
(2022) 02 BOM CK 0083
In the Bombay High Court
Case No : Writ Petition No.1745 Of 2022

Shalaka Infra Tech India Pvt. Ltd. & Anr	APPELLANT
Vs	
Union Of India & Ors	RESPONDENT

Date of Decision : 21-02-2022

Acts Referred:

Central Goods And Services Tax Act, 2017 — Section 16(2)(c)

Citation : (2022) 02 BOM CK 0083

Hon'ble Judges : R.D. Dhanuka, J;S.M. Modak, J

Bench : Division Bench

Advocate : Vinay Shroff, Nikhil K. Rungta, N.K. Rajpurohit, J.B. Mishra

Judgement

1. Writ petition has been filed by the petitioners on various grounds. In paragraph 4.6 of the petition, it is averred by the petitioners that the petitioners have been summoned 20 times, some time orally and some time in writing during the period between 14th December 2020 and 4th February 2022 for harassing the petitioners.
2. The grievance of the petitioners is also that no show cause notice is issued for conducting any investigation/enquiry against the petitioners. Various amounts have been recovered from the petitioners during this period when the petitioners appeared in response to the summons issued by the respondents. The petitioners have not appeared before the authority on few occasions which according to the petitioners was due to unavoidable circumstances.
3. The respondents are directed to file affidavit and shall deal with the issues raised by the petitioners in the petition and shall also deal with the averments made in paragraph 4.6 of the writ petition. The respondents shall indicate as to how many time summons were issued by the respondents to the petitioners, for what purpose and the progress of the investigation during this period. Affidavit shall also indicate as to when the investigation would be completed by the respondents against the petitioners.

4. A copy of this order shall be forwarded to the Additional Director General of DGGI, Pune to look into the matter personally. There are allegations made by several petitioners in various petitions about the repeated summons issued by the authority under the provisions of Central Goods and Service Tax Act, 2017 for the purpose of harassment, coercion and to compel them to deposit substantial amount not in accordance with law.

5. The respondents shall issue norms as to how many times, such summons can be issued against the parties and for what purpose. Learned counsel for the respondents to inform this Court about compliance of this order on the next date. Affidavit-in-reply shall be filed within two weeks from today with a copy to be served upon the petitioners' advocate. Rejoinder, if any, shall be filed within one week thereafter.

6. In view of the petitioners challenging the constitutional validity of Section 16(2)(c) of the Central Goods and Service Tax Act, 2017 and Maharashtra Goods and Service Tax Act, 2017, office is directed to issue notice upon the Attorney General for India and Advocate General for State of Maharashtra, returnable on 28th March 2022.

7. If the respondents propose to adopt any coercive steps for recovery of any amount, 7 days' clear notice shall be given to the petitioners. In that event, the petitioners would be at liberty to apply for interim relief. Parties to act on the authenticated copy of this order.