(2022) 01 DEL CK 0156

In the Delhi High Court

Case No : Civil Writ Petition No. 602 Of 2022, Civil Miscellaneous Application No. 1696 Of 2022

M/S. Krishna Fashion APPELLANT

Vs

Union Of India & Ors RESPONDENT

Date of Decision : 18-01-2022

Acts Referred:

Central Goods and Services Tax (CGST) Rules, 2017 — Rule 86A(3)
Central Goods and Services Tax Act, 2017 — Section 62, 63, 64, 67, 73, 74, 83(2)

Citation : (2022) 01 DEL CK 0156

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Anjali J.Manish, Priyadarshi Manish, Kinjal Shrivastava, Rakesh Kumar, Aditya Singla, A.Sahitya Veena, Achin Sondhi, Rupak Srivastava

Final Decision : Disposed Of

Judgement

Manmohan, J

1. The petition has been heard by way of video conferencing.

2. Present writ petition has been filed challenging the order dated 16th March, 2020, whereby Petitionerâ??s current bank account maintained with

Union Bank of India has been provisionally attached as well as the order dated 6th February, 2020 blocking the Petitionerâ??s Electronic Credit

Ledger. Petitioner also seeks directions to the Respondents to de-freeze the Petitionerâ??s account and unblock the Petitionerâ??s Electronic

Credit Ledger.

3. Learned counsel for the petitioner states that in accordance with Rule 86A(3) of the CGST Rules, 2017, the order blocking the Petitionerâ??s

Electronic Credit Ledger had ceased to operate on 5th February, 2021 on completion of one year. However, the same continues to be blocked and,

thus, the Petitioner is unable to operate it. In support of her submissions, she relies on the orders of various High Courts where it has been held that

Rule 86A(3) is a restriction which will cease to have effect after the expiry of one year from the date of imposing such restriction.

4. Similarly, learned counsel for the petitioner states that as per Section 83(2) of the CGST Act, 2017, the impugned provisional attachment order has

lapsed upon completion of one year from the date on which the order was passed.

5. However, she states that even though the attachment order has ceased to have effect, the Petitionerâ??s bank account remains attached to this

date. In support of her submissions, she relies upon the judgment of this Court in M/s. Shri Dhan Laxmi Trade House Vs. Principal Commissioner of

Goods and Service Tax, 2021 (11) TMI 863. She further states that the impugned order does not disclose the pendency of any proceeding under

Sections 62, 63, 64, 67, 73 or 74 of the GST Acts, which can justify the provisional attachment order. She relies on the judgment of the Supreme Court

in the case of Radha Krishan Industries Vs. State of H.P., (2021) 6 SCC 771.

6. Issue notice. Mr.Rakesh Kumar, Advocate accepts notice on behalf of respondent No.1 and Mr.Aditya Singla, Advocate accepts notice on behalf

of respondents No.2 and 3.

7. Mr.Aditya Singla, Advocate fairly admits that every attachment and blocking of electronic credit ledger shall cease to have effect after expiry of a

period of one year from the date the orders had been passed. He clarifies that no fresh GST DRC-22 has been issued in the present case. He,

however, states that despite service of summons, the petitioner has not been appearing before the Investigating Officer and all the relevant documents

have not been supplied by the petitioner.

8. In rejoinder, learned counsel for the petitioner states that the petitioner has been cooperating with the Investigating Agencies and the relevant

documents have been furnished. She assures and undertakes to this Court that the petitioner will continue to appear as and when directed by the

Investigating Authorities and will supply the documents which may be asked for. The statement/undertaking given by learned counsel for the petitioner

is accepted by this Court and the petitioner is held bound by the same.

9. In view of the aforesaid statement, the present writ petition along with pending application is disposed of with the directions to the respondents to

de-freeze the petitionerâ??s bank account No.508502010001156 maintained with M/s.Union Bank of India, 16, Hargobind Enclave, Karkardooma,

Delhi-110092 as well as unblock the Electronic Credit Ledger within three working days of uploading of the present order.

10. It is clarified that the respondents are at liberty to proceed in accordance with law.