**(2017) 01 DEL CK 0330**

**In the Delhi High Court**

**Case No :** 8374 of 2016

**SELECT INFRASTRUCTURE PRIVATE LIMITED Vs COMMISSIONER, VALUE ADDED?TAX & ORS**

**Date of Decision :** 17-01-2017

**Acts Referred:**

<a href=13385>Delhi Value Added Tax Act, 2004</a>, <a href=13385-60>Section 60</a>

**Citation :** (2017) 01 DEL CK 0330

**Hon'ble Judges :** Sanjeev Sachdeva

**Bench :** SINGLE BENCH

**Advocate :** Harsh Sethi, Ruchir Bhatia, P.Roychaudhuri, Rahul Malhotra

## Judgement

1. The petitioner seeks quashing of the sealing order under Section 60 of the Delhi Value Added Tax Act, 2004 dated 11.12.2015 in respect of the premises bearing No.S-21&22 on the Second Floor, Select City Walk, District Centre Saket, New Delhi, and for de-sealing of the premises.

2. It is contended that the petitioner is the owner of the Select City Walk as also the said premises bearing No. S-21&22 on the Second Floor, Select City Walk, District Centre Saket, New Delhi.

3. It is submitted that by Agreement of Licence dated 06.03.2007, the premises was licensed to respondent No.2 to open and run a restaurant and Bar in the name and style of "Geoffreys''.

4. It is contended that on 11.12.2015, the officers of respondent No.1 - Commissioner Value Added Tax, came and sealed the said premises on account of alleged violation of the provisions of Delhi Value Added Tax by respondent No.2.

5. It is contended that respondent No.2 was a mere licensee and has no right, title or interest in the said premises.

6. Learned counsel for the petitioner submits that the petitioner is willing to make available some space in the same Complex where the goods of the

respondent No.2 can be shifted so that the premises of the petitioner can be de-sealed.

7. Learned counsel for the respondent No.2 submits that respondent No.2 has no objection to the goods being shifted to another premises within the same Complex. He further submits that respondent No.2 has no right, title or claim to the said premises and is also not seeking to enforce the rights granted under the Licence Agreement any further.

8. Learned counsel appearing for the Commissioner, Value Added Tax, submits that the Commissioner has no objection to the goods being shifted to some other portion in the same Complex provided that the respondent No.2 is not permitted to deal with the goods till the Commissioner, Value Added Tax is in a position to take appropriate step with regard to attachment/seizure of the same. It is submitted that since the premises had been sealed, the Commissioner did not take any step for initiating any action for attachment/seizure of the goods as the goods were lying in the sealed premises.

9. He further submits that the petitioner should ensure that the goods, that are shifted, are secured till further action is taken by the Commissioner, Value Added Tax and further the respondent No.2 is not permitted to deal with the goods.

10. In view of the above submission, the petitioner is directed to make an appropriate arrangement of space in the same complex for shifting the goods of respondent No.2 lying in the premises bearing No.S-21&22 on the Second Floor, Select City Walk, District Centre Saket, New Delhi.

11. The petitioner should ensure that the location where the goods are shifted are of a condition, which can be sealed and secured.

12. Accordingly, Ms Sumedha Dang, Advocate, who is present in Court, (Mobile No. 9717325769), is appointed as a Local Commissioner to supervise the dismantling of equipment and shifting of the equipment and goods, furniture, fittings and fixtures to a secured location within the same complex.

13. The Commission shall be executed commencing from Friday, the 20th January, 2017. In case the dismantling and shifting cannot take place in a day, the Commissioner shall ensure that the shifting carries on, on day to day basis.

14. The officers of the respondent No.1 and representative of respondent No. 2 shall also be permitted to be present at the time of the dismantling and shifting of the equipment, fittings & fixtures and furniture belonging to respondent No. 2 from the said premises.

15. The Local Commissioner shall also prepare an inventory of the equipment, fittings & fixtures and furniture belonging to respondent No. 2, which is shifted. The petitioner shall make arrangement for video-graphy of the entire exercise. Copy of the video-graph shall also be deposited in Court by the Local Commissioner.

 

16. The Local Commissioner shall ensure that the premises, where the equipment, fittings & fixtures and furniture belonging to respondent No. 2 is shifted, is secured and sealed. The keys shall be deposited with the Registrar General of this Court.

17. The fee of the Local Commissioner shall be Rs.75,000/- per day, to be borne equally by the petitioner as well as the respondent No.2.

18. Respondent No.1 is granted four weeks time to take appropriate steps, as may be permissible in law, with regard to the equipment, fittings & fixtures and furniture belonging to respondent No. 2.

19. In case no steps are taken by respondent No.1 for seizure/attachment of the said equipment, fittings & fixtures and furniture belonging to respondent No. 2, within the period of four weeks, the same shall be liable to be handed over to respondent No.2.

20. The officers of respondent No.1 shall be present on the said premises at 11 A.M. on 20th January, 2017 for the purposes of desealing of the premises and commencement of the process of shifting.

21. After the process of shifting is completed the said premises i.e. premises bearing No.S-21&22 on the Second Floor, Select City Walk, District Centre Saket, New Delhi shall not be sealed and the possession of the premises shall be handed over to the Petitioner.

22. The Writ Petition is accordingly disposed of in the above terms.

23. List for reporting compliance on 22nd February, 2017.

24. Dasti under signatures of the Court Master.