

THE HIGH COURT OF MADHYA PRADESH

W.P. No.9650/2020

(M/s Som Distilleries Pvt. Ltd. vs. Directorate General of GST Intelligence and others)

Jabalpur, Dated: 22.07.2020

Hearing convened through Video Conferencing:

Mr. Mukul Rohtagi and Mr. Sumit Nema, Senior Advocates with Mr. Mukesh Agrawal, Kapil Wadhwa, Piyush Parashar, Advocates for the petitioner.

Mr. Siddharth Seth, Advocate for the respondent No.1.

Mr. G.S. Thakur, Advocate for respondents No.2, 3 and 4.

Mr. Swapnil Ganguly, Dy. Advocate General for the respondents/State.

Learned counsel for the respondent No.1 states that a copy of the rejoinder was received only last night which is quite voluminous and could not be examined. He prays for time.

Adjourned to 05.08.2020.

Learned Senior Advocate appearing for the petitioner prays that in the meantime respondents be restrained from taking any coercive steps against the petitioner. Learned counsel pointed out that search and seizure operation was carried out on 26.06.2020 at the premises of the petitioner and it was noticed that 20 Lakh liters of sanitizer had been manufactured by them. It was stated that out of the aforesaid, only 11 Lakh liters has been sold and there is stock of remaining 9 Lakh liters with the petitioner. However, artificial liability is being projected against the petitioner on the basis of imaginary figures. Learned counsel further pointed out that two of the shareholders of the petitioner-Company namely Ajay Arora and Jagdish Arora have been arrested in exercise of the power under Section 69 of the GST Act. It was urged that not only there existed no reasons to believe to conduct the search, there is no adjudication regarding the quantum of tax

allegedly evaded, made by any of the authorities. According to the learned Senior Counsel, in spite of the aforesaid, the petitioner has deposited an amount of Rs.8 Crores under protest as was required by the Department to do so. It was claimed that the other employees and Directors etc. of the petitioner-Company are being threatened to be arrested illegally.

Learned counsel for the respondents relied upon the judgment of Telangana High Court in **W.P. No.4764/2019 (P.V. Ramana Reddy vs. Union of India and others)** decided on 18.04.2019 to controvert the prayer of the petitioner. It was stated that this decision was affirmed by the Apex Court as Special Leave Petition had been dismissed. Learned counsel for the Revenue categorically stated that no further recovery shall be effected till any demand is raised in accordance with law.

After hearing learned counsel for the parties, keeping in view the totality of facts, the assurance given by the learned counsel for the Revenue that no further recovery shall be effected till the demand is raised in accordance with law and that the matter is being kept for 05.08.2020 for further hearing, we direct that no coercive action shall be taken against the petitioner. The respondents shall remain bound by their statement made today till then. However, it is clarified that the grant of interim protection regarding coercive steps shall not debar the respondents from carrying on the investigation till the next date of hearing. It is further clarified that unless the interim order is extended on the said date, it shall cease to exist thereafter.

Needless to say, the interim order passed today shall not be taken as any expression of opinion on the merits of the controversy for deciding the bail matters of Ajay Arora and Jagdish Arora.

List on 05.08.2020.

The original record produced today be kept in the custody of Principal Registrar (Judicial) and shall be produced on the next date of hearing.

(AJAY KUMAR MITTAL)
Chief Justice

(VIJAY KUMAR SHUKLA)
Judge