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

+ W.P.(C) 4824/2020 & CM APPL. 17416/2020

M/S CILANTRO DINERS PVT. LTD. Petitioner

Through: Mr. Nikhil Gupta with Ms. Rubel
Bareja, Advocates.

Versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Farman Ali, Advocate for R-1.
Mr. Mr. Ravi Prakash, Advocate for
R-2&3.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

20.08.2020

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The petition has been heard by way of video conferencing.

Present writ petition has been filed challenging the order dated 13th March, 2020 passed by the National Anti-Profiteering Authority (hereinafter referred to as "Authority") under the Central Goods and Services Tax Act, 2017, whereby it has been held that the petitioner had contravened the anti-profiteering provisions of the CGST Act and thereby had profited. The Authority has directed the petitioner to deposit the profited amount of Rs.20,80,087/- within three months along with 18% interest from the date the amount was realised from the recipient till the date of deposit.

The petitioner also prays for declaring Section 171 of the CGST Act and Chapter XV of the CGST Rules as arbitrary, discriminatory as well as unconstitutional and in the alternative to be inapplicable to the

post transition period i.e. 01st July, 2017 being contrary to the intent and purpose of the CGST Act.

Petitioner also prays that Rules 123 and 129 of the CGST Rules be declared as *ultra vires* the provisions of the CGST Act in the absence of any enabling provision to constitute respondent no.3 or the Standing Committee and other State Screening Committees.

Learned counsel for the petitioner states that the total alleged profiteered demand as per the findings of the National Anti-Profiteering Authority under the impugned order 13th March, 2020 passed against the petitioner, is Rs.20,80,087/-, which includes Rs.99,052/-, the GST imposed on the net profiteered amount-which has already been deposited by the petitioner with the Tax Department. He further prays that due to Covid-19 pandemic, the petitioner be allowed to deposit the aforesaid amount in instalments.

Issue notice.

Mr.Farman Ali, Advocate accepts notice on behalf of respondent no.1 and Mr.Ravi Prakash, Advocate accepts notice on behalf of respondent nos.2 & 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.19,81,035/- (i.e. Rs.20,80,087/- minus Rs.99,052/-) in six equated monthly instalments

commencing 01st September, 2020. The interest amount directed to be paid by the respondents is 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 03rd November, 2020.

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

AUGUST 20, 2020
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