
(2016) 07 MP CK 0010
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3847 of 2016

Jiji Industries Ltd.

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 05-07-2016

Acts Referred:

Citation : (2017) 347 ELT 216

Hon'ble Judges : Vivek Rusia and P.K. Jaiswal, JJ.

Bench : Division Bench

Advocate : S/Shri Vibhor Khandelwal, Ravindra Singh Chhabra, Akash Vijayvargiya and Raghuvir Singh Thakur, Advocates, for the Petitioner

Final Decision : Dismissed

Judgement

By this writ petition under Article 226 of the Constitution of India, the petitioner is praying for the following reliefs :-

1. That, the respondents may kindly be directed to deliver entire original record seized by the respondents as per Panchnama dated 17-11-2011 or its duly attested copies including all relied upon and non-relied upon documents to the petitioner with an immediate effect.
 2. That, the respondents may further be directed not to take any action in pursuance to the show cause notice dated 10-4-2014 unless the entire original record seized by the respondents as per Panchnama dated 17-11-2011 or its duly attested copies will not be supplied to the petitioner.
 3. Any other relief which this Hon"ble Court may consider necessary in the interest of justice, may also be granted in favour of the petitioner.
2. Shri R.S. Chhabra, learned counsel for the petitioner has drawn our attention to Paras 5.6 and 5.7 of the writ petition and submits that total 208 files have been seized whereas, on 27-5-2016, 161 files were returned to them prior to the filing of the writ petition and out of remaining 47 files, only 24 files have been

supplied on 10-6-2016 and rest seven files on 1-7-2016. He further submits that at present, he has received total 192 files and 16 files are still with them and due to the aforesaid, he is not in a position to file his reply to the show cause notice or appear before the appropriate authority.

3. In reply, Shri P. Prasad, learned counsel for the respondent No. 2 has submitted that during the course of search of the factory premises of M/s. Jiji Industries Ltd. Ghatabillod and office premises at Rambali Nagar, Indore, total 203 documents and files including one USB Hard-Disk and one computer Hard-Disk were seized as it is apparent from two Panchnamas dated 17-11-2011. Out of these 203 files/documents, 9 files/documents have been relied upon at Serial Nos. 8, 34, 65, 69, 136, 138, 139 and 140 in the appendix of the show cause notice dated 10-4-2014. The petitioner has already taken back 161 files on 27-5-2016. On 10-6-2016, the petitioner has again taken back 24 files/documents. Apart from above, the photocopy of set of the following seized documents were already given to the petitioner way back on 23-1-2012 and 30-11-2011 :-

Sr. No. of Panchnama dated 17-11-2011

Description

Page No.

38

Krishna Profiles Exchange Control Copy & SDF

01 to 16

138

ARE-1 No. 023/11-12, dated 4-11-2011

01 to 17

56

Krishna Profiles Pvt. Ltd. MOA file

01 to 28

84

Bill of Lading and certificate M/s. Jiji Industries Ltd.

01 to 35

85

Export Shipping bills M/s. Jiji Industries Ltd.

01 to 122

96

ARE-1 Rebate

01 to 14

151

Commercial Invoice and other export documents

01 to 9

1

One file containing Sales bill file of M/s. Krishna Profile Pvt. Ltd. for the period 2-4-2010 to 6-7-2011

01 to 196

14

One file containing Black diary details of Inward of October, 2011

01 to 25

4. All the documents/files seized from the petitioner have been already returned back to them and rest of the documents would be returned on completion of pending investigation. He further submits that the petitioner has deliberately adopted dilatory tactics to delay the quasi judicial proceedings initiated vide show cause notice dated 10-4-2014. They have refused to file the reply to the said notice even though all the relied upon documents were handed over to them at the time of service of notice (dated 6-5-2014). He also submits that petitioner has adopted a unique modus operandi and by taking a plea of non-receipt of few documents, which are of no relevance to the present case, thereby stalling adjudication proceedings at great cost to the government exchequer. It is also their stand that investigation has not been finalized and, therefore, at this stage, premature for them to take the documents which may form of relevance in the pending investigation and demand notice. Further, the insistence of the petitioner for such documents which have not been relied upon in the present case under consideration and, therefore, there is no question of supplying rest of the documents till the investigation is completed. He has lastly submitted that out of total 4 cases, in 3 cases, investigation has been completed and show cause notice were issued and out of which, in one of the case, order has been passed by the adjudicating authority. In the fourth case, investigation has not been completed and, therefore, the documents have not been supplied to them.

5. On due consideration of the aforesaid, no case for issuance of any direction, as prayed in this writ petition is made out. The writ petition has no merit and is accordingly, dismissed.