

TAX INFO

Dated: 15.09.2020

Latest update on GST Law: Information regarding **Money can also be seized by authorized officer** based on the **Judgement issued by Madhya Pradesh High Court.**

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Money can also be seized by Authorities

Name of Petitioner	Smt. Kanishka Matta
Name of Respondent	Union of India and Others
Name of Court	Madhya Pradesh High Court
Appeal Number	Writ Petition No.8204/2020
Date of Judgement	26/08/2020

Facts of the Case:

The petitioner is the wife of Shri Sanjay Matta. Shri Sanjay Matta is the Proprietor of the firm functioning in the name and style of M/s. S. S. Enterprises. The Firm is in the business of Confectionery and Pan Masala items. The petitioner has further stated that search operation was carried out by Senior Intelligence Officer, DGGSTI, Indore at the business premises as well as residential premises and a Panchnama was drawn on 31/05/2020. The respondents have also seized an amount to the tune of Rs.66 Lakhs as per the Panchnama prepared by them.”

Contention of the Petitioner:

The learned counsel for the petitioner has argued before this Court that the respondent has got no power vested under Section 67(2) of CGST Act, 2017 to effect seizure of cash amount neither from the petitioner nor from her husband. He has stated that the cash cannot be treated as “Document, Book or Things” as per the definition clause of the CGST Act, 2017 and therefore, the respondents be directed to release the cash, which they have seized.

It has also been stated that as per the provisions of Section 37 of CGST Act, 2017 there is a procedure for filing of returns by the assessee and return could not be filed in time on account of lockdown keeping in view the Covid-19 Pandemic. It has vehemently been argued that the sale proceeds were kept by the petitioner and her husband and the respondents have illegally seized the money without their being any provision of law.

It has also been stated that the statement of the petitioner's husband was recorded on 30/05/2020, 31/05/2020, 01/06/2020 and 02/06/2020 and he was tortured in the name of tax terrorism by the authorities. The basic thrust is on the ground that without their being any provision under the CGST Act, 2017 the amount as seized by the respondents could not have been done and the same is violative of Article 14 of the Constitution of India. The another ground raised by the petitioner that the raid on the residential premises of petitioner and her husband is again violative of Article 19 and finally a prayer has been made to release the seized cash / sale proceeds to the tune of Rs.66,43,130/-.

Reply of Respondents:

Respondent contended that from the Directorate of Revenue Intelligence, a specific input was received that Shri Sanjay Matta is involved in large scale of evasion of GST on Pan Masala. The proper officer under reasonable beliefs that the goods / documents / things were secreted at the said premises, issued a search warrant dated 30/05/2020 and a consequential search was carried out at the residential premises of Shri Sanjay Matta on 30/05/2020 by the Team of Directorate General of GST Intelligence. A Panchnama dated 30/05/2020 was also prepared and the officers seized documents and cash amounting to Rs.66,43,130/-

It has been stated that the documents and cash were seized in terms of Section 67(2) of the CGST Act, 2017 and the Order of Seizure in Form GST INS-02 dated 30/05/2020 was issued. It has also been stated that Shri Sanjay Matta, the husband of the petitioner, made a voluntary statement stating categorically that the said cash of Rs.66,43,130/- was the sale proceeds of the illegally sold Pan Masala without payment of GST. The respondents have also submitted the Case Diary in a sealed cover before this Court.

Observations of the Court:

The statement made in the case diary reveals that Shri Sanjay Matta, a Pakistani National, was involved in illicit supply of Pan Masala of various brands without invoices and without payment of applicable GST (this statement of the Department that Shri Sanjay Matta is a Pakistani National was controverted during the arguments by learned counsel for the petitioner and he has stated that later on Shri Sanjay Matta has been granted Indian citizenship).

The case diary also reveals that during the searches it was found that huge quantity of Pan\ Masala and tobacco were lying / stored in the various godowns of Shri Sanjay Matta which are neither declared as principal place of business nor as additional place of business as mandatorily required under Section 22 of CGST Act, 2017 read with Rule 8 of CGST Rules, 2017.

The case diary also reveals that Shri Sanjay Matta in his statement before the officers have stated categorically that the value of the goods sold without any bills and invoices during the period April, 2019 to May, 2020 would be approximately 40.11 Crores in cash and the GST on the said clandestine clearance works out to Rs.18.77 Crores.

The core issue before this Court is that whether expression “things” covers within its meaning the cash or not. In the considered opinion of the Court a conjoint reading of Section 2(17), 2(31), 2(75) and 67(2) makes it clear that money can also be seized by authorized office.

Judgement:

Keeping in view the totality of the circumstances of the case, the material available in the case diary and also keeping in view Section 67(2) of the CGST Act, 2017, this Court is of the opinion that the authorities have rightly seized the amount from the husband of the petitioner and unless and until the investigation is carried out and the matter is finally adjudicated, the question of releasing the amount does not arise. The writ petition is dismissed.

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