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

\+ W.P.(C) 12304/2023 & CM No.48422/2023

BHAGAT RAM OM PRAKASH AGRO PVT. LTD. & ANR. ..... Petitioners

Through: Mr. Avi Singh, Mr. Tanuj Bhadana & Ms. Jyoti Babbar, Advs.

Versus

THE COMMISSIONER CENTRAL TAX GST DELHI- EAST ..... Respondent

Through: Mr. Harpreet Singh, Ms. Suhani Mathur & Mr. Jatin Kumar Gaur, Advs.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **19.09.2023**

CM No.48423/2023 (for exemption)

1. Exemption is allowed, subject to all just exceptions.

2. The application is disposed of.

W.P.(C) 12304/2023

3. The petitioners have filed the present petition, *inter alia*, impugning the search authorization dated 22.08.2023 issued by the proper officer. It is the petitioners' case that the said search authorisation is illegal as the same was issued without the proper officer having any reason to believe that the conditions as specified under Section 67(1) of the Central Goods & Services Tax Act, 2017 (hereafter **'the Act'**) were complied with.

4. It is the petitioners' case that the search was conducted in view of the directions issued by the Special Judge (P.C. Act) to the Income Tax Department, GST Department, and Enforcement Directorate to check the source of ₹50,00,000/- received by the petitioners.

5. Petitioner no.2 (Prem Shankar Verma) has purchased a property from one Mr. Rajesh Kumar Anand for a sum of ₹50,00,000/-. Mr. Rajesh Kumar Anand had deposited the said consideration in a fixed deposit receipt which was offered as a collateral for securing the bail of Sh. Kapil Wadhawan and others.

6. We have serious reservations whether any such roving and fishing inquiry under the Central Goods and Services Act, 2017 could have been directed to be conducted by the Special Judge. Further, the proper officer can authorise the search only if the conditions specified in Section 67 of the Act are fulfilled.

7. Issue notice.

8. Mr. Harpreet Singh, learned counsel appearing for the respondent accepts notice and seeks time to obtain instructions and, if necessary, to file the counter affidavit.

9. The counter affidavit, if any, be filed within a period of two weeks from today.

10. List on 17.10.2023.

11. The respondent shall also produce the relevant files containing the directions for conducting the search. In the meanwhile, the proceedings pursuant to the search conducted are stayed.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

SEPTEMBER 19, 2023
'gsr'