IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PRACHI PRANESH NANDIWADEKAR
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(20) WRIT PETITION NO.9626 OF 2024

Sheshnath Adyaprasad Singh ....Petitioner

V/s.

Union of India ...Respondent

WITH
(21) WRIT PETITION NO.9627 OF 2024

Anupkumar Sheshnath Singh,
Proprietor of M/s. S.S. Steel ....Petitioner

V/s.

Union of India ...Respondent

Ms. Rutuja N. Pawar a/w Ms. Sneha More for petitioner.

Mr. Karan Adik a/w Mr. Umesh Gupta i/by Ms. Sangeeta Yadav for respondent.

Mr. Shailender Yadav, Superintendent, Range-II & IV, Division V, CGST, Goa present.

Mr. Mayank Kumar, Chief Commissioner, CGST, Pune Zone present.

CORAM : K.R. SHRIRAM &
JITENDRA JAIN, JJ.

DATE : 9th AUGUST 2024

P.C. :

1 There is an affidavit of one Ravindra J. Dange, Commissioner, CGST Pune-1 affirmed on 5th August 2024.

2. In Writ Petition No.9626 of 2024, on 15th July 2024, the following order was passed :

> "1 Though various grounds have been raised in petition, according to petitioner, the impugned order has been passed without giving an opportunity to the petitioner to even reply to the show cause notice.
>
> 2. Ms. Pawar submitted that by a letter dated 3rd October 2023 delivered on 5th October 2023, petitioner had requested for returning the documents/files containing purchase invoices that were handed over to respondents vide letter dated 9th July 2019. Ms. Pawar states that petitioner never received any reply to this letter dated 3rd October 2023 and consequently, none of the documents were made available due to which petitioner was not able to reply to the show cause notice.
>
> 3 Mr. Adik relies on undated letters from respondents to petitioner issued some time in February 2024 and March 2024 to state that respondents have not received any document referred to in petitioner's letter dated 9th July 2019. Ms. Pawar states that the signature on the letter dated 9th July 2019 is of one Mr. Yadav, the Inspector.
>
> 4 When we informed Mr. Adik why respondents have not promptly replied to petitioner's letter dated 3rd October 2023 and waited till February or March 2024 to reply, Mr. Adik requests the matter be stood over to enable him to personally enquire into the matter and try to find a solution.
>
> 5 Stand over to 5th August 2024.
>
> 6 Until 31st August 2024, there shall be ad-interim stay in terms of prayer clause (d) which reads as under :
>
> > *"(d) Pending admission and final hearing of this Petition this Hon'ble court be please to by way of ad interim and/or interim relief stay the operation, implementation and recovery under the impugned Order-In-Original No. PUN- CGST-001/JC-GS-03/24-25 dtd. 25.04.2024."*

3. In Writ Petition No.9627 of 2024, on 15th July 2024, the following order was passed :

> *"1 Ms. Pawar relies upon an affidavit of one Ms.Tejal Mhatre affirmed on 25th June 2024 to submit that respondents have been served on or about 22nd June 2024.*
>
> *2 Ms. Yadav states she will take instructions in this regard.*
>
> *3 Ms. Pawar states she will give Ms. Yadav a copy of the petition.*
>
> *4 Stand over to 5th August 2024. Until 31st August 2024, there shall be ad-interim relief in terms of prayer clause (d) which reads as under:*
>
> > *"(d) Pending admission and final hearing of this Petition this Hon'ble court be please to by way of ad interim and/or interim relief stay the operation, implementation and recovery under the impugned Order-In-No. PUN-CGST-001 /JC-GS-04 /24-25*
> >
> > *dtd. 25.04.2024. "*

4 In the affidavit of this Ravindra J. Dange, he admits that the said Yadav had received the documents mentioned in petitioner's letter dated 9th July 2019. The said Yadav, who is present in Court also confirms having received. This statement on oath by Dange is contrary to letter dated 20th March 2024 of one Sandip Vichare who has stated that respondents do not have any such document.

5 Mr. Adik, on instructions reiterates it was received but in the affidavit, it is stated by the said Dange that multiple efforts have been made to find the documents mentioned in the letter dated 9th July 2019 but the same are not traceable in the office record. The said Dange is totally silent as to whether he personally searched the documents. He also does not say who searched for the documents. He does not further state that whether

any disciplinary action has been taken against the concerned officer for losing the documents. Mr. Adik says those documents are not relied upon by respondents but the fact is that those documents are required by petitioner to respond to the action being taken against petitioner. Therefore, by losing the original documents which have been admittedly taken from petitioner, respondents have prejudiced the rights of petitioner. This is a very serious matter which requires serious action.

6 The Commissioner of Central Excise and Central Goods and Services Tax, Pune-1, Dange shall explain why disciplinary action should not be taken against him and the concerned officers for losing original documents. It should be noted that by losing these original documents, respondents have also prejudiced their own case against petitioner. This is a serious issue. Therefore, this order be also forwarded to the Central Board of Indirect Taxes and Customs (CBIC), Principal Secretary, Department of Revenue, Ministry of Finance, Government of India and to the Chief Commissioner to whom the said Dange may report for information and necessary action. Petitioner’s advocate is permitted to forward.

7 We would have expected the said Mr. Yadav to file an affidavit explaining to whom these documents were handed over which affidavit has

also not been filed.

8 Respondents are also to show cause why no action be taken against them for making false statement that they do not have records and in affidavit of Dange stating to the contrary that documents were received but lost.

9 The interim orders granted on 15th July 2024 shall continue until the hearing and final disposal of the petitions.

10 Stand over to 19th August 2024.

(JITENDRA JAIN, J.) **(K.R. SHRIRAM, J.)**

This order has been modified by speaking to minutes of the order dated 21st August 2024.