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

\+ CONT.CAS(C) 91/2020 & CM APPL. 19351/2024

RANNU DEVI & ANR ..... Petitioners

Through: Mr. Sanjay Mani Tripathi, Advocate (M:9910396889)

versus

SANDEEP KUMAR & ORS ..... Respondents

Through: Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Suhani Mathur, Mr. Jatin Kr. Gaur, Ms. Pritika Nagpal, Advocates (M:9717153109)

% ***Date of Decision: 03rd May, 2024***

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MINI PUSHKARNA, J: (ORAL)

1. The present petition has been filed alleging willful disobedience of the order dated 16th July, 2019 passed in *W.P.(C) No. 7560/2019,* wherein the court directed the respondents to disburse the reward to the petitioners in terms of the policy of the respondents within a period of two months. There was further direction that the respondents shall communicate the status of the appeal before the Central Excise and Service Tax Tribunal ("CESTAT") to the petitioners.

2. The petitioners herein had earlier filed a writ petition being *W.P.(C) No. 12327/2009,* to claim reward which the petitioners were entitled to, as they were the informers to the GST Department, of tax evasion by a

company namely, M/s J.V. Industries Pvt. Ltd. Thus, the petitioners prayed that they were entitled to be given reward under the Reward Policy dated 20th June, 2001.

3. By way of the judgment dated 27th May, 2014, writ filed by the petitioner being *W.P.(C) 12327/2009*, was allowed in the following terms:

> *"xxx xxx xxx*
>
> *13. The question then is, were the respondents right in rejecting the petitioners claim for interim Reward altogether. The second question is whether given the circumstances of this case, were the respondents correct in arguing that what was provided was only 'basic information' which disentitled the petitioner for any relief under the Reward Policy of 2001. Whilst, this Court cannot obviously enter into the arena of what kind of information would be useful as that would be a matter of executive Policy, at the same time what is apparent is that the petitioner provided certain vital link or information normally called a "tip off" which led to its 'development' and further investigation by the respondents authorities. This is evident from the reply to the RTI queries provided to the petitioner herself when the respondents stated that 'working' on a basic information that the unit of M/s JV Industries Pvt. Ltd was engaged in manufacturing copper Ingots, Copper Rods & Copper Wires and showing usage of nickel as an input which was not being used in the manufacture of their final product. The information was developed by SIO with the assistance of IO and some more documents were called for to verify the authentication of the basic information. This has been further elaborated in the reply to the RTI queries where it was stated that the information was given to Shri J. P. Singh, Inspector, who "Provided the input about the information to the officer at Sr. No. 5" i.e. Rajesh Tomar and "provided key-data to the officer at Sr. No.6" i.e. Pankaj Kudeshiya and "played a key role in arresting Shri Sushil Kumar Jain the prime accused. Attended to court related matters".*
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> *14. Likewise, Sl.No.5 reference to whom has been made is adverted as Rajesh Tomar, Superintendent who is said to have "gathered and developed an information and later deployed the officers Shri Pankaj Kudeshiya and Shri B. M. with senior officers."*
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> *15. The pleadings in this case are clear that the petitioner provided what is characterised by the respondents themselves as 'basic information'. During the submissions, learned counsel had relied upon certain show cause notices sought to have been issued to JV*

Industries' sister concern to show that parallel line of investigation existed. Yet the proximity of the information provided by the petitioner on 12.11.2007 and the subsequent raid, which took place in December, 2007, in the opinion of this is Court decisive for a conclsion that the basic information provided in this case was also of a significant character. Therefore, it is held that the petitioners claim could not have been brushed aside in the manner that is sought to be urged by the respondents in the present case.

16. The above observations, however, are not dispositive of the entire proceedings. Given the nature of the discretion which the competent officials have under Rules 5 & 6.3 of the 2001 policy, all that can be said at this stage is that the denial of the petitioners' representation on the ground of her being unable to establish identity and that she had only provided basic information which was insufficient to generate Interim Reward is not sustainable in law. As to whether the respondents would in the light of this finding wish to grant Interim Reward during the pendency of CESTAT proceedings as they appear to have done in the case of their own officers or await the decision of the CESTAT, is left to the discretion of the authorities who shall after considering all the materials available on record, pass appropriate orders and communicate the same directly to the petitioner within four weeks from today.

xxx xxx xxx"

4. Since the amount of reward was not paid to the petitioners, the present petition came to be filed.

5. Learned counsel for the petitioners has referred to the order dated 03rd November, 2022 passed in the present proceedings, which reads as under:

*"**C.M. Appl. Nos. 19167/2022, 19317/2022, 41419/2022***

These applications seek deletion of name of respondent nos. 1, 3 and 4 from the array of parties, respectively. The same are not opposed by learned counsel for the petitioners.

In view of the aforesaid and considering the averments made in the present applications, same are allowed.

The aforesaid applications stand disposed of accordingly.

CONT.CAS(C) 91/2020

1. The present petition alleges willful disobedience of the directions *contained in the judgment/order dated 16.07.2019 passed by this Court in W.P.(C) 7560/2019. The said order reads as under:-*

> *"1. The petitioners have filed the present petition, inter alia, praying that directions be issued to the respondents to grant/release full and final reward of the sum of ₹99.26 lakhs with interest as per Rules to the petitioners.*
>
> *2. It is pointed out that the Division Bench of this Court (of which the undersigned was a member) had rendered a judgment dated 27.05.2014 in W.P.(C) 12327/2009 accepting the petitioners' entitlement for a reward as informers under the relevant policy.*
>
> *3. However, at that stage, no directions were issued for disbursement of the reward as this court was informed that that the assessee had filed an appeal before the Central Excise and Service Tax Tribunal (CESTAT) against the orders passed and was contesting the proceedings initiated by the department.*
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> *4. This Court had also noted that the interim reward had already been granted by the department to some of its officers and had left it to the concerned authorities to exercise their discretion to pass appropriate orders regarding disbursement of interim award to the petitioners.*
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> *5. Pursuant to the aforesaid directions, the respondents had examined the petitioner's request for an interim reward and had declined the same by an order dated 31.07.2014. A plain reading of the said order indicates that the reward was not disbursed to the petitioners because at the material time, the assessee's appeal was pending before the CESTAT. It is noticed that more than five years have since elapsed and it is expected that the assessee's appeal would have been disposed of.*
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> *6. The grievance of the petitioners is that they are not aware of the status of the appeal, as no details have been provided. In view of the above, the respondents are directed to communicate the details of the appeal preferred by the assessee.*
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> *7. Needless to state that if the appeal has been decided in favour of the Department of Revenue, Central Board of Excise & Customs, either in part or in whole, the respondents shall take the necessary steps for disbursal of the reward in terms of the relevant policy, as expeditiously as possible and preferably,*

within a period of two months from today.

8. The petition is allowed with the aforesaid directions."

2. Learned counsel for the petitioners has drawn attention to a communication dated 07.04.2022 addressed by the Deputy Commissioner (Legal), CGST East to the petitioners, wherein it is stated as under:-

> *"A case was booked against M/s J.V. Industries Pvt. Ltd. on the basis of information provided by the informer. Further, reference is invited to the Contempt Petition on the above cited matter in the Hon'ble High Court of Delhi.*
>
> *2. The status of appeal has now been ascertained. Hon'ble CESTAT vide Final Order No. 51029/2021 in the matter of M/s J. V. Industries Pvt. Ltd. Vs Commissioner, Central GST & Central Excise, Delhi East, has dismissed the party's appeal as being withdrawn, since the party has filed a declaration under the Sabka Vishwas Legacy Dispute Resolution Scheme, 2019. No further appeal is pending in the matter.*
>
> *3. In view of the above, appeal in the matter against M/s J. V. Industries Pvt. Ltd. has been concluded. Accordingly, this office has initiated the process for consideration of reward to the informer in the instant case."*

3. In the light of the aforesaid communication, learned counsel for the petitioners submits that since the appeal has been disposed of by the CESTAT, the entire reward payable to the petitioners must be released to the petitioners.

4. Learned counsel for the respondent no. 2 seeks some time to take instructions.

5. Let a status report be filed by the respondent no. 2 indicating the time period within which the reward would be disbursed to the petitioners, considering that the judgment/order dated 16.07.2019, clearly provided that necessary disbursement would be made, preferably within a period of two months thereof. Let the same be filed within a period of four weeks from today.

6. Learned counsel for the respondent no. 2 further submits that, in the meantime, the petitioners can collect the interim reward of Rs.5,00,000/- from the office of the Commissioner, CGST Delhi East, without prejudice to their rights and contentions in the present petition. The petitioners are at liberty to collect the interim reward, without prejudice to their rights and contentions.

7. At the request of the petitioners, the Commissioner, CGST, Delhi East, is impleaded as a party in the present case. Let amended memo of parties be filed by the petitioners accordingly within a period of four weeks.

8. List on 20th January, 2023."

6. By referring to the aforesaid order, it is submitted that the said order clearly recorded the communication dated 7th April, 2022 from the Deputy Commissioner (Legal), CGST East, confirming the finalization of the case against M/s J.V. Industries Pvt. Ltd. and that no further appeal was pending in the matter. Thus, it is submitted that since no further appeal was pending in the matter, the matter pertaining to the amount payable by the assessee, i.e., M/s J.V. Industries Pvt. Ltd., stood finalized. Hence, the petitioners are entitled to release of the reward in their favour.

7. Learned counsel for the petitioners has drawn the attention of this Court to the order dated 01st December, 2023, which reads as under:

"1. Learned counsel appearing for respondent No.2 states that since the Customs is being represented by Mr. Harjeet Singh, learned Standing Counsel, a request is made to delete respondent No.2 from the array of parties as during the relevant time she only had the additional charge of Commissioner, CGST (East).

2. Learned counsel for the petitioners has no objection to the same.

3. Accordingly, respondent No.2 is deleted from the array of parties.

4. After hearing the learned counsel for the parties, it appears that the assessment of duty by the Customs has been assailed by the assessee/importer W.P. (C) 9311/2022, which is stated to be listed for hearing before a Division Bench of this Court on 11.12.2023.

5. During the course of arguments, learned counsel appearing for the petitioners referred to the copy of the Writ Petition filed by the assessee and inter alia it is submitted that since the assessee is not disputing his complete liability towards payment of duty, the respondents are duty bound to pay reward to the petitioner in terms of the scheme, copy of which is filed vide "Annexure R-2".

> *6. Let relevant documents filed in the W.P. (C) 9311/2022 with regard to admission about the duty payable by the assessee and reply of the Customs, if any, be placed on the record on behalf of the petitioners within four weeks from today.*
>
> *7. Re-notify for final hearing on 10.01.2024 in the category of "End of Board" matters."*

8. By referring to the aforesaid order, learned counsel for the petitioners submits that since assessee has not disputed his complete liability towards payment of duty, the respondents are duty bound to pay rewards to the petitioners in terms of the Scheme.

9. Per contra, learned counsel for the respondents submits that the Department has concluded an amount of ₹ 9 crores against the said company, which was to be paid towards the Central Excise Tax. He further submits that the respondents had floated a Resolution Scheme, pursuant to which, 50% concession was to be given for payment towards the Central Excise Tax. He submits that since the application of the said company, M/s J.V. Industries Pvt. Ltd., was dismissed and the benefit under the Resolution Scheme was not granted to the said company, a writ petition being *W.P.(C) 9311/2022* has been filed by the said company. He further submits that the said petition is now listed for hearing on 16th July, 2024. He, thus, submits that it cannot be considered that the matter pertaining to payment of Central Excise Tax by the assessee-company, has become final.

10. Learned counsel for respondents also draws the attention of this Court to the additional affidavit filed on behalf of the Commissioner, GST, wherein it has categorically been stated that pursuant to the final reward, the requisite amount of reward shall be released to the petitioners. He further submits that the interim reward of ₹ 5 Lacs has been sanctioned in favour of

the petitioners, which the petitioners have still not collected.

11. In rejoinder, learned counsel for the petitioner submits that as recorded in the order dated 01st December, 2023, since the assessee has not disputed his complete liability, the petitioner can be released the full amount of the reward even at this stage.

12. Having heard learned counsels for the parties, it would be relevant to refer to the Scheme of respondents with respect to release of reward, relevant portions of which read as under:

> *"xxx xxx xxx*
>
> ***7. PAYMENT OF FINAL REWARD***
>
> *7.1 Final rewards, both to Government Servants as well as informers, should be sanctioned and disbursed only after conclusion of adjudication/appeal/revision proceedings, as well as closure of proceedings mentioned at para 6.5……..*
>
> *xxx xxx xxx"*

13. A perusal of the aforesaid clearly shows that the final reward to any informer can be sanctioned and disbursed by the respondents only after conclusion and adjudication of all the proceedings and closure of the proceedings.

14. This Court notes that the assessee-company had voluntarily deposited a sum of ₹ 4,40,00,000/- with the respondents. After the dismissal of the application of the assessee-company under the Resolution Scheme, a further amount of ₹ 4,46,00,000/- was demanded by the GST Department on account of non-payment of redemption by the assessee, which the assessee-company was directed to deposit. Against the aforesaid further demand of ₹ 4,46,00,000/-, the assessee-company has already filed a writ petition being *W.P.(C) 9311/2022,* which is pending adjudication before the learned Division Bench.

15. Thus, when the demand of the respondent-department with respect to payment of ₹ 9 Crores by the assessee-company still stands and further demand of ₹ 4,46,00,000/- has been raised by the respondents against the assessee-company, and the said issue is still pending adjudication before the learned Division Bench in *W.P.(C) 9311/2022,* it cannot be said that the proceedings against the assessee-company, have been closed.

16. This Court also notes the additional affidavit filed by the respondents, wherein it has been stated that the final reward disbursement shall be subject to closer of proceedings. The relevant portion of the said additional affidavit, reads as under:

> *"xxx xxx xxx*
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> *12. That, in case the Writ Petition W.P. (C) No. 9311/2022 is decided in favor of the assessee, the department shall proceed to consider to finalize the case under the amnesty scheme SVLDRS-2019 and the final reward disbursement will be subjected to closure of proceeding in terms of CBIC Reward Guidelines 2015.*
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> *13. That, in case the Writ Petition is decided in favor of the department, the benefit of amnesty scheme SVLDRS-2019 will not be available to the taxpayer and accordingly, confirmed demand needs to be recovered as per the Order-in-Original dated 28.06.2019 for consideration of final reward.*
>
> *xxx xxx xxx"*

17. This Court also takes note of the submissions made by learned counsel for the respondents that the respondents cannot go beyond their Scheme, as no discretion is vested with the respondents to release any amount towards the reward, before finalization of the proceedings against the assessee-company.

18. Thus, it is held that there is no willful and deliberate disobedience of the order dated 16th July, 2019 passed in *W.P.(C) 7560/2019* by the respondents.

19. Accordingly, the present contempt petition is closed and notice of contempt against the respondents is discharged.

20. However, liberty is granted to the petitioners to approach the respondents for release of interim reward of ₹ 5 Lacs that has been sanctioned in favour of the petitioners.

21. Liberty is granted to the petitioners to revive the present contempt petition, in case there is non-compliance by the respondents after finalization of the proceedings of the assessee-company.

22. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MAY 3, 2024
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