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

+ W.P. (C) 4607/2020

AFFINITI ENTERPRISES

..... Petitioner

Through: Mr. Anuj Garg, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Farman Ali, Advocate for
respondent No.1.

Mr. Aman Malik with
Mr. Mohammad Shahan Ulla,
Advocates for Mr. Ravi Prakash,
Advocate for respondent Nos.
2&3.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **31.07.2020**

CM APPL. 17197/2020

Allowed, subject to all just exceptions.

CM APPL. 17196/2020

The application has been heard by way of video conferencing.

Present application has been filed by Mr. Farman Ali, Advocate, on
behalf of respondent No.1-UOI for marking his attendance in the order dated
28th July, 2020.

Keeping in view the averments in the application, the same is allowed and the order dated 28th July, 2020 shall now read as under:-

“W.P. (C) 4607/2020

AFFINITI ENTERPRISES

..... Petitioner

*Through: Mr. R. Jawahar Lal, Advocate
with Mr. Siddharth Rana and
Mr. Anuj Garg, Advocates.*

versus

UNION OF INDIA & ORS.

..... Respondents

*Through: **Mr. Farman Ali, Advocate for
UOI.***

*Mr. Ravi Prakash, Advocate with
Mr. Aman Malik and
Mr. Mohammad Shahan Ulla,
Advocates for respondents
No.2 and 3.*

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 28.07.2020

CM Appl.16657/2020 (for exemption)

Allowed, subject to all just exceptions.

W.P. (C) 4607/2020 & CM Appl. 16656/2020

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 order dated 19th March, 2020 passed by the respondent No.2-National Anti-Profiteering Authority as well as for setting aside the consequential directions issued therein.

Learned counsel for the petitioner submits that the proceedings initiated against the petitioner are without jurisdiction as they are barred by limitation prescribed under Rule 128(i) of the Central Goods and Services Tax Rules 2017 and are violative of principles of natural justice inasmuch as the second complaint dated 22nd February, 2019 on the basis of which the investigation is alleged stated to have been initiated was never furnished to the petitioner. He emphasises that the DGAP report dated 19th September, 2019 refers only to the first complaint dated 30th July, 2018 and there is no reference to second complaint dated 22nd February, 2019.

*Learned counsel for the petitioner contends that the petitioner had passed on commensurate reduction in prices to its recipients, by grammage increase. He submits that respondent No. 2 had accepted grammage increase as a legitimate methodology to pass on the commensurate reduction in prices consequent upon GST rate reduction in **Ankit Kumar Bajoria Vs. Hindustan Unilever Limited, 2019 (21) GSTL J74 (NAPA)**.*

*Learned counsel for the petitioner also refers to the order dated 20th July, 2020 passed by a coordinate Bench of this Court in the case of the manufacturer of the complained product being **Reckitt Benckiser India Private Limited Vs. Union of India and Ors., W.P.(C) 4345/2020**.*

Issue notice.

Mr. Farman Ali, learned counsel accepts notice on behalf of respondent No.1.

Mr. Ravi Prakash, learned counsel accepts notice on behalf of respondents No.2 and 3. They pray for and are permitted to file their counter-affidavits within three weeks.

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

Petitioner is directed to deposit the principal profiteered sum of Rs.2,33,456/- within two weeks. Upon deposit of the said amount, interest amount as well as the penalty proceedings

initiated by the respondents shall stand stayed till further orders.

List the matter on 24th August, 2020 along with other connected matters.

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.

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

JULY 31, 2020

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