

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P. (C) 4409/2020

RISHI BANSAL PROPERTOR OF
BANSAL SALES CORPORATION Petitioner

Through: Mr. A.K. Babbar with Mr. Surendra
Kumar, Advocates

versus

UNION OF INDIA THROUGH SECRETARY
MINISTRY OF FINANCE & ORS. Respondents

Through: Mr. Ravi Prakash with Mr. Farman
Ali, Mr. Aman Malik and
Mr. Mohammad Shahan Ulla,
Advocates for R-1.
Mr. Harpreet Singh, Advocate for
R-2 and 3.
Mr. Anuj Aggarwal, ASC with
Mr. Ankit Monga, Advocate for
R-4.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

%

22.07.2020

CM APPL. 15927/2020

Allowed, subject to just exceptions.

W.P. (C) 4409/2020 & CM APPL.15926/2020

The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video

conferencing.

Present writ petition has been filed challenging the letter dated 11th June, 2020 and summon dated 06th July, 2020 issued by respondent No.3 whereby the petitioner has been asked to deposit Rs.2,69,21,228/- being alleged as inadmissible input tax credit and file DRC-03 challan without initiating any adjudication process either under Section 73 or Section 74 of Central Goods and Services Tax Act, 2017 (for short “CGST Act”).

Learned counsel for petitioner states that the alleged amount is being asked to be deposited without issuing any show cause notice or mentioning any tax period. He further submits that to pressurize the petitioner, a summon dated 06th July, 2020 under Section 70 has been issued to the petitioner asking him to appear for recording of his statement and for submitting DRC-03 for Rs.2,69,21,228/-.

Issue notice.

Mr. Ravi Prakash, learned counsel accepts notice on behalf of respondent no. 1. Mr. Harpreet Singh, learned counsel accepts notice on behalf of respondent nos. 2 and 3. Mr. Anuj Aggarwal, learned counsel accepts notice on behalf of respondent no. 4.

Mr. Harpreet Singh, learned counsel for respondent nos. 2 and 3 states that the intent behind issuing the impugned letter dated 11th June, 2020 was to give an opportunity to the petitioner to come forward and either explain the transaction or deposit the tax with minimum interest and penalty under Section 74(5) of the CGST Act without going through the adjudication procedure. He clarifies that if after the investigation the respondent is not satisfied with the petitioner's response, it shall follow the adjudication process for recovery.

The aforesaid statement made by learned counsel for respondent nos. 2 and 3 is accepted by this Court and said respondents are held bound by the same. It is clarified, as a matter of abundant caution, that as the demand is disputed by the petitioner, no coercive steps shall be taken for recovery of the said demand without following the adjudication process. However, the petitioner is directed to appear before the respondent nos. 2 and 3 and cooperate in the investigation process.

Keeping in view the aforesaid, learned counsel for petitioner states that he does not wish to press the writ petition any further. Consequently, writ petition and application stand disposed of.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

JULY 22, 2020

rn