titled as ***Union of
India and Another vs. Ganpati Dealcom Pvt. Ltd.(supra), 2022 SCC Online
SC 1064*** showing that the provisions of Section 3(2) of the un-amended
Benami Transaction (Prohibition) Act, 1988 (For short-the Act, 1988), Section
5 of the Act, 1988 had been declared unconstitutional and it was directed that
the provisions of Section 5 of the Benami Transaction (Prohibition)
Amendment Act, 2016 (For short-the Act, 2016) being punitive in nature could
be applied only prospectively and not retroactively.

Learned counsel for the respondent has referred to the order dated 25.01.2023 passed by the Hon’ble Supreme Court in a review petition filed by the respondents bearing Review Petition (Civil) Diary No.34619 of 2022 titled as ***Union of India vs. Ganpati Dealcom Pvt. Ltd.*** It is submitted that the same review petition is still pending.

Learned Sr. counsel for the petitioner has also produced copy of order dated 02.05.2023 passed by Hon’ble the Supreme Court in SLP (Civil) No.7978 of 2023 titled as ***Union of India and others vs. M/S Nutrient Marine Foods Ltd. and another***, showing that the Union of India had not been granted leave to file appeal in view of judgment in case of ***Ganpati Dealcom Pvt. Ltd.’s case (supra)***, with liberty to it to approach the Apex Court by filing afresh petition in case, the review petition was allowed.

Since in the present case, the petitioner has challenged the vires of the provisions of the Act, 2016, therefore, this petition deserves to be allowed on the question of vires in view of judgment passed by Hon’ble the Supreme Court rendered in ***Ganpati Dealcom Pvt. Ltd.’s case (supra)***, the same is accordingly allowed and the consequences in the form of quashing of impugned show cause notice dated 24.01.2022 (Annexure P-7) issued by the respondents against the petitioner shall naturally follow. However, it is clarified that the respondents shall be entitled to seek revival of the petition in case, the aforesaid review petition filed in ***Ganpati Dealcom Pvt. Ltd.’s case (supra)***, is allowed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

10.08.2023
Jyoti-IV

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No