

W.P. No.15527 of 2020 &
WMP.No.19385 of 2020

DR. ANITA SUMANTH, J.

Mr.C.V.Ramachandramoorthy, learned counsel accepts notice for the respondents and seeks some time to obtain instructions and file a counter.

2. The petitioner challenges notice dated 10.07.2020 issued in terms of Section 133(5)(a) of the CGST Rules. The case of the petitioner is that the aforesaid sub-rule has been inserted only with effect from 28.06.2019 vesting powers in the respondent to cause enquiry into products apart from those in respect of which a complaint had been received. In the present case the original complaint has been given prior to 28.06.2019 and thus the provisions of Rule 133(5)(a) cannot be invoked.

3. A Division Bench of the Delhi High Court in the case of *Reckitt Benckiser India Pvt. Ltd. V. Union of India* (order dated 19.07.2019 in (W.P.(C) No.7743 of 2019) considered a similar argument and has recorded a prima facie case as follows:

'4.It is pointed out by Mr.P.Chidambaram, learned Senior Counsel for Petitioner, that the National Anti Profiteering Authority has ordered and inquiry as regards one of the products of the Petitioner i.e. Dettol HW Liquid Original 900 ml ('Complained Product'). The grievance of the Petitioner is that the Director General of Anti Profiteering (DGAP) has by the impugned notice dated 8th/9th April, 2019 sought information on all products of the Petitioner. In this context, he has referred to the recent amendment by which Sub-Rule 5 (a) has been inserted after Sub-Rule 4 in Rule 133 of the Central Goods and Service Tax Rules 2017 ('CGST Rules') which contemplates the NAPA, for reasons to be recorded in writing, and that too after receipt of the report of the DGAP on the complained Product, to require the DGAP to case 'investigation and inquiry with regard to such other goods or services or both' in accordance with the provisions of the Central Goods and Services Tax Act, 2017 (CGST Act). It is the case of the Petitioner that without there being a report of the DGAP on the complained product followed by an order of NAPA in terms of rule 133 (5) (a) of the CGST Rules, the DGAP cannot so motu issue a notice requiring the Petitioner to submit information on all its products which are approximately 3500 in number.

5. It must be noted here that the Petitioner has also challenged the vires or Section 171 of the CGST Act and various incidental rules including the newly introduced Rule 133(5) (a) of the CGST Rules.

6. The Court is of the view that the Petitioner has made out a prima facie case for granted of limited interim relief. It is directed that, till the next date, it will not be required to furnish information to the DGAP pursuant to the impugned notice other than information pertaining to the Complained Product. It is, however, clarified that the NAPA's inquiry as far as the Complained Product is concerned will proceed in accordance with law.'

4. In the light of the aforesaid, there shall be an interim stay of proceedings till the next date of hearing.

5. List on 04.12.2020. Counter by then with an advance copy served upon the petitioner either electronically or physically.

29.10.2020

ska/sl

Note: Registry is directed to upload this order on 02.11.2020.

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