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(1993) 07 DEL CK 0020

In the Delhi High Court

Case No : C.W.P. No''s. 1886, 2047, 2086 and 3686 of 1992

Arvind Kumar Goel APPELLANT

Vs

K.M. Sahni and others RESPONDENT

Date of Decision : 20-07-1993

Acts Referred:

Citation : (1993) 07 DEL CK 0020

Hon'ble Judges : G.C. Mittal, J;Dalveer Bhandari, J

Bench : Division Bench

Advocate : Balram Sangal, for the Appellant; R.C. Chawla, for the Respondent

Judgement

Gokal Chand Mital, C.J.—The petitioners have filed petitions with the prayer to quash the notification published in the "Times of India" and "Jansata" on May 14, 1992 annexures P17, P18 and P19 to the petitions. By the said notification, the Commissioner, Sales Tax, Delhi, declared ST-1 and ST-35 forms as obsolete and invalid with effect from they date of issue by the department to they dealers. It is further prayed that these declaration forms will not be valid for claiming exemption in respect of sales made to registered/authorized dealers (?).

2. In the notification, names of four dealers (petitioners Nos. 1 to 4 have been mentioned : (1) M/s. Ramesh Traders, (ii) M/s. Arun Trading Co., (iii) M/s. Ram Niwas & Co. and (iv) M/s. Arvind Kumar Goel.

3. Aggrieved by the said notification the petitioners file these writ petitions before this Court. On May 22, 1993, notice were issued to the respondents to show cause why rule nisi be not issued. Replies to the show cause were filed by the respondents. The respondents have taken the preliminary objection that the petitioners are not entitled to any relief under the extraordinary jurisdiction of this Court because the petitioner have been playing fraud on public money and, with well-planned and conceived device, they have been systematically defrauding the Revenue. It is further submitted that these petitioners have not approached the court with clean hands and, Therefore, they are not entitled to

any relief in the extraordinary of this Court. The respondents in reply to the writ petition have mentioned that the king-pin of bogus trade is one Mr. Satya Prakash, who started a firm under the name and style of Kanwar Shanker and Bros. and got registration in ward No. 41.

4. The respondents have contended that the petitioners in order to get registered with the Sales Tax Department had submitted false information. The particulars in the ration card for registration did not carry correct information. The respondents have further mentioned in the counter-affidavit that each of the petitioners with virtually negligible investment ranging from Rs. 4,406,75 to Rs. 11,000 were showing the sales running in crores. A few facts regarding the business activities of each of the petitioners are reproduced in order to properly appreciate the controversy in these petitions.

5. Arvind Kumar Goel (C.W.P. No. 1886 of 1992) :

The petitioner in nephew of Satya Prakash, king-pin of the bogus activities, residing in the same residential premises. The total investment made by the petitioner was Rs. 4,406,75. The business premises, was situated at 1825-27/2, Main Road, Malka Ganj, taken on a monthly rent of Rs. 60 from. Sunheri Devi wife of Shri Satya Prakash. In these business premises, another business was floated in the name and style of Ram Niwas & Co., which was owned by Ram Niwas, who is stated to be brother-in-law of Satya Prakash.

6. The petitioner tried to mislead the Sales Tax Department by giving the address of 1825-27/2, Main Road, Malka Ganj. The petitioner opened bank account giving the address of 2279, Gali Hinga Beg, Tilak Bazar, Delhi, which premises belong to the leader of the game Satya Prakash, Proprietor, Kanwar Shanker & Bros.

7. The petitioner stood surety in the case of Kanwar and Bros. For Rs. 5 lakhs and again for Rs. 50,000. The petitioner also stood surety for Rs. 25,000 each under the local and Central Act in favor of Ram Niwas & Co. at the time of grant of certificate to the latter. Again in the case of Arun Trading Company, the petitioner stood surety for Rs. 10,000 and Rs. 26,000 and Rs. 20,000. The petitioner also stood surety for Rs. 10,000 and Rs. 26,000 for a firm owned by the father of Satya Prakash. The petitioner was working on commission basis prior to start of this business and owned no immovable property and with a meagre investment of Rs. 4,406.75 and his yearly sales ran into crores of rupees, details of which are submitted as under :

1987-88 Rs. 62,48,853.25 1988-89 Rs. 1,26,23,749.00 1989-90 Rs. 2,86,87,577.00 1990-91 Rs. 2,69,64,076.00 1991-92 Rs. 1,77,66,648.00 8. Ram Niwas & Co. (C.W.P. No. 2047 of 1992) :

Similarly Ram Niwas started this business with Rs. 11,000 in the business premises of the wife of Satya Prakash on a monthly rent Rs. 50. His sales were also running in crores, the details of which are reproduced as under :

1987-88 Rs. 46,31,962.41 1988-89 Rs. 5,50,25,234.96 1989-90 Rs.

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9,36,03,874.56 1990-91 Rs. 5,57,95,170.92 1991-92 Rs. 8,44,02,769.00 9. Admittedly the investment of the other petitioners are even less than Rs. 11,000 and sales also run crores of rupees which is clearly evident from the sales of various years.

10. Aggarwal Trading Co. (C.W.P. No. 3686 of 1992) :

This petition made an investment of Rs. 11,000 and carried his business activities from a room 10'' X 10''. The petitioner had no godown, though the petitioner is engaged in the business of Chemical and kirana. The respondents has mentioned in the counter that this petitioner is in league with other dealers.

The petitioner applied for issue of registration certificates under the Delhi Sales Tax Act, 1975, and the Central Sales Act, 1956, on February 27, 1991. Certificates were issued with liability to pay tax effect from January 29, 1991. The business was a sole proprietorship concern and owned by Shri Rohtas Kumar, the petitioner. In the premises where the petitioner was doing the business, another firm, namely, M/s. Rohtas Kumar Satish Kumar was also carrying on the business activities. The petitioner obtained statutory forms from the department numbering 298 and as per utilisation account filed the petitioner purchased goods worth Rs. 9,91,60,115.25 from April 30, 1991 to April 28, 1992. A copy of the utilisation account filed by the petitioner has been annexed to the reply. The perusal of the utilisation account would clearly indicate that each transaction of purchase runs into lakhs. The table given below would show the huge purchases made which looking to the meagre investment from inadequate premises is not only improbable but impossible. The petitioner made the following sales from the inception of business to September 30, 1992, as per returns filed. All sucha sales are made to registered dealers and as per information available with the answering respondents-dealers to whom such sales have been made are also bogus.

11. In the case of the petitioner one dealer Ankit Trading Company stood surety for Rs. 40,000 and Rs. 30,000 under the local and Central Sales Tax Acts as conditions for grant of registration certificates to the petitioner. The said surety dealer was registered on May 26, 1990 and he surrendered back registration certificates for cancellation on April 1, 1992. The investment made by the registered dealer was only 21, 000. The surety dealer has been carrying on business in the space of 10'' X 6''. The said surety dealer made the following purchases and sales during two year i.e., 1990-91 and 1991-92 detailed as under :

Year Purchases Sales 1990-91 6,11,13,271.00 7,20,13,305.00 1991-92 4,57,60,124.00 6,61,19,247.00 12. These bogus registered dealers evolved a scheme to indulge in fraudulent business transactions to cheat the Sales Tax Department of hung sales tax. They also furnished false documents on the basis of which they obtained registration certificate from the Sales Tax Department and at times in connivance with the Sales Tax Officers also. The pattern of the

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business activities and purchases and sales effected by these dealers would indicate that their transactions were mostly on papers and goods so purchased were disposed of and their sales were not accounted for.

13. The respondents have indicated a large number of instances of furnishing of false information by the petitioners in order to obtain sales tax certificates and no objection certificates. They also indicated the instance of interpolation of number in the no objection certificate.

14. We do not propose to deal with these allegations in detail. Admittedly all the petitioners have less then Rs. 11,000 in the business and a cursory look on the yearly sales indicates that their sales have been in crores of rupees. It is inconceivable to have sales in crores of rupees with such petty investments. The petitioners are further guilty of furnishing false information to all concerned office. On the face of it is obvious that all the petitioners who are closely inter-connected together perpetuated systematic fraud to avoid sales tax running in crores of rupees. This perhaps was done to get benefit for claiming the exemption.

15. The respondent have rightly taken the preliminary objection in their reply that the petitioners with such background cannot be permitted to invoke the extraordinary jurisdiction of this Court. We cannot help observing that this kind the active connivance of the official of the respondents.

16. Learned counsel for the petitioners placed reliance on Chhabra Electric Stores v. Chief Commissioner [1972] 30 STC 85 and Cromelite (India) Pvt. Ltd. Vs. State of Maharashtra, . We have examined the ratio of these two decisions. In the peculiar facts and circumstances of the case, the cited cases cannot provided any assistance to the petitions. The petitioners filed by the petitioners are devoid of merit and accordingly are dismissed with costs.

17. Petitions dismissed.

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