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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 5798/2020 & CM APPL.21001/2020

RAMPRASTHA PROMOTERS
AND DEVELOPERS PVT. LTD.

..... Petitioner

Through: Mr. Puneet Agrawal, Advocate with
Mr. Deepak Anand and Ms. Purvi
Sinha, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Chetan Sharma, ASG with
Mr. Anil Soni, CGSC & Mr. Devesh
Dubey, Advocate for R-1/UOI.
Mr. Ravi Prakash, Sr. Standing
Counsel with Mr. Sahaj Garg,
Mr. R.V. Prabhat and Mr. Amit Gupta
for R-3/NAPA.
Ms. Sonu Bhatnagar, Senior Standing
Counsel with Mr. Vaibhav Joshi,
Ms. Anushree Narain and Ms. Venus
Mehrotra, Advocates for respondents
No.2, 5, 6 and 7.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MR. JUSTICE SANJEEV NARULA****ORDER**

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11.09.2020

The petition has been heard by way of video conferencing.

Present writ petition has been filed challenging the order dated 14th February, 2020 passed by respondent no. 3-NAPA whereby it has been held that the petitioner profiteered to the extent of Rs.35,28,744/- (including GST) during the period 1st July, 2017 to 31st December, 2018. Petitioner has also challenged the order dated 17th January, 2020 passed by respondent no. 3-NAPA whereby it had decided the issue of jurisdiction in terms of this Court's order in *WP(C) 12847/2019*.

Petitioner further prays for a declaration that Section 171 of the Central Goods and Services Tax Act, 2017 and Rules 122 to 137 of the Central Goods and Services Tax Rules, 2017 are unconstitutional and ultra vires the Parent Act, that in absence of proper provisions of law as also rules, the entire proceedings initiated thereunder are unconstitutional, unlawful, without jurisdiction and bad in law and that "Procedure and Methodology" issued under Rule 126 by the respondent no. 3-NAPA is void, ineffective and unconstitutional. Petitioner challenges notices dated 02nd March, 2020, 16th March, 2020, 15th May, 2020, 01st June, 2020 and 10th August, 2020 as well as summons dated 29th July, 2020 issued by respondent no.4-DGAP.

It is pertinent to mention that the petitioner vide letter dated 3rd July, 2019 had admitted the profiteered amount Rs. 35,28,744/- computed by the respondent no. 4-DGAP and had stated that it shall pay the said amount to the flat buyers / owners along with applicable interest.

In the petition, it has been averred that the petitioner has already passed on the benefit amounting to Rs.30,57,775/- to the flat buyers and the balance amount has been deposited in the bank account specifically opened for the said purpose and the cheques and credit notes for the entire

profiteered amount have been drawn but have remained uncleared.

Today, learned counsel for petitioner assures and undertakes that post introduction of CGST and SGST, the petitioner has passed on the benefit of reduction of input tax credit to all its flat buyers in all other projects in the State of Haryana. He also emailed an undertaking dated 08th September, 2020 filed by the petitioner. The same is reproduced hereinbelow:-

“1. That the petitioner has filed writ petition under Article 226/227 of the Constitution of India and hereby undertakes before the Hon’ble Court:

(a) That the petitioner is giving the benefit of section 171, as quantified by it, in respect of the other ongoing projects.

(b) That the petitioner further undertakes to give the benefit in respect of the other projects in accordance with law.”

The undertakings given hereinabove are accepted by this Court and the petitioner is held bound by the same.

Issue notice.

Mr. Anil Soni, learned central government standing counsel accepts notice on behalf of respondent no. 1-UOI. Mr. Ravi Prakash, learned senior standing counsel accepts notice on behalf of respondent no. 3-NAPA. Ms. Sonu Bhatnagar, learned senior standing counsel accepts notice on behalf of respondent nos. 2, 5, 6 and 7.

They pray for and are permitted to file counter-affidavits within a period of four weeks. Rejoinder, if any, be filed before the next date of hearing.

In view of the aforesaid facts, no ground for stay of payment is made out in the present case. Respondent no.3 is directed to verify the claims

made by the petitioner with respect to passing on the commensurate benefit amounting to Rs. 35,28,744/-.

However, the direction to pay penalty and investigation with regard to other projects of the petitioner as well as the notices and summons issued by the respondent no. 4-DGAP are stayed till further orders.

List on 3rd November, 2020 along with connected matters.

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

SEPTEMBER 11, 2020

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