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

\+ W.P.(C) 14056/2024

ASIAN MULTIDIMENSION ENTERTAINMENT PVT LTD .....Petitioner

Through: Appearance not given.

versus

THE PRINCIPAL COMMISSIONER MEDCHAL COMMISSIONERATE AND ANR. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Subhm Kumar, Mr. Dipak Raj & Mr. Vipul Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

<u>O R D E R</u>

% **07.10.2024**

<u>CM APPL. 58815/2024 (Ex.) & CM APPL. 58816/2024 (Ex.)</u>

Allowed, subject to all just exceptions.

Applications stand disposed of.

<u>W.P.(C) 14056/2024 & CM APPL. 58814/2024 (Stay)</u>

1. The petitioner impugns the order dated 24 June 2024 passed by the **Competition Commission of India**[1]. While construing a report submitted by the **Director General of Anti Profiteering**[2] for the consideration of the CCI upon conclusion of investigation as contemplated under Rule 129(6) of the **Central Goods and Services**

[1] CCI
[2] DGAP

Tax Rules, 2017[3], the record would reflect that a reference appears to have been received from the Standing Committee on Anti-Profiteering on 02 July 2019 on the basis of which a detailed investigation was commenced.

2. The principal allegation was of the petitioner having engaged in profiteering in connection with the supply of "*services by way of admission to exhibition of cinematography films*". It was alleged that the petitioner had failed to pass on the benefit of reduction in **Goods and Services Tax**[4] rates on movie admission tickets and in fact had increased the base price to maintain a uniform base price "*cum-tax*" selling price as per the following details:-

Sr. No.	Admission ticket	**01.12.2018 to 31.12.2018**			**01.01.2019 to 30.06.2019**				
No		Price of Ticket inclusive of tax (in Rs.)	GST Rate (%)	Amount Charged i.e Base Price (in Rs.)	Price of Ticket inclusive of tax (in Rs.)	GST Rate (%)	Amount Charged i.e Base Price (in Rs.)	Commensurate Basic Price (in Rs.)	Amount which was to be Charged (in Rs.)
A	**B**	**C**	**D**	**E= [C/ 128%]**	**F**	**G**	**H**	**I**	**J=(I*118%)**
1	Premium Seats	175	28	**136.72**	175	18	**148.31**	**136.72**	**161.32**
2	Regular Seats	150	28	**117.19**	150	18	**127.12**	**117.19**	**138.28**

3. The period covered by the aforementioned investigation was from 01 January 2019 to 30 June 2019. The writ petitioner appears to have asserted that the prices that it had charged was in accord with and within the limits as prescribed and stipulated by the District Collector, who is designated as the competent Licensing Authority under Section

[3] CGST Rules, 2017
[4] GST

4 of the **Telangana Cinemas (Regulation) Act, 1955**[5]. According to the writ petitioner, since the price as charged was within the ceiling prescribed under the 1955 Act, the charge of profiteering would not sustain.

4. While negating this contention, the CCI has observed as follows:-

> "8. This Commission further finds that the Central and the State Governments had reduced the rates of GST on "*Services by way of admission to exhibition of cinematograph films where the price of admission ticket was above one hundred rupees*" from 28% to 18% w.e.f. 01.01.2019, vide Notification No. 27/2018- Central Tax (Rate) dated 31.12.2018, the benefit of which was required to be passed on to the recipients by the Respondent as per the provisions of Section 171 of the above Act.
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> 9. The Commission finds that, one of the contentions of the Respondent was that that the entire proceeding are not maintainable in terms of Rule 128 of the CGST Rules, 2017 as the investigation was time barred. In this regard, it is to mention that the complaint dated 29.03.2019 sent by Principal Commissioner, Medchal was received in DGAP on 18.04.2019 and then forwarded to the Standing Committee. The Standing Committee in its meeting held on 15.05.2019 forwarded the minutes of the meeting dated 15.05.2019 which were received in DGAP on 02.07.2019. It would be seen that the period between 18.04.2019 and 15.05.2019 was less than two months and thus within time limit and therefore, the above contention of the Respondent is not tenable.
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> 10. The Respondent further contended that there was reduction in his profits due to introduction of GST. In this regard, the Commission finds that upon perusal of table 'A' above it is evident that the Respondent had a base price (exclusive of taxes) of Rs. 136.72/- and Rs. 117.19/- for the Premium and Regular class tickets respectively before the GST rate reduction on 01.01.2019 which was raised to Rs. 148.31/- and Rs. 127.12/- respectively.
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> 11. The Respondent further contended that the licensing authority under the Telangana Cinema (Regulation) Act, 1955 had been regulating the ticket prices through Government Orders. The last GO Ms.100 dated 26.04.2013 was challenged before the Hon'ble High Court of Andhra Pradesh in in the case of *Ramakrishna Gliterrati vs. State of Telangana*, wherein the Hon'ble

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[5] 1955 Act

Court vide order dated 31.10.2016 allowed theatre owners to charge a higher price on cinema tickets after informing the concerned authorities about the hiked prices. The Respondent has also contended that the DGAP failed to take into consideration that the prices being charged by the Respondent is within the maximum permissible limit set by the Regulating Authority.

> The Commission finds that the licensing authority only fixes the maximum price at which a movie ticket can be sold. Levy of GST is fixed by the GST Council which is a Constitutional body and all the State Governments are part of the GST Council. Section 171 of the CGST Act, 2017 and Rules made thereunder is limited to the extent of passing of benefit of rate reduction which the Respondent has to comply with. The fixing of the prices by the State Government or the licencing authority does not grant a waiver from applicability of the GST Act.

> The reliance on the judgement of *Competition Commission of India v. Bharti Airtel Ltd. & Ors.* by the Respondent is completely misplaced as the facts and circumstances of the said case are different and distinct from facts of the case at hand. In the said judgement the Hon'ble Supreme Court has acknowledged the exclusive jurisdiction of the Competition Commission of India arising under the Competition Act, 2002. Further, arguendo, even if it is assumed that the said judgement is applicable to the present case, there are no jurisdictional facts which need to be ascertained from the Licensing Authority.

> The Respondent should have kept his base prices same to transfer the benefit of rate reduction to the consumers. Instead, he increased the base prices of tickets thereby wrongly appropriating the benefit of rate reduction. Therefore, the above contention of the Respondent cannot be accepted."

5. In our considered opinion, the view as expressed by the CCI is clearly unexceptionable since a broad and maximum limit with respect to movie admission tickets that may have been formulated by a licensing authority would not detract from the statutory obligation which Section 171 of the CGST Act places upon the writ petitioner. Once it was conceded that during the period in question, the CGST rate had come to be reduced from 28% to 18%, it became mandatory for the petitioner to pass on the benefit of that reduction. We consequently find no justification to interfere with the view expressed

by the CCI in this regard.

6. Since no other contention was addressed before us, we find no ground to interfere with the order impugned.

7. The writ petition fails and shall stand dismissed.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

OCTOBER 07, 2024/RW