IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **14.08.2019**

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.23547 of 2019

Nitesh Jain Mangal Chand ... Petitioner

vs.

The Senior Intelligence Officer,
Directorate General of Goods and
Service Tax Intelligence
Chennai Zonal Unit
C-3, C-Wing, Rajaji Bhavan
Besant Nagar, Chennai - 600 090. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent to provide the copies of the statements recorded from the petitioner as well as to provide the copies of the documents that were seized from the premises of the petitioner during the inspection and pass such further or other orders as this Hon'ble Court deems fit in the interest of justice.

For Petitioner : Mr.P.Jitendra Kumar

For Respondent : Mr.V.Sundareeswaran,
Senior Panel Counsel (GST)

O R D E R

Mr.P.Jitendra Kumar, learned counsel on record for writ petitioner and Mr.V.Sundareeswaran, Senior Panel Counsel (GST), who accepts notice on behalf of the lone respondent are before this Court.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. It is the case of writ petitioner that business premises and residence of the writ petitioner were searched by the respondent on 24.01.2019, during search various documents/electronic devices were seized/taken into custody, writ petitioner himself was taken into custody on 26.01.2019 and was subsequently enlarged on bail vide an order dated 09.03.2019 made by this Court.

4. It is the case of the writ petitioner that writ petitioner sought for a copy of the statement recorded from the writ petitioner and made a further request to provide copies of the documents that were seized from the premises of the writ petitioner during search on 24.01.2019.

5. Complaining that respondent was not given the copies sought for, instant writ petition has been filed with a prayer to mandamus the respondent to give the copies that were sought for.

6. Notwithstanding the prayer in the instant writ petition, learned counsel for writ petitioner, at the hearing adverting to a request letter dated 02.07.2019 from the writ petitioner to the respondent (asking for aforesaid copies) abridged his prayer and submitted that it will suffice if the respondent is directed to dispose of his request within a specified time frame. This request letter dated 02.07.2019 from the writ petitioner has been mailed by speed post with acknowledgement due and adverting to Track Consignment printout, learned counsel submitted that the request letter has been duly received by the respondent on 03.07.2019.

7. Learned Revenue counsel, who has accepted notice on behalf of the sole respondent submitted that a decision has to be taken depending on the nature of the documents that have been sought for, in the light of investigation.

8. In the aforesaid backdrop, this Court finds that there is a provision

regarding copies of documents seized and this is contained in sub-Section (5) of Section 67 of the 'Central Goods and Services Tax Act, 2017' (hereinafter 'CGST Act' for brevity). This Court deems it appropriate to extract sub-Sections (2) and (5) of Section 67 of CGST Act, which read as follows:

> '***67. Power of inspection, search and seizure.***-
>
> *(1).....*
>
> *(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of State tax to search and seize or may himself search and seize such goods, documents or books or things:*
>
> *Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:*
>
> *provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.*
>
> *(3).....*
>
> *(4)....*
>
> *(5) The person from whose custody and documents are seized under sub-section (2) shall be entitled to make copies thereof*

or take extracts therefrom in the presence of an authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.'

9. In the light of the narrative thus far, this Court is of the view that it will be appropriate to direct the respondent to dispose of/respond to writ petitioner's request letter dated 02.07.2019, on its own merits and in accordance with law within a fortnight from the date of receipt of a copy of this order.

10. Considering the trajectory of the hearing today, though obvious it is made clear that all other contentions raised by the writ petitioner in the instant writ petition are left open and no opinion or view is expressed by this Court on the same.

11. Writ petition is disposed of with above directions. There shall be no order as to costs.

14.08.2019

vsm
Speaking Order
Index : Yes/No

Internet: Yes/No

M.SUNDAR.J.,

vsm

To

The Senior Intelligence Officer,
Directorate General of Goods and
Service Tax Intelligence
Chennai Zonal Unit
C-3, C-Wing, Rajaji Bhavan
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