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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decision delivered on: 13.05.2022*

+ **W.P.(C) 7504/2022 & CM No.22921/2022**

BLUE WATER EXPOTRADE INDIA PVT. LTD.Petitioner

Through: Mr Sanjoy Ghose, Sr. Adv. with Mr
Vijay Kasana, Mr Rajiv Mishra and
Mr Naman Jain, Advs.

versus

THE PRINCIPAL COMMISSIONER OF GST & ANR...Respondents

Through: Mr Harpreet Singh, Sr. Standing
Counsel with Ms Suhani Mathur,
Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE POONAM A. BAMBA

[Physical Court Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.22921/2022

1. Allowed, subject to just exceptions.

W.P.(C) 7504/2022

2. Issue notice to the respondents.

2.1 Mr Harpreet Singh accepts notice on behalf of the respondents.

3. The principal grievance of the petitioner-company is that its bank account maintained at ICICI Bank, Janpath, New Delhi, has been provisionally attached.

3.1. It is not disputed by Mr Singh that the provisional attachment order dated 13.10.2021 has been effected under Section 83 of the Central Goods

and Services Tax (CGST) Act, 2017.

3.2. The record also shows that the petitioner-company's director, i.e., one Mr Chaman Goel had applied for anticipatory bail, which was granted by the concerned court on 25.04.2022.

3.3 A perusal of the order dated 25.04.2022 shows that the stand taken by the respondents/revenue was that the aforementioned person i.e., Mr Chaman Goel had joined investigation. Accordingly, Mr Chaman Goel was granted pre-arrest bail on the condition that he would furnish a personal bond of Rs.1,00,000/- with one surety of like amount to the satisfaction of the concerned Investigating Officer.

4. Mr Sanjoy Ghose, learned senior counsel, who appears on behalf of the petitioner-company, says the petitioner-company is cooperating in the investigation that is being carried out by the respondents/revenue.

4.1 It is Mr Ghose's contention that the allegation of fake Input Tax Credits (ITCs) is against an entity going by the name Vibe Tradex, which is a proprietorship concern of Mr Chaman Goel's brother i.e., one, Mr Chirag Goel.

4.2. Mr Ghose says the petitioner-company has nothing to do with Vibe Tradex.

4.3. It is, however, conceded by Mr Ghose that the two entities i.e., the petitioner-company and Vibe Tradex have some common vendors, such as Transglobe Tradex Pvt. Ltd. and M/s Tirupati Overseas.

5. At this juncture, we do not intend to comment on these aspects of the matter, as the matter is under investigation by the respondents/revenue.

5.1. However, having regard to the stand taken by Mr Singh that under Rule 159(5) of the CGST Rules, 2017 [hereinafter referred to as "2017

Rules”], the petitioner-company can file an objection to have the provisional attachment lifted, we are inclined to dispose of the writ petition with the direction to the respondents/revenue, to treat the writ petition as an objection under sub-rule 5 of Rule 159 of the 2017 Rules. It is ordered accordingly.

5.2. For this purpose, the authorized representative of the petitioner-company will present herself/himself before the concerned officer on 17.05.2022, at 11:30 P.M.

5.3. The concerned officer, after according personal hearing to the authorized representative of the petitioner-company, will pass a speaking order.

5.4 This exercise will be completed within three days from the date when the authorized representative of the petitioner-company presents himself before the concerned officer, notwithstanding the fact that the objection has been preferred after the period prescribed in Rule 159(5) of 2017 Rules.

5.5. A copy of the speaking order so passed will be furnished to the petitioner-company.

5.6. In case the speaking order is adverse to the interests of the petitioner-company, it shall be at liberty to assail the same, albeit, in accordance with the law.

5.7. Before we conclude, we must also indicate that Mr Ghose, in support of his case, has relied upon the following judgments:

(i) Judgment dated 29.05.2020, rendered by the coordinate bench of this Court in W.P.(C)No.3274/2020, titled ***Watermelon Management Services Pvt. Ltd. v. The Commissioner, Central Tax, GST Delhi (East) & Anr.***

(ii) ***Bhavesh Kiritbhai Kalani v. Union of India***, [2021] 92 GSTR 373 (Guj)

- (iii) *Valerius Industries v. Union of India*, [2019] 70 GSTR 147 (Guj)
5.7(a).The concerned officer will take the aforementioned judgments into account, while passing the speaking order.
6. The writ petition is disposed of in the aforesaid terms.
 7. Consequently, pending application shall stand closed.
 8. The parties will act, based on the digitally signed copy of this order.

RAJIV SHAKDHER, J

POONAM A. BAMBA, J

MAY 13, 2022

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