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

+ W.P.(C) 6671/2020

GAURAV SHARMA FOOD INDUSTRIES Petitioner
Through: Mr. Nikhil Gupta, Advocate with
Ms. Rubel Bareja, Advocate.

versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Ravi Prakash, CGSC with Mr. Aman
Malik for respondent Nos. 2 & 3.

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

% **ORDER**
01.10.2020

CM Appl.24547/2020

Keeping in view the averments made in the application, the same is allowed and the order dated 18th September, 2020 shall now be reads as under:-

“W.P.(C) 6671/2020

GAURAV SHARMA FOOD INDUSTRIES *Petitioner*
Through: *Mr. Nikhil Gupta, Advocate with*
Ms. Rubel Bareja, Advocate.

versus

UNION OF INDIA & ORS. *Respondents*

Through: Mr. Vivek Goyal, CGSC for
respondent No. 1.
Mr. Ravi Prakash, Advocate
with Mr. Mohammad Shahan
Ulla and Mr. Farman Ali,
Advocates for respondent Nos.
2 and 3.

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

ORDER
% **18.09.2020**

CM APPL. 23190/2020
Allowed, subject to all just exceptions.

W.P.(C) 6671/2020 & CM APPL. 23189/2020

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 final order dated 16th July, 2020 passed by NAPA whereby it has been held that the petitioner profited Rs.7,53,854/- (including GST) during the period 15th November, 2017 to 30th June, 2019 as well as the report dated 31st December, 2019 issued by the DGAP/Respondent No. 3.

Petitioner also prays for a declaration that Section 171 of CGST Act and Chapter XV of the CGST Rules are arbitrary, discriminatory, and unconstitutional for being in violation of Articles 14, 19(1)(g), 50, 256 and 300A of the Constitution of India as well as for a declaration that Rule 123, 129 and 133(3) of the CGST Rules are ultra vires the provisions of the CGST Act itself.

Petitioner further prays for a declaration that the aforesaid provisions are inapplicable to the post transition period (i.e. after 01st July, 2017) for being contrary to the very purpose with which these provisions were introduced under the CGST Act and rules thereunder.

Learned counsel for the petitioner states that the total alleged profited demand as per the findings of the National Anti Profiteering

Authority under the impugned order 16th July, 2020 passed against the petitioner, is Rs.7,53,854/-, which includes Rs.35,898/- the GST imposed on the net profiteered amount-which has already been deposited by the petitioner with the Department. He further prays that due to COVID-19 pandemic, the petitioner be allowed to deposit the aforesaid amount in installments.

Issue notice.

Mr. Vivek Goyal, learned counsel, accepts notice on behalf of respondent No.1.

Mr. Ravi Prakash, learned counsel, accepts notice on behalf of respondent Nos. 2 and 3.

Let counter-affidavits be filed within a period of four weeks.

Rejoinder-affidavits, if any, be filed before the next date of hearing.

*Keeping in view the orders passed by this Court in **Phillips India Limited Vs. Union of India &Ors. (W.P.(C) No.3737/2020)** as well as **M/s Samsonite South Asia Pvt. Ltd. Vs. Union of India &Ors. (W.P.(C) No.4131/2020** and **M/s Patanjali Ayurved Ltd. Vs. Union of India & Ors. (W.P.(C) No.4375/2020)**, this Court directs the petitioner to deposit the principal profiteered amount (*i.e. Rs.7,53,854/- minus Rs.35,898/-*) in six equated monthly installments commencing 15th October, 2020.*

However, the interest amount directed to be paid by the respondents as well as penalty proceedings are stayed till further orders. Learned counsel for the parties are directed to file their short written submissions not exceeding five pages each at least one week prior to the next date of hearing.

List on 3rd November, 2020.

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

Accordingly, the application stands disposed of.

MANMOHAN, J

SANJEEV NARULA, J

OCTOBER 01, 2020

AS