Subhash Joshi v. Director General of GST Intelligence

Whether a person whose premises are sealed for search can insist on his lawyer's presence and independent witnesses during the Section 67 search.

Date of Order: July 3, 2020
Case Law No: GIB-MPHC-2020-02
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The petitioner, a manufacturer of sweet betel nut, challenged the notice of 20.06.2020 by which DGGI sealed his factory premises, which had been found locked, so that the search could be done later in his presence. He apprehended that his statement may be recorded under pressure, and asked that the search be carried out in the presence of an advocate and of two independent and respectable witnesses.

Final Verdict

The Court noted that Section 67(10) makes the CrPC provisions on search and seizure applicable, so the presence of two independent and respectable inhabitants of the locality is necessary; since the search was yet to take place and the Department assured compliance, no direction was needed. On the lawyer, **the petitioner pointed to no statutory provision or legal right to have an advocate present during search and seizure**, and the Court relied on Poolpandi, where the Supreme Court denied a lawyer's presence during interrogation. The Court added that no officer may use unlawful methods to extract information.

No case for interference was made out at that stage and the petition was dismissed.

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