

(2022) 04 DEL CK 0234

In the Delhi High Court

Case No : Civil Writ Petition No. 6740 Of 2022

M/S NTT India Private Limited (Formerly Known As Dimension
Data India Pvt. Ltd.)

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 28-04-2022

Acts Referred:

Delhi Goods And Services Tax (DGST) Rules, 2017 — Section 161

Citation : (2022) 04 DEL CK 0234

Hon'ble Judges : Rajiv Shakdher, J;Manoj Kumar Ohri, J

Bench : Division Bench

Advocate : Puneet Agarwal, Purvi Sinha, Ketan Jain, Hemlata Rawat, Chetan K. Shukla, Ayushman Vatsyayana, Chiranjiv Kumar, Mukesh Sachdeva, Anuj Aggarwal, Sanyam Suri, Ayushi Bansal, Aishwarya Sharma

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

CM APPL. 20460/2022

1. Allowed, subject to just exceptions.

W.P.(C) 6740/2022 & CM APPL. 20459/2022 [Application filed on behalf of the petitioner seeking interim relief]

2. Issue notice.

2.1. Mr Chiranjiv Kumar accepts notice on behalf of respondent no.1/UOI.

2.2. Mr Anuj Aggarwal accepts notice on behalf of respondent nos.2 and 4/ revenue.

3. With the consent of the counsels for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

4. The substantial prayers made in the writ petition are as follows:

- "i. To issue an appropriate writ, order, or direction to Respondents to quash and set aside impugned order dated 24.07.2021 [Annexure P/19]: and/or
- ii. Issuance of appropriate writ, order or direction for quashing and setting aside impugned show cause notice and summary of show cause notice in Form DRC-01 [Annexure P/18]; and/or
- iii. Issuance of appropriate writ, order or direction for quashing and setting aside impugned notice issued in Form ASMT-10 [Annexure P/17]; and/or
- iv. Issuance of appropriate writ, order or direction for quashing and set aside of the impugned proceedings; and/or
- v. Issuance of appropriate writ, order or direction to Respondent no. 4 for deciding the Application for Rectification under section 161 of the DGST Act dated 24.03.2022 [Annexure P/23(Colly)]; and/or
- vi. to stay the operation of the Impugned Order dated 24.07.2021 and prohibit the Respondent from taking any coercive steps against the Petitioner till the final disposal of the present Writ Petition: and/or
- vii. to grant costs of this Petition..."

4.1. At the outset, Mr Puneet Agarwal, who appears on behalf of the petitioner, says that he does not wish to press prayer clause (vii), which relates to costs.

5. The principal grievance of the petitioner is that via the impugned order dated 24.07.2021, respondent no.4, i.e., the Assistant Commissioner, DGST has raised a demand concerning tax amounting to Rs. 18.06 crores along with interest and 100% penalty on account of the purported difference between the contents of two returns i.e., GSTR-1 and GSTR-3B.

5.1. According to Mr Puneet Agarwal, the difference arose on account of one invoice, which was inadvertently not filed with the return [i.e., GSTR-3B] submitted for March 2019.

5.2. Mr Puneet Agarwal says that the error was corrected in the subsequent return filed for April 2019.

6. It is Mr Puneet Agarwal's contention that the requisite tax, along with interest, has been deposited in line with the respondents/revenue's own circular dated 29.12.2017. (See page 56 of the case file.)

6.1. It is, therefore, contended by Mr Puneet Agarwal that if this aspect is taken into account i.e., that the petitioner corrected the error in April 2019, almost nothing will be payable by the petitioner, insofar as the tax and interest are concerned.

7. Mr Anuj Aggarwal, who appears on behalf of the respondents no.2 and 4/ revenue, says that the concerned officer will examine the contentions raised by the petitioner, along with the necessary documents filed in support of the

contentions.

7.1. It is Mr Anuj Aggarwal's submission that if the concerned officer is satisfied, requisite directions will be issued.

7.2. It is further stated that in case there is difficulty in uploading the orders on the web portal, orders will be passed by the concerned authority in the manual mode.

8. The writ petition is accordingly disposed of, with the following directions:

(i) The contentions raised by the petitioner in the writ petition will be examined by the concerned officer by treating it as representation.

(ii) The concerned officer will grant opportunity of hearing to the authorised representative of the petitioner. For this purpose, the concerned officer will communicate the date, time and venue of at which hearing will be granted. In case it is not possible to conduct the hearing physically, a link will be sent for hearing via video-conferencing mechanism.

(iii) Pending the disposal of the representation, no precipitate action will be taken against the petitioner in pursuance of the impugned order dated 29.12.2017.

(iv) The concerned officer will furnish a copy of the decision rendered on the petitioner's representation, to the petitioner.

(v) In the event the decision arrived at by the concerned officer is adverse to the interest of the petitioner, no precipitate action will be taken for two weeks from the date of receipt of the copy of the decision by the petitioner.

(vi) Needless to add, the concerned officer will endeavour to dispose of the petitioner's representation, which is in the form of the writ petition filed before us, expeditiously, though not later than six weeks from the date of receipt of the order.

9. Consequently, the pending application shall stand closed.

10. Before we conclude, we may also like to bring to the notice of the Department of Revenue that the orders which are passed carry endorsement which are spread right across the pages on which they are transcribed, making it difficult to read the orders.

10.1. In fact, this kind of endorsement will also make it difficult for persons who are visually impaired to read the orders, as their applications may not be able to pick up the contents of the order due to the endorsement made on it.

Such endorsement or mark could be affixed on the order where there is no writing; the space ordinarily available on the left or right-hand side corner of the order or at the foot of the order would perhaps serve the purpose.

11. Accordingly, we request Mr Anuj Aggarwal to place the order passed by us,

before the CEO of Goods and Service Tax Network.