Court No. - 9

Case :- MISC. BENCH No. - 34273 of 2018
Petitioner :- Smt.Seema Gupta
Respondent :- Union Of India Thru.Secy,Min.Of Home Affairs & Ors.
Counsel for Petitioner :- Amit Jaiswal,G.S.Pandey
Counsel for Respondent :- A.S.G.

Hon'ble Ajai Lamba,J.
Hon'ble Karunesh Singh Pawar,J.

1. The petition seeks issuance of a writ in the nature of certiorari quashing the impugned proceedings/First Information Report or complaint dated 01.11.2018 as DGGI Case No. 79/2018-19, under Section 132(1)(b), 132(1)(c), 132(1)(i) Read with Section 16(2)(b) and 132(5) of the Central Goods and Services Tax Act, 2017, Police Station DGGI, Zonal Office, District Lucknow as well as writ in the nature of mandamus commanding the respondents not to arrest and harass the petitioner pursuant to the First Information Report mentioned above.

2. We have heard Sri I.B. Singh learned Senior Advocate assisted by Shri Amit Jaiswal, learned counsel for the petitioner and Sri S.B. Pandey, learned counsel for Union of India.

3. Sri I.B. Singh learned Senior Advocate assisted by Shri Amit Jaiswal, has argued that the petitioner, along with her husband namely Sunil Kumar Gupta is a partner in two firms. A raid was conducted on 30.10.2018 on the business premises, Sunil Kumar Gupta, Rachin Gupta, and one Jaideep Kumar Agarwal were taken by the raiding party and their arrest was shown on 01.11.2018.

4. It has been pleaded that the arrest itself is illegal and against the law laid down by the Hon'ble Supreme Court of India.

5. It has been pleaded that the petitioner is sought to be arrested. The offence is under Central Goods and Services Tax Act, 2017. It has been argued that Section 138 of the

said Act of 2017 provides for compounding of offences also. It has been argued that till date complaint has not been filed, to the knowledge of the petitioner. On the basis of raid itself, arrests are being effected; without calculating and determining whether any offence has been committed or not. It has been argued that the raiding officers were illequipped to assess GST. They are not the assessing officers.

6. Sri S.B. Pandey, learned counsel for Union of India states that he has no instructions in the matter at this stage.

7. Sri Pandey, however, states that the petitioner is required to furnish information in the course of inquiry.

8. We hereby direct the petitioner to appear in the office of respondent no. 4 on 04.12.2018, and thereafter as and when required by the inquiry officer.

9. We make it clear that the Investigating officer shall furnish a questionnaire to the petitioner. The questionnaire be also furnished to the petitioner at her e-mail address so that subsequently, it is not disputed whether questionnaire was given or not and whether the petitioner responded or not.

10. The petitioner would be obliged to answer the questionnaire and furnish the answers available with her.

11. List on 13.02.2019.

12. Let para wise counter affidavits be filed.

13. The petitioner shall not be taken in custody, till the next date of listing. The petitioner is directed to join investigation.

14. We further direct that petitioner would be required to appear only from 10.a.m. to 4 p.m. on working days. This direction is being issued considering the fact that the

petitioner is a lady.

Order Date :- 29.11.2018
R.C.