R.J. Trading Co. v. Commissioner of CGST, Delhi North

Whether a Section 67(2) search authorisation issued only to verify a supplier's existence satisfied the "reasons to believe" requirement.

Date of Order: July 20, 2021
Case Law No: GIB-DHC-2021-07
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

A cigarette trader was visited by DGGI on 14.02.2021 and its stock was found in order. On 05.03.2021 another Commissionerate searched its premises on an authorisation of the Additional Commissioner, issued on a request by another office that wanted to know whether the firm, an L2 supplier of an entity under investigation, existed. Goods were detained and seized, and the trader challenged the search.

Final Verdict

The Court confined itself to whether the authorisation met the pre-requisites of Section 67(2) and held that the request was only to ascertain the existence of the firm, with **no independent application of mind and no reasons to believe on the part of the Additional Commissioner**, so the jurisdictional ingredients were absent. It said that search and seizure is an intrusive power to be used with utmost care, and that the legislature has ring-fenced it with "reasons to believe". Prescribed forms must be modified to show who is acting, and the Inspector's use of the form without change was noted.

The search and seizure were declared unlawful and the orders of seizure and prohibition were set aside. The seized goods and documents were to be released, with liberty to the officer to retain copies for further investigation.

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