

Allahabad High Court

M/S Bajrang Trading Company vs Commissioner Commercial Tax And ... on 27 October, 2023

Bench: Saumitra Dayal Singh, Surendra Singh-I

HIGH COURT OF JUDICATURE AT ALLAHABAD

?

Neutral Citation No. - 2023:AHC:205539-DB

Court No. - 39

Case :- WRIT TAX No. - 1123 of 2023

Petitioner :- M/S Bajrang Trading Company

Respondent :- Commissioner Commercial Tax And Another

Counsel for Petitioner :- Pooja Talwar

Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh, J.

**Hon'ble Surendra Singh-I, J.**

1. Heard Ms. Pooja Talwar, learned counsel for the petitioner and Shri Ankur Agarwal, learned counsel for the Revenue Authority.

2. Challenge has been raised to the adjudication notice issued by the Proper Officer/respondent no.2, dated 01.04.2023 for the tax period August, 2018 to March, 2019.

3. Without going into the details, as may cause any prejudice to the parties in the proceedings that are pending, it is noted that at present the allegation is with respect to misuse of E-way Bills by the consignor i.e. M/s. Kay Pan Fragrances Pvt. Ltd. and M/s. Mahaveer Trading Co. Prima-facie allegation of participation by the petitioner in such misuse exists.

4. While we do not intend to go into the correctness or otherwise of the allegation or involvement of the present petitioner in the alleged misuse of E-way Bills as that would involve fact appreciation and with respect to that the petitioner has adequate statutory remedies available by filing appropriate objections to the show cause notice and lead defence evidence, etc., suffice to note that there is no inherent lack of jurisdiction being set up in the present petition.

5. Submission advanced by learned counsel for the petitioner that the entire proceedings have originated on the strength of certain survey conducted at the premises of M/s. Kay Pan Fragrances Pvt. Ltd. and M/s. Mahaveer Trading Co. in the month of July, 2019 whereas, the petitioner had surrendered its business registration prior to that survey in the month of May, 2019, is of no avail, inasmuch as, the tax period, for which the adjudication notice has arisen, is August, 2018 to March, 2019. On the own admission of the petitioner, it was a registered person at the relevant time. Even otherwise, in the context of the fact allegation of misuse of E-way Bills involving the present petitioner, the objections being raised by learned counsel for the petitioner do not find merit acceptance, at this stage.

6. Once allegations of infraction of law arise, adjudication proceedings may not be interjected in exercise of extra ordinary jurisdiction of the writ court. Limited scope of challenge may be preserved for cases involving inherent lack of jurisdiction or grounds of like nature.

7. Reference made to certain other facts narrated in the show cause notice would also remain to be examined in the adjudication proceedings.

8. Accordingly, inference claimed is declined, in face of alternative statutory remedy available to the petitioner.

9. In view of the above, the writ petition is dismissed.

10. It is however made clear that we have not adjudicated the facts and no observation made in this order may prejudice the defence that may be set up by the petitioner in the pending adjudication.

Order Date :- 27.10.2023 Zafar (Surendra Singh-I,J.) (Saumitra Dayal Singh,J.)