

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JANUARY, 2019

BEFORE:

THE HON'BLE MRS. JUSTICE S.SUJATHA

WRIT PETITION No.2253/2019 (T - RES)

BETWEEN:

M/S. STEEL HYPERMART INDIA PVT. LTD.,
REP. BY ITS AUTHORISED SIGNATORY
Sy.No.184/1, JIGANI MAIN ROAD
No.537/1-6, KHANESHUMARI, JIGANI
ANEKAL TALUK, BENGALURU-560016.

... PETITIONER

[BY SRI NANDAKUMAR, ADV. FOR
SRI NISCHAL DEV.B.R., ADV.]

AND:

1. ADDITIONAL COMMISSIONER
OF COMMERCIAL TAXES
ENFORCEMENT, SOUTH ZONE
BENGALURU, V.T.K. -2, BUILDING, B-BLOCK
3RD FLOOR, NEAR NGV, 80 Ft ROAD
VIVEKNAGAR POST, KORAMANGALA
BANGALORE-560047.

2. ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES,
[ENFORCEMENT]-3, SOUTH ZONE
BENGALURU, V.T.K.-2, BUILDING, B-BLOCK
3RD FLOOR, NEAR NGV, 80 Ft ROAD
VIVEKNAGAR POST, KORAMANGALA
BANGALORE-560047.

...RESPONDENTS

[BY SRI T.K.VEDAMURTHY, AGA.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE 1ST RESPONDENT'S LETTER OF AUTHORIZATION DATED 08.01.2019 VIDE ANNEXURE-A AND ETC.,

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Learned Additional Government Advocate accepts notice for the respondents.

2. The petitioner has assailed the order passed by the respondent No.2 dated 09.01.2019 under Section 67[4] of the Karnataka Goods and Services Tax Act, 2017/Central Goods and Services Tax Act, 2017 ['Act' for short].

3. The petitioner company is claiming to be a private limited company incorporated under the Companies Act, 2013 and a dealer registered under the provisions of the Act. The petitioner holds controlling shareholding in another company M/s. Singhi Buildtech

Pvt. Ltd. The two companies are promoted by the same individuals though belongs to same family. It transpires that the respondent officers along with team of officers visited the registered office of the petitioner at Jigani, Anekal Taluk, Bengaluru. It is contended that due to administrative convenience, the day-to-day business activities of the petitioner were also being carried out from the premises of M/s. Singhi Buildtech Pvt. Ltd, at go-down of the petitioner building situated at Sy.No.184, Khaneshumari 5371 to 6, Jigani Main Road, Jigani Hobli, Anekal Taluk, Bengaluru. Considering the same, the respondent officials begun conducting the search in the said premises. It is the grievance of the petitioner that respondent officers have sealed the said premises without authority of law.

4. Learned counsel appearing for the petitioner would submit that the first respondent issued authorization of search on 08.01.2019 on a suspicion

that the directors would be involved in circular trading with other companies located in Bengaluru and Hosur. Mere suspicion is not suffice for issuing any authorization. The authorization order does not authorize the officer who had pass the order impugned, under Section 67[4] of the Act. Learned counsel further submitted that Section 67 [4] of the Act does not empower the respondent No.2 to seal the business premises since access to the business premises was not denied by the petitioner as reflected in the order impugned.

5. Learned Additional Government Advocate appearing for the Revenue has made available the original file before the Court, wherein an authorization in the prescribed format – GST INS-1 has been issued by the Additional Commissioner of Commercial Taxes [Enforcement], South Zone, Bangalore on 08.01.2019 authorizing Sri.Jaideep N. Gaonkar, Assistant

Commissioner of Commercial Taxes [Enf], SZ-03, VTK-2, Koramangala, Bangalore-560047 to conduct inspection/search/seizure of the premises in question. In view of the said authorization issued, the first argument of the learned counsel for the petitioner fails.

6. Section 67[4] of the Act contemplates that the officer authorized under Sub-section [2] shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.

7. It is the contention of the Revenue that the books of accounts of some other companies were maintained in the premises where the inspection was carried on. However, the computer system wherein the business transaction of the company was stored,

including the tally software stopped functioning all of a sudden along with internet connection abruptly. In the absence of tally information and internet connection, complete verification of the books of accounts of the company was not possible as the same was maintained in the tally software in the server. The directors of the petitioner company did not put any efforts to set out the said disruption. There being denial of access to the computer system, Section 67[4] was invoked to seal the premises in question.

8. However, learned Additional Government Advocate on instructions of the respondent No.2 – Sri.Jaideep N.Gaonkar, who is present before the Court, fairly submits that the premises of the petitioner company in question shall be unsealed/de-sealed in the presence of the petitioner on any date convenient to the petitioner subject to the petitioner co-operating for

inspection/search of the computer system and other records available in the premises.

9. The said submission of the learned Additional Government Advocate is placed on record.

10. In the circumstances, this Court is of the considered view that the justice would be sub-served in directing the Revenue to unseal the premises in question on 05.02.2019 at 11.00 a.m., which is convenient to the petitioner and the petitioner shall cooperate for inspection/search of the premises in question, including the computer system.

With the aforesaid observations, the writ petition stands disposed of.

**Sd/-
JUDGE**

NC.

SSJ:
01.02.2019

W.P.No.2253/2019

ORDER

Before finalizing the order, learned counsel for the petitioner has filed a memo seeking revision of the date fixed by this Court i.e., 05.02.2019 for de-sealing the premises in question and accordingly seeks to fix the date on 11.02.2019.

Learned Additional Government Advocate has no objections for the same.

Hence, the date is fixed on 11.02.2019 at 11.00 a.m., to unseal the premises in question.

**Sd/-
JUDGE**

NC.