High Ground Enterprises Ltd. v. Union of India

Whether DGGI can refuse copies of documents seized in a search by saying that supplying them would prejudice the investigation (Section 67(5)).

Date of Order: August 14, 2019
Case Law No: GIB-BHC-2019-06
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

DGGI Mumbai searched a listed company on 09 and 10 January 2019 on intelligence about fake ITC through non-existent entities, and seized records. The company appeared on the summonses, but its request for copies was refused. It said that without the documents it could not file its financial results, and the Stock Exchange had started levying penalty. The Department said that the investigation was at a sensitive stage and that the company could manipulate documents and alert its associates.

Final Verdict

The Court held that Section 67(5) creates a right to receive copies, which does not depend on the person's reason for wanting them, and that **the opinion of the proper officer that copies would prejudice the investigation must be reflected in the record with cogent reasons and cannot be a mere statement echoing the section.** The note placed before the Court was written a month after the petition was filed and merely repeated the language of the section. The affidavit also omitted that the company had appeared after the summonses.

The Court added that the balance between the right to copies and the power to refuse shifts with time, and continued withholding becomes unreasonable. The rule was made absolute with a mandamus to furnish copies of the seized documents within two weeks.

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