IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 13th OF OCTOBER, 2025

WRIT PETITION No. 14694 of 2025

M/S ELORA TOBACCO COMPANY LIMITED THROUGH ITS DIRECTOR SHRI DHARMENDRA SINGH PARMAR

Versus

UNION OF INDIA AND OTHERS

Appearance:

Shri Abhinav Malhotra - Advocate for the petitioner.

Shri Prasanna Prasad – Advocate for the respondents.

ORDER

Per*: *Justice Vivek Rusia

Petitioner has filed the present petition under Article 226 of the Constitution of India not challenging any specific order.

Facts of the case, in brief, are as under:

02. The petitioner is a company incorporated and registered under the Companies Act, 1956 (Now, the Companies Act, 2013) and is engaged in the business of manufacturing and selling cigarettes. The respondents are the Central Board of Indirect Taxes and Customs and its competent authorities under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act, 2017") and the CGST Rules, 2017, made thereunder. The activities of the petitioner are covered under the provisions of the Central Excise Act, 1944 and also under the CGST Act, 2017. The manufacturing unit of the petitioner is located at 14-B, Sector F, Industrial Area, Sanwer Road, Indore (M.P.), with GST registration No.AABCE2049R1ZH.

03. Upon discreet information during the month of May / June 2020,

the Director General of GST Intelligence, Bhopal Zone Unit, initiated an investigation against various dealers and manufacturers of 'pan masala' and 'tobacco products' operating in Indore. During such an investigation, a huge racket of illegal manufacturing and supply of pan masala and tobacco came to their knowledge, wherein the total tax/duty evasion was assessed at more than Rs.200 crores. Mr Kishore Wadhwani was found to be one of the masterminds and financial beneficiary of the clandestine supply of pan masala and tobacco product, having effective control over one company, M/s Elora Tobacco Company Limited, i.e., the petitioner.

04. Thereafter, searches were conducted at the declared / undeclared premises of the petitioner, its consumers, its raw material supplier, and associated entities for the recovery of incriminating documents / evidence. The GST authorities recorded the statements of several persons in order to collect vital information/documents/evidence, etc. During the search conducted on 12/13.06.2012 and 15.06.2020, there were several discrepancies found at the factory of the petitioner, such as there were two DG sets of 500 KVA capacity found installed, in which entries reading of unit generated and consumed were found tampered. These manipulations lead to the suppression of the actual quantity of production of cigarettes. The search further revealed that around 90 – 100 CFC of cigarettes = 12,000 cigarettes were manufactured by the petitioner per day, whereas only 2 – 3 CFC cigarettes were recorded in the records and the rest of the CFCs were cleared without raising any invoice and tax payments.

05. After completing the investigation, show-cause notice dated 08.06.2022 (runs into 343 pages) alleging evasion of GST amounting Rs. 151,64,38,832/- was issued to the petitioner and 21 others followed by another show-cause notice dated 03.08.2022 (runs into 291 pages)

was issued to the petitioner and 8 others demanding total excise duty of Rs.76,68,18,170/- from July 2017 to June 2020.

06. The petitioner had approached this Court by way of Writ Petition No.12326/2024 seeking directions to the respondents to release/provide the original copy of documents seized by their search team from its premises during various searches. The petitioner sought the following reliefs:

> "(i) Allow the present Writ Petition;
> (ii) Issue an appropriate writ/ orders/ directions in the nature of Mandamus directing the Respondents to release/ provide the original copy of documents seized by the Respondent from the premises of the Petitioner during various searches conducted and not relied upon in the show cause notices dated 08.06.2022 and 03.08.2022, to the Petitioner in a time-bound manner.
> (iii) Issue an appropriate writ/ orders/ directions in the nature of Mandamus directing the Respondents to allow the Petitioner to submit detailed reply within a period of 30 (Thirty) days from the release/ provision of the original copy of documents seized by the Respondent from the premises of the Petitioner during various searches conducted and not relied upon in the show cause notices dated 08.06.2022 and 03.08.2022 to the Petitioner.
> (iv) Issue an appropriate writ/ orders/ directions in the nature of Mandamus directing the Respondents to allow the Petitioner to cross- examine the witnesses whose evidence has been relied upon in the show cause notices upon release/ provision of the original copy of documents seized by the Respondent from the premises of the Petitioner during various searches conducted and not relied upon in the show cause notices dated 08.06.2022 and 03.08.2022 to the Petitioner;
> (v) Issue an appropriate writ/ orders/ directions in the nature of Mandamus directing the Respondents to provide a personal hearing to the Petitioner upon release/ provision of the original copy of documents seized by the Respondent from the premises of the Petitioner during various searches conducted and not relied upon in the show cause notices dated 08.06.2022 and 03.08.2022 to the Petitioner;
> (vi) Pass any such orders which this court may deem fit and proper under the facts and circumstances of the matter."

07. The said writ petition was opposed by the respondent and vide order dated 20.05.2024, the Writ Petition No.12326/2024 came to be

allowed by passing the following order:

> "11. Resultantly, in view of the foregoing discussion, this petition deserves to be allowed and is hereby allowed. As a consequence, we deem it appropriate to direct the Respondents to handover all the original documents to petitioner which have been seized by them and not relied on by Respondents while issuing Show Cause notices dated 08.06.2022 and 03.08.2022, so that the petitioner is enabled in submitting his reply. It is further directed that upon receipt of original documents by Petitioner, the petitioner shall submit his reply within a period of 30 days and the Respondents shall adjudicate the case of the petitioner on its own merits after receipt of reply by affording due opportunity of hearing to the petitioner. Needless to state that petitioner shall have the right to cross examine witnesses whose evidence has been relied upon in the show cause notices dated 08.06.2022 and 03.08.2022 at appropriate stage in adjudication proceedings and the petitioner shall be at liberty to move appropriate application at appropriate stage for exercising the said right, in the course of being afforded personal hearing."

08. Being aggrieved by the aforesaid order, the respondent approached the Hon'ble Apex Court by way of SLP (C) No.2494 – 2495/2025. Vide order dated 27.01.2025, the Hon'ble Apex Court declined to interfere with the impugned order; however, it directed to return the certified copies of the documents which according to them are not relied upon for proceeding further. Since the aforesaid order was passed without notice to the petitioner, a Miscellaneous Application No.548-549/2025 was filed in the disposed of above SLP. Vide order dated 04.04.2025, the miscellaneous application has been disposed of with the direction that so far as the File nos.11, 12 and 13 (missing) are concerned, the department shall furnish certified copies of those three files, keeping other contentions available to both sides open in that regard. The respondents/department did agree to handover File nos.1 – 10 to the petitioner within one week. Paragraph Nos.8, 9, 10 & 11 are reproduced below:

> "8. We dispose of these miscellaneous applications with a

direction that, so far as File nos. 11, 12 and 13 respectively are concerned, since the originals have been lost, the department shall furnish certified copies of those three files, keeping all other contentions available to both sides open in that regard.

9. So far as original file Nos. 1-10, respectively, are concerned that the learned ASG very fairly submitted that the department is willing to hand over the same.

10. The assesseehas to collect the same from the concerned department. Let this exercise be undertaken within a period of one week from today. We direct the assessee to extend full cooperation in the assessment proceedings and not delay the same in any manner.

11. Pending application(s), if any, stand disposed of."

09. It appears that the said matter came to an end as the petitioner was supposed to participate in the proceedings before the Proper Officer of GST. Now, the petitioner has again approached this Court by way of this writ petition seeking direction to provide certified copy of all reports namely, survey register, tobacco stock registers, raw material inward registers, shift wise production records, machine wise production records, register containing daily clearance of cigarettes, weekly reports, monthly reports and yearly reports and the statement of 76 officers deposed before the Vigilance Directorate. The petitioner is also seeking direction to the respondents to allow the cross-examination of the officers who were posted for round-the-clock physical duty at the factory and whose statements have been relied upon in SCN. In this writ petition, the Petitioner is seeking the following reliefs:

(i) Allow the present Writ Petition.

(ii) Issue an appropriate writ/ orders/ directions in the nature of Mandamus directing the Respondents to provide certified copies of all reports (as enlisted at Para 5.20 above) submitted by the Officers to the GST Division during the period from July 2017 to June 2020 and statements of 76 Officers deposed before the Vigilance Directorate to the Petitioner in a time-bound manner.

(iii) Issue an appropriate writ/ orders/ directions in the nature of Mandamus directing the Respondents to allow the Petitioner to cross-examine the officers who were posted for the round-the-clock physical duty at the Petitioner's factory and whose

statements have been relied upon in the SCN;
(iv) Pass any such orders which this court may deem fit and proper under the facts and circumstances of the matter.

10. It is evident that the reliefs sought in Writ Petition No.12326/2024, which came to be decided on 20.05.2024 and the reliefs sought in this writ petition are identical. Nothing has been pleaded in the writ petition about any developments that have taken place after the last order passed by the Hon'ble Apex Court on 04.04.2025. The petitioner has annexed High Court order as well as Hon'ble Supreme Court order as Annexures P/9 & P/10 and mentioned about them in ground No.6.10 and 6.11. There is no allegation of non-compliance with the directions given by this High Court as well as the Hon’ble Apex Court. The petitioner has not disclosed any cause of action for filing this petition.

11. This petition has been filed purposely to install the adjudication proceedings pending against a number of noticees, including the petitioner. It is important to mention here that except in the case of M/s Elora Tobacco Company Ltd., the proceedings have been completed by passing a final order-in-original.

12. By way of reply, the respondents submitted that relied and non-relied documents have been supplied to the petitioner; the documents demanded by the petitioner are not part of the *panchnama*. The petitioner has been allowed to cross-examine 11 witnesses whose statements have been relied on in the show-cause notice. Now, only the final order is liable to be passed, but because of the entry order granted by this Court only in the case of the petitioner, the same has not been passed till date. The petition is liable to be dismissed with costs as prayed by Mr Prasanna Prasad, learned counsel appearing for the respondent / GST.

13. In our considered opinion, the petitioner should not be permitted

to raise any ground in this petition to demand the aforesaid documents, as the second petition is not maintainable for the same relief which has already been granted by the Hon'ble Apex Court. The petitioner is also not alleging non-compliance of the order passed by this Court as well as by the Hon'ble Apex Court. There is no fresh cause of action that has arisen in favour of the petitioner for filing this petition. The present petition has been filed in order to avoid the passing of the final order-in-original along with other notices.

14. Although, this petition is not maintainable since Shri Malhotra learned counsel has raised a legal ground, therefore, we will answer the same. Shri Abhinav Malhotra, learned counsel for the petitioner, argued that the respondent authority has posted an Excise Inspector round the clock in order to monitor the incoming of raw materials, manufacturing activities and dispatch of the manufactured cigarettes. It is named as a Range Office of the GST in the premises of the petitioner. Shri Malhotra, learned counsel further submitted that the duties of the officers are defined in a circular dated 24.12.2008 issued by the Central Board of Excise and Customs, Ministry of Finance. According to 10.2, it is the duty, function and responsibility of Range Officers to maintain a record as prescribed in the cigarette manual relating to blending and cutting tobacco store account, cigarette manufacturing account, package account, waste cigarette account and daily entry book, etc., apart from the assessment of duty before removal of the goods.

15. The aforesaid contention is unacceptable because the first column of 10.2 is about the subject matters and only 2^{nd} and 3^{rd} columns prescribe the duties of Sector Officers and Range Officers, respectively. Shri Prasanna Prasad learned counsel rightly pointed out the provisions of Section 35 of the GST Act, Under which it is mandatory for every

registered person to keep and maintain at his principal place of business, true and correct account of production or manufacture of goods, inward and outward supply of goods, stock of goods, input tax credit avail, output tax payable and paid and other particular etc. Rule 56 of the CGST Act, 2017, also casts an obligation for the maintenance of accounts by a registered person. Thus, the aforesaid argument of Mr. Malhotra is baseless that all statutory documents were prepared by the Excise Officers and are liable to be handed over/returned to the petitioner by the department. In view of the aforesaid discussion, the respondents have relied on the statements of 11 witnesses in the SCN and all have been produced in the adjudication proceedings and all have been cross examined by the petitioner, as informed by Mr. Prasad and not disputed by Mr. Malhotra, we are of the considered opinion that this petition is absolutely misconceived and filed with a *malafide* intention to install the adjudication of the show cause notice proceedings. That is because of the interim order dated 29.05.2025, no final order could be passed in case of the petitioner alone, whereas in the case of other noticees, a final order has been passed long back.

16. In view of the above, this Writ Petition stands **dismissed** with a cost of **Rs 2,00,000/- (Rupees Two lakhs Only)** payable by the petitioner to the respondent in four weeks.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

Divyansh