

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPT No. 134 of 2022

•B.S. Sponge Pvt. Ltd. Village-Taraimal, Tehsil Tamnar, Raigarh (C.G.) Through- Its Authorized Signatory, Sunil Mohanty, S/o Niranjana Mohanty, Aged About 43 Years Village-Taraimal, Post- Gerwani, District- Raigarh (C.G.)
---- Petitioner

Versus

1. Deputy Commissioner, CGST And Central Excise CGST And Central Excise, Hotel Sagrika Building Mangaludeepa Kotra Road Bypass Road, Near Dimprapur Chowk, Raigarh (C.G.)
2. Superintendent Range III Raigarh, CGST And Central Division Raigarh, Hotel Sagrika Building Mangaludeepa, Kotra Road Bypass Road, Near Dimprapur Chowk, Raigarh (C.G.)
---- Respondents

28.04.2022	Shri Bhishma Ahluwalia, counsel for the petitioner. Shri Maneesh Sharma, counsel for the respondents on advance copy. Heard on admission as well as on I.A.No. 01/2022, an application for grant of ad-interim writ. No notice is required to be issued to the respondents as Shri Maneesh Sharma has already accepted notice on their behalf. Shri Ahluwalia, learned counsel appearing for the petitioner submits that since the tax due has already been paid by virtue of sub-section (7) of Section 39 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act'), therefore, the notices dated 15.12.2021 and 25.03.2022 issued under proviso to sub-section (1) of Section 50 of the CGST Act even without issuing a show-cause notice as required under Section 73 of the CGST Act is <i>per se</i> not sustainable in the eye of law. He, therefore, prays for staying the effect and operation of the impugned notices issued on 15.12.2021 & 25.03.2022, both forming part of Annexure P/1, pending decision of this petition. On the other hand, Shri Sharma, learned counsel appearing for the respondents has raised an objection that since the date of filing of return would

be the acknowledgment of receipt of tax and not the payment of tax itself and since the return has been filed after a due date, therefore, there is no infirmity in issuance of alleged notices under proviso to sub-section (1) of Section 50 of the CGST Act demanding interest on delayed payment of tax. It is contended further, while referring to the provision prescribed under sub-section (12) of Section 75 of the CGST Act, that the recovery proceedings can be initiated under Section 79 of CGST Act even without issuing a notice under Section 73 of the CGST Act and, therefore, there is no infirmity in issuance of alleged notices under Section 50 of the CGST Act. He, therefore, prays that no interim relief, as prayed for, be granted.

Having considered the aforesaid contentions of the parties, I am inclined to stay the effect and operation of Annexure P/1 containing impugned notices.

Accordingly, it is directed that the effect and operation of the impugned notices dated 15.12.2021 and 25.03.2022, both forming part of Annexure P/1, shall remain stayed till the next date of hearing.

At this stage, Shri Sharma, learned counsel appearing for the respondents prays for 2 weeks' time to file return to the main petition as well as reply to I.A.No. 01/2022.

Post this matter after summer vacation for consideration on admission as well as on I.A.No.01/2022.

Sd/-
(Sanjay S. Agrawal)
Judge