

Bombay High Court

Suumaya Industries Ltd vs Union Of India And 4 Ors on 4 October, 2022

Bench: K.R. Sriram, Shri A. Doctor

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION LODGING NO.30285 OF 2021

Suumaya Industries Ltd : Petitioner
versus
Union of India and ors. : Respondent

Mr. Abhishek Rastogi a/w Ms. Akshita Shetty i/by Khaitan & Co. for
Petitioner.

Mr. Pradeep S Jetly, Senior Advocate a/w Mr. J. B. Mishra, Ms. Sang
Yadav, and Mr. Dhananjay Deshmukh for Respondent Nos. 1, 3 and 5.

CORAM : K. R. SHRIRAM &
A. S. DOCTOR, JJ.

DATE : 04th OCTOBER 2022

P.C.

1. Heard the counsel and keeping open all rights and contentions of the parties following consent order is passed :-

(a) All statements recorded pursuant to the summons issued to the Directors/Employees of Petitioner shall be video recorded at the cost of Petitioner.

(b) An advocate may accompany the person who is summoned and whose statement is being recorded under Section 70 of the Central Goods and Service Tax (CGST) Act, but the advocate shall not interfere, interrupt or lgc 1/4 2 (431) wpl-30285.21.doc disturb recording of statement. The advocate may sit at visible distance but not at audible distance.

(c) Copies of panchanama pertaining to inspection proceedings issued under Section 67 of the CGST Act shall be provided to Petitioner within two weeks from the time this order is uploaded.

(d) Mr. Rastogi assures the Court that all employees/directors of Petitioner shall co-operate with the authorities because Petitioner has no intention to evade any tax.

2. Mr. Rastogi requested that the chairman and managing director may not be summoned and only the Chief Finance Officer (CFO) be summoned because only he knows everything. Mr. Rastogi stated that the chairman and managing director Mr. Ushik Gala would not know all facts and circumstances.

3. Mr. Jetly opposed this request saying that Mr. Ushik Gala had appeared earlier and his statement has been recorded. Mr. Jetly also stated that the same Mr. Ushik Gala is the managing director of another company Suumaya Corporation Ltd and similar request was made by Petitioners' lgc 2/4 3 (431) wpl-30285.21.doc counsel in Writ Petition (Lodging) No.26351 of 2021 and this court was pleased to reject the said request by order dated 17 th November 2021. Mr. Jetly also stated that Court has recorded that the same Mr. Ushik Gala was not co-operating in the investigation and eight summons were required to be issued at that time.

4. Apart from Mr. Jetly's objection, we also find that Petition has been signed and verified by Mr. Ushik Gala and the said Mr. Ushik Gala has also verified on oath that the contents of paragraphs 1 to 30 of this Petition are true to his knowledge. Therefore, Mr. Ushik Gala certainly would be aware of the facts and circumstances. Hence he shall not be exempted from appearing. Mr. Ushik Gala shall appear before the concerned authorities as and when summoned and fully co-operate.

5. If the concerned authorities feel presence of CFO or anyone is required, they may issue appropriate summons at the appropriate time. All to whom summons is issued and served including Mr. Ushik Gala shall attend at the time and date fixed without fail.

6. As regards refund (Prayer clause (ii)), Petitioner may apply and authorities may consider the same in accordance with law.

7. Petition disposed. No order as to costs.

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8. We clarify that we have not expressed any views on the merits of the matter.

(A. S. DOCTOR, J.)

(K. R. SHRIRAM, J.)

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