02
SM 20.12.2024

WPA 30044 of 2024

Deltatech Gaming Limited
Vs.
Union of India & Ors.

Mr. J. P. Khaitan, Sr. Adv.
Mr. Debnath Ghosh, Sr. Adv.
Mr. Rajendra Barot
Mr. Suresh Varanasi
Mr. Dhiraj Kumar Totala
Mr. Sagnik Chatterjee
Mr. Harsha Uppal
Ms. Gunjan Pande
Mr. Ajay Ray
Mr. Rohan Satiga
Mr. Shwetank Ginodia
Ms. Pubali Sinha Chowdhury
Ms. Mini Agarwal

… for the petitioner

Mr. A. Ray
Md. T. M. Siddiqui
Mr. T. Chakraborty
Mr. S. Sanyal
Mr. D. Sahu

… for the State

Mr. Bhaskar prosad Banerjee
Mr. Tapan Bhanja

… for the DGGI

Mr. Ranjan Kumar Sinha
Ms. Smita Das De

… for the Union of India

Mr. Ranjan Bachawat, Sr. Adv.
Mr. Sushovit Dutt Majumder

… for the respondent no.7

Mr. Khaitan, Learned Senior Counsel appearing for the petitioner submits that on 15th February, 2024 the petitioner made a representation before the Additional Assistant Director, Directorate General of Goods and Services Tax Intelligence, Kolkata and the Joint/Additional Commissioner, CGST & CX Kolkata

North Commissionerate for handing over the relied upon documents which were used for preparing the show cause notice but till date the documents which were relied upon are not issued to the petitioner.

Learned Counsel relies upon a Division Bench Judgment of the Bombay High Court (Goa Bench) in ***Delta Corp. Limited Vs. Union of India*** reported in ***2024 SCC OnLine Bon 805***.

Learned Counsel further submits that other than these documents as mentioned in the letter dated 15th February, 2024 all other relied upon documents has been handed over to the petitioner but the representation dated 15th February, 2024 has not been acted upon by the respondent authorities till date.

Learned Counsel appearing for the respondent authorities submits that the prayer of asking for the relied upon documents are nothing but the inter-departmental intelligence reports which cannot be handed over to the petitioner because these are the sources of information, by revealing the source or identity of these sensitive information, the commercial interests of third parties and the safety of the country will be at stake which is not permissible under law.

The learned Counsel further submitted that the investigation report is, in effect, the impugned show-cause notice itself. The show-cause notice is a comprehensive and self-contained document encapsulating all the material facts arising out of the investigation. The counsel further contended that there exists no independent investigation report distinct from the show-cause notice, and therefore, the latter should be treated as the investigation report for all intents and purposes.

Referring to the contents of the impugned show-cause notice, the learned counsel emphasized that it contains exhaustive details of the investigation. It is submitted that all Relied Upon Documents (RUDs) have already been furnished to the petitioners to ensure transparency. The counsel further stated that the show-cause notice clearly stipulates that the adjudication proceedings would be based on the documents that have been furnished to the petitioner and there will be no breach of the principles of natural justice or fair play in this matter.

Learned Counsel additionally contended that the petitioner has intentionally refrained from identifying the specific documents or information it requires, rendering its applications vague and lacking in clarity. Therefore, this conduct demonstrates an attempt to delay or evade the adjudication process.

Heard Learned Counsels for the parties.

Perused the writ petition as well as the judgment of the Bombay High Court. This Court holds that sensitive information gathered by the Intelligence Department, forming the basis of a search operation, should not be disclosed to the petitioners. It is determined that withholding such sensitive information does not violate the principles of natural justice. The source of information collected by the Intelligence Department of Revenue is crucial for maintaining confidentiality and the integrity of investigative processes.

In ***T. Takano v. Securities and Exchange Board of India*** reported in ***(2022) 8 SCC 162***, the Hon'ble Supreme Court emphasized the importance of safeguarding sensitive information obtained during investigations. The Court recognized that such reports may encompass a wide range of market-sensitive information, including details of financial transactions and interactions with other entities. Disclosure of such information could infringe upon third-party rights, destabilize the securities market, and affect investor interests. The Court, therefore, clarified that the principles of natural justice do not entail a right to indiscriminate or unrelated disclosures, particularly where sensitive third-party interests are involved. The investigative authority must balance the noticee's right to disclosure with the imperative to protect third-party rights and maintain market stability.

Based on these precedents and considerations, this Court concludes that the withholding of sensitive information in the present case is justified and does not breach the principles of natural justice as all the relied upon documents have already been handed over to the petitioner by the respondent authorities.

The writ petition being WPA 30044 of 2024 is accordingly disposed of.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

(Rajarshi Bharadwaj, J.)