

LOKPAL OF INDIA
Plot No.6, Institutional Area, Phase-II
Vasant Kunj, New Delhi - 110070

Complaint No. : 144/2023

Date : 24 January, 2024.

Coram : **Justice Abhilasha Kumari**
Judicial Member

Smt. Archana Ramasundaram
Member

Shri Mahender Singh
Member

ORDER

Perused the O.M. dated 01.01.2024 submitted by the CVC in compliance with the Full Bench of Lokpal's Order dated 17.07.2023, enclosing therewith a copy of the report of the Preliminary Inquiry conducted by the CVO, CBIC, Department of Revenue, Ministry of Finance.

2. The Full Bench of the Lokpal had perused and considered a complaint of corruption and mis-governance against the Commissioner, CGST, Gautam Buddha Nagar, Uttar Pradesh, during his tenure as ADG, DGGI, Ahmedabad (hereinafter referred as RPS). After having considered the said complaint against the RPS, the Full Bench of Lokpal had ordered that the complaint may be referred to the CVC for conducting a Preliminary Inquiry under Section 20(1)(a) of the Lokpal & Lokayuktas Act, 2013 and submitting a report within a period of six weeks i.e. on or before 31.08.2023. After seeking extension of time for submitting the report, the CVC has submitted the above-mentioned report of the Preliminary Inquiry conducted by the CVO, CBIC which is under consideration of this Division Bench.



3. We have carefully gone through the allegations levelled in the complaint against the RPS and the findings of the Preliminary Inquiry, conducted by the CVO, CBIC. The same are discussed in the following paras:-

(i) The complainant has alleged that *“there was a person namely Shri Hardik Panchaal, who was the mastermind of creating fake firms to pass on ineligible Input Tax Credit and created more than 500 fake firms in the jurisdiction of DGGI, Ahmedabad. To flourish this fake billing racket from DGGI, Ahmedabad jurisdiction and to provide a safe cover to him, Shri Hardik Panchaal used to give a hefty amount of Rs.10 crore per month to the RPS in lieu of not arresting him.”*

Findings of the Preliminary Inquiry:- The inquiry has revealed that the allegation that Shri Hardik Panchaal created more than 500 fake firms and that he used to give Rs.10 crore per month to the RPS are unsubstantiated as no documents/evidences have been submitted by the complainant to substantiate the allegation raised in the complaint.

(ii) The complainant has alleged that *“this episode between the RPS and Shri Hardik Panchaal continued for around 10-12 months and when it became common and the RPS was exposed in front of other hard-working and sincere officers of the Department, then a CPGRAM was filed against the RPS stating that with the help of some of his favorite officers, the RPS was not arresting one of the biggest bogus firms mastermind Shri Hardik Panchaal in lieu of favors towards the RPS in terms of hefty amount.*

When the matters were exposed and to safeguard his fake reputation, the RPS, with the help of his favorite officers, arrested Shri Hardik Panchaal within two days after CPGRAM and a press release was given by the RPS that they have arrested Shri Hardik Panchaal on the day of Raksha Bandhan. Arresting of Shri Panchaal was under

pressure and was the result of exposure of his nexus after filing of CPGRAM. The entire operation was a set-up in order to cover his tracks."

Findings of the Preliminary Inquiry:- The inquiry has revealed that the CPGRAM having Registration No. CBOEC/E/2021/03189 dated 15.06.2021 filed by Shri Ashok Mahendra Bidasaria, Bengaluru was received in DGGI, AZU on 22.07.2021. However, the authorization for arrest of Shri Hardik Panchaal had been approved by the RPS on 27.01.2021 itself i.e. within 2 months from the start of investigation. Further, efforts made by the DGGI, AZU to trace out Shri Hardik Panchaal culminated into his arrest on 23.08.2021. Hence, the allegation about helping Shri Hardik Panchaal to avoid his arrest till receipt of the CPGRAM is incorrect and baseless. Further, no documents/evidences have been submitted by the complainant to substantiate the allegations raised in the complaint.

(iii) The complainant has alleged that *"DGGI, Rajkot which was also headed by the RPS, initiated an investigation against one of the fake firm created by the mastermind Shri Hardik Panchaal namely M/s Kawad Construction, Proprietor, Shri Bholabhai Khimjibhai Kawad, Krushanagar, Street No.2, Udyognagar, Jam Nagar, Gujarat-361004 which supplied their 100% construction services to only M/s Reliance Industries but after that a person namely Shri Jai Patel approached the RPS in this regard and the investigation was thereafter stopped against M/s Reliance Industries after taking a simple submission that they have not availed the Input Tax Credit received in their GSTR-2A received from M/s Kawad Construction.*

Fact is that, M/s Kawad Construction is a set-up company of M/s Reliance Industries itself. M/s Reliance Industries submitted in their reply that they have received the services from M/s Kawad Construction but they have not availed the ITC received in their GSTR-2A from M/s

Kawad Construction. In lieu of the services received, M/s Reliance Industries made the hefty payments to M/s Kawad Construction and M/s Kawad Construction gives back that amount in cash to M/s Reliance Industries as they need cash to manage the RPS and other expenses. The RPS was involved in all above activity. In fact, Shri Bholabhai Khimjibhai Kawad, who was the planted proprietor of M/s Kawad Construction was arrested by the RPS to show his fake relevancy whereas Shri Jai Patel was the main person who runs M/s Kawad Construction, and was the key person of M/s Reliance Industries who manages all this game with the support of the RPS. During the arrest, in his statement, Shri Bholabhai Khimjibhai Kawad also stated clearly the name of Shri Jai Patel who looks after and manages all business activities of M/s Kawad Construction, despite this, the RPS neither arrested Shri Jai Patel nor opened any further investigation against M/s Reliance Industries. It is the matter of investigation and create clear doubt on the integrity of the RPS. What greed stopped him to conduct inquiry against M/s Reliance Industries? Has he checked what services were supplied? Whether the Eway bills has been checked? Whether cameras installed in premises of M/s Reliance Industries has been checked for the confirmation of services received from M/s Kawad Construction? How the RPS came to believe that M/s Reliance Industries would not avail the unutilized ITS in future?"

Findings of the Preliminary Inquiry:- The inquiry has revealed that that allegation that M/s Kawad Construction provides services only to M/s Reliance Industries is false and incorrect. Further, no legal action was warranted against M/s. Reliance Industries regarding the ITC availed by them as the same was availed/based on the actual supply of goods/services made by M/s Kawad Construction. Hence, the allegation that no investigation was initiated against M/s Reliance Industries by the RPS, the then ADG, DGGI, AZU, is unfounded and baseless.

The inquiry has further revealed that M/s Kawad Construction is functioning since 1996 as a Proprietorship firm, engaged in Works Contract Service and registered with Gujarat Commercial Tax Department since 2011. Accordingly, the allegation that it is a set-up company of M/s Reliance Industries is uncorroborated. Further, the allegation of hefty cash payments by M/s Reliance Industries to M/s Kawad Construction as they needed cash to manage the RPS is also unsubstantiated as no documents/evidences have been submitted by the complainant to substantiate the allegations, raised in the complaint.

The inquiry has further revealed that Shri Jay Patel was a middleman involved in passing fake/illicit ITC. Contrary to what the complainant has stated, Shri Jay Patel was neither the main person of M/s Reliance Industries nor the person who looked after and managed all the business activities of M/s Kawad Construction. Further, no documents/evidences have been submitted by the complainant to substantiate the allegations made by him. It is further reported by DGoV, AZU that Shri Jay Patel was arrested by DGGI, AZU on 26.07.2023.

(iv) The complainant has alleged *“that there are 3-4 units of Pan Masala, Tobacco in Ahmedabad. E-Way Bill checking of their vehicles on road was started in September, 2019 and when the Pan Masala firms faced issues to remove their Pan Masala goods clandestinely, they approached the RPS and fix their monthly payment with him. In lieu of that, the E-Way bill checking by DGGI, AZU officers was immediately restricted in the months of November, 2019. In the meantime, the RPS developed his relations with the Pan Masala firm and Pan Masala parties were often seen to visit his office personally. DGGI officers conducted a search on one of the major Pan Masala firm’s premises and around 20 Pan Masala machines were found missing which were removed one night before only and the party orally stated **“they were having information***



for team visit since 03 days”. What investigation was carried out against this? The RPS issued Show Cause Notice of Rs.250-300 crores against the Pan Masala firm and there was negligible recovery. When he had sufficient evidence of evasion then why the responsible person has not been arrested and given SCN thereafter? Further, how tax evasion of this magnitude amounting to Rs.250-300 crores was possible under his jurisdiction in Ahmedabad? What encouraged him to restrict officers not to check E-Way bill of vehicles on road just after 1-2 months of E-Way bill checking? During his tenure of four years, what encouraged him to not initiate such E-Way bill checking of vehicles by the officers?”

Findings of the Preliminary Inquiry:- The inquiry conducted by the CVO, CBIC has revealed that the E-Way bill verification plan was initiated in May, 2019 by the DGGI, AZU and not in September, 2019 as stated by the complainant. Moreover, the complainant has not submitted any evidence in relation to his allegation that the Pan Masala firms approached the RPS to fix their monthly payment with him as a result of which the E-Way bill checking was restricted in the month of November, 2019 and that the Pan Masala parties were often seen to visit the office of the RPS. The allegation that the E-Way bill checking was restricted in November, 2019 is also not substantiated by any evidence. Further, it is forthcoming from the case records that due to the absence of any direct evidence recovered from the alleged offenders and the cooperation extended by the alleged offenders, it was decided on the merits of the case that no arrests were warranted in the Pan Masala firm tax evasion case. Further, payment of tax dues/recovery prior to adjudication order is neither mandatory for the alleged tax evader nor for the Department. Hence, the allegation of small recoveries from the Pan Masala firm due to mala fide intentions is baseless and uncorroborated. Further, no documents/evidences have been submitted by the complainant to substantiate the allegations raised in the complaint that about 20 Pan Masala machines were removed one night before the DGGI search on the Pan Masala firm and the party already had information about the visit of DGGI team.

(v) The complainant has alleged that *“Mohd. Tata, resident of Bhav Nagar and one of the biggest mastermind on PAN level for creating fake firms and culprit of passing of Rs.1000 crore also flourished and nourished with the support of the RPS during his presence and tenure of ADG, DGGI, AZU and as soon as the RPS was transferred from DGGI, AZU, Mohd. Tata was arrested by the GST team immediately.”*

Findings of the Preliminary Inquiry:- The inquiry has revealed that the allegation of nexus of RPS with Shri Mohd. Tata is unsubstantiated and uncorroborated as no documents/evidences have been submitted by the complainant to substantiate the allegations raised in the complaint.

(vi) The complainant has further alleged that *“the RPS allocated all the investigations of Pan Masala and Tobacco cases to only one officer with whom he was in hand-in-glove in minting money and sharing the loot. Furthermore, the complainant has alleged that the RPS was having a nexus with another officer in his corrupt activities whom he wanted to retain even after his completing six years of deputation. The recommendation of the RPS was turned down by the Board. Even then, the RPS did not relieve him for 8-10 months and relieved him only after strict directions from the Board.”*

Findings of the Preliminary Inquiry:- The inquiry has revealed that the allegation that the RPS allocated all the cases of investigation of Pan Masala and Tobacco to only one officer is found to be incorrect as several other officers namely, Investigating Officers and SIOs were also handling different Pan Masala and Tobacco cases investigations. Further, no documents/evidences have been submitted by the complainant to substantiate the allegations raised in the complaint. Regarding retaining the named officer beyond the deputation period of five years, it is revealed that after completion of deputation period of

five years, the said officer was given extension of one year after receipt of NOC from the office of Pr. CCO, CGST, Ahmedabad as per the extant deputation policy. After completion of his tenure, the officer was later relieved on 14.09.2022. Hence, the allegation that special efforts were made by the RPS for the retention of this officer in DGGI, AZU due to mala fide intention is baseless and unsubstantiated. Further, no documents/evidences have been submitted by the complainant to substantiate the allegations raised in the complaint.

(vii) The complainant has further alleged “that after completing his tenure of ADG, DGGI, AZU, the RPS managed to get his transfer to G.B. Nagar Commissionerate. It has been alleged that the RPS got himself transferred to G.B. Nagar Commissionerate because the Pan Masala firm, whom he had helped by concluding the investigation and issuing the SCN but not arresting the owner and also helping them for clandestine removal of Pan Masala and Tobacco for years under his supervision in AZU, is also running a unit of Tobacco in the jurisdiction of G.B. Nagar Commissionerate.”

Findings of the Preliminary Inquiry:- The inquiry has found this allegation to be baseless and unsubstantiated as no documents/evidences have been submitted by the complainant to substantiate the allegations raised in the complaint.

4. CVO, CBIC has submitted that since the facts and all the available documents clearly indicate that the allegations made in the complaint are baseless, incorrect and unsubstantiated and further that the RPS has already retired on superannuation, his comments and statements were not felt necessary.

5. After having gone through the allegations levelled in the complaint and the findings of the Preliminary Inquiry, conducted by the CVO, CBIC and

submitted through the CVC, we find that none of the allegations levelled in the complaint have been substantiated. We are, therefore, inclined to accept the above-mentioned report of the CVO, CBIC submitted through the CVC and do not pass any further order.

5. Accordingly, the complaint is closed and stands disposed of.


(COURT MASTER)
LOKPAL OF INDIA