
(2022) 05 DEL CK 0081

Delhi High Court

Case No: Civil Writ Petition No. 7390 Of 2022

M/S Shakti Oil And
Chemical Co. Through
Its Prop. Arun Goel

APPELLANT

Vs

Commissioner Of
DGST Delhi & Ors.

RESPONDENT

Date of Decision: May 12, 2022

Acts Referred:

- Constitution Of India, 1950 - Article 19(1)(g)
- Central Goods And Services Tax Act, 2017 - Section 67, 67(10)
- Delhi Goods And Services Tax Act, 2017 - Section 67(4)

Hon'ble Judges: Rajiv Shakdher, J; Poonam A. Bamba, J

Bench: Division Bench

Advocate: A.K. Babbar, Surendera Kumar, Satyakam, Sandeep Kumar, Vijay Thakran

Final Decision: Disposed Of

Judgement

Rajiv Shakdher, J

1. Issue notice.

1.1. Mr Satyakam accepts notice on behalf of the respondents/revenue.

2. With the consent of the counsel for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

3. The substantive prayers made in the writ petition read as follows:

“a. Issue a Writ, order direction quashing the impugned order dated 04.04.2022 (Annexure P-3) and ordering de-sealing of business

premises immediately as the issue is covered by Decision of this Hon'ble Court in CWP No. 10287/2018 (P-6) and as such also order for

enforcement of petitioner fundamental right guaranteed under Article 19(1)(g) of the Constitution of India to carry on his business;

b. Petitioner prays for awarding of cost for malicious prosecution and that too without authority of law and in defiance to law already

settled by this Hon'ble Court in CWP. No. 10287/2018. Moreover the Respondent had acted disregarding the procedure as set out under

Sec.67(4) and Sec. 67(10) of the CGST/DGST Act as there is no mention of drawing a Panchnama which is mandatory in the search and

seizure. Petitioner also prays for a direction to Respondent No. 1 to issue practice direction with regard to exercise of power of search and

seizure U/s 67 of the CGST/DGST Act/Rules.

c. To direct the Respondent to de-seal the business premises and release goods lying in the business premises in order to enable petitioner to

carry on his business. However, they may take whatever record /documents from premises as required by them by giving copy of the same to

petitioner.

3.1. Although the prayers made in the writ petition are prolix, Mr A.K. Babbar, who appears on behalf of the petitioner, concedes that the principal

grievance of the petitioner is that its premises lie sealed.

4. According to Mr Babbar, the powers to seal under Section 67(4) of the Delhi Goods and Services Tax Act, 2017/Central Goods and Service Tax,

2017 are confined to the fact and situation adverted to in the said provision.

4.1. Mr Satyakam, on the other hand, says that in case the petitioner produces the relevant documents, the respondents/revenue will have no objection

to the subject premises being de-sealed.

5. According to us, the writ petition can be disposed of, with the following directions:

(i) The authorized representative of the petitioner will present himself/herself with the relevant documents before the concerned officer tomorrow i.e.,

13.05.2022, albeit latest by 11:00 A.M.

(ii) The respondents/revenue will de-seal the subject premises tomorrow i.e., 13.05.2022 by 07:00 P.M.

(iii) In case the documents produced by the petitioner are found to be deficient, appropriate steps, in accordance with the law, will be taken. However,

sealing will not continue, beyond the timeframe indicated herein.

5.1. It is ordered accordingly.

6. The case file shall stand consigned to the record.