

**BEFORE THE COMMISSIONER OF STATE TAXES & EXCISE
HIMACHAL PRADESH**

Application No.01/2022-23
Date of Institution: 06.06.2022
Date of Order: 24-08-2022

In the matter of: -

M/s BL Seth Agro Mills Ltd.
Village Bumbloo, near RTO Barrier,
Hoshiarpur Road, Gagret, District Una
through its Director Smt. Veena Handa.

.....Applicant

Versus

1. Assistant Commissioner State Taxes & Excise,
Central Enforcement Zone, Una, HP
2. M/s UR Sinter Private Limited,
Village Bumbloo, near RTO Barrier,
Hoshiarpur Road, Gagret, District Una
through its CEO Vikram Seth.

..... Respondents

Present:

1. S/Shri Sardvinder Goyal and Sh. Nitin Kant Setia,
Advocates for the Applicant-M/s BL Seth Agro Mills Ltd.
2. S/Shri Sandeep Mandyal, Sr. Law Officer and Virender
Dutt Sharma, Assistant Commissioner State Taxes &
Excise, Central Enforcement Zone, Una, for the
Respondent No.1
3. Shri Vikram Kumar Seth, Chief Executive Officer M/s UR
Sinter Private Limited along with Sh. Nitin Kant Setia,
Advocate for the Respondent No.2.

ORDER

1. This order shall dispose of an Application filed by Smt. Veena Handa Director of M/s BL Seth Agro Mills Ltd. in compliance to



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the order dated 25.02.2022 passed by the Hon'ble High Court in CWP No. 7662/2021 titled as M/s BL Seth Agro Mills Ltd. Vs. State of HP & Ors.

2. The brief facts giving rise to the filing of the present Application are that M/s BL Seth Agro Mills Ltd. through its Director Smt. Veena Handa (hereinafter referred to as Applicant) has filed a Civil Writ Petition bearing No. 7662/2021 titled as "M/s BL Seth Agro Mills Ltd. Vs. State of HP & Ors." wherein the Applicant primarily prayed for the following relief(s):

"i) Writ of Mandamus directing the respondent no.3 to desal the premises and release of movable assets which were wrongly attached in attachment notice passed against M/s UR Sinter Pvt. Ltd.

ii) Writ for mandamus for conducting independent inquiry against the officers who has attached the property of the petitioner without verifying the factual and legal position and has not responded to the communication i.e. letters and representations made to the respondents."

And

Pass such or similar order as deem fit in the peculiar facts and circumstances of the case.

It is further prayed that to avoid fait accompli, pending disposal of present petition, the respondent may be directed to de-seal the premises sealed illegally. "

3. Thereafter, the Hon'ble High Court disposed of the above said writ petition vide its order dated 25.02.2022 wherein the Hon'ble High Court was pleased to pass the following directions:

"3. Considering that the Excise & Taxation Commissioner-respondent No.2 is already seized of the matter, and the grievance is against the action of respondent No.3, we require the petitioner to approach the Excise & Taxation Commissioner-respondent No.2 by an appropriate application, who shall, in turn, by inquiring into the correctness of the assertions made by the petitioner, pass



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an appropriate direction to release its property or otherwise, after affording an opportunity of hearing to the petitioner as well as to M/s UR Sinter Pvt. Ltd., as expeditiously as possible, but preferably within six weeks from the receipt of a copy of this order. Pending miscellaneous application(s), if any, shall also stand disposed of."

4. Thereafter, the Applicant filed the present application. The notices of this application were also issued to the Respondent-State Authorities as well as to M/s UR Sinter Pvt. Ltd.
5. It was contended on behalf of the Applicant that the Respondent-State Authority has locked the Applicant's firm despite the fact that the Applicant firm is not linked with the UR Sinter Pvt. Ltd. It was further contended that the sealing of the premises is violative of Article 300 A of the Constitution of India. It was further contended that the Respondent Authority has sealed the moveable assets including five cars despite the fact that the Registration Certificates of those vehicles are in the name of Applicant's firm.
6. Per contra, it was argued on behalf of the Respondent-State Authority that the Respondent has sealed the premises of M/s UR Sinter Pvt. Ltd. and the sign board affixed on the main gate is in the name of M/s UR Sinter and no sign board of any other firms is affixed in the premises in question. The present Application has been filed by the Director of M/s BL Seth Agro Mills Ltd. whereas some of the RCs of the vehicles are in the name of M/s BL Seth Steel Ltd. and other individual persons/firms. It was further contended that the Applicant nowhere stated/clarified that the M/s BL Seth Agro Mills Ltd. as well as the M/s BL Seth Steel Ltd. are the same. The Applicant firm has closed its business and is no longer in existence especially when no return has been filed after February, 2013



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and the TIN number of the Applicant firm has already been suspended on 04.09.2015 by the Assessing Authority. It was further contended that the factum of closure of business is established from the fact that the dealer has not migrated to the GST regime. During the course of proceeding the Respondent-State Authority has placed on record the certificate issued by the Sub-Divisional Assistant Engineer wherein the electricity meter was changed from M/s BL Seth Agro Mills Ltd. to M/s UR Sinter Pvt. Ltd. on 28.10.2016. It was contended that the electricity meter being installed in the name of M/s UR Sinter Pvt. Ltd clearly established that the premises are only in possession of M/s UR Sinter Pvt. Ltd and it was M/s UR Sinter Pvt. Ltd who was running the business in the premises and none else.

7. It was contended on behalf of M/s UR Sinter Pvt. Ltd that they are in a possession of only 14 kanals of land whereas the Respondents-State Authority has sealed the entire premises.
8. I have heard both the parties and inquired into the correctness of assertions made by the Applicant and examine the record pertaining to M/s BL Seth Agro Mills Ltd. as well as M/s UR Sinter Pvt. Ltd. with minutes details.
9. It was revealed from the record that before filing the application by the Applicant, M/s UR Sinter Pvt. Ltd. has earlier also filed writ petition bearing No. 5057/2021 titled as M/s UR Sinter Vs. State of HP & Ors. wherein M/s UR Sinter Pvt. Ltd. prayed for the following relief(s) amongst other:

"i) Issue the writ for certiorari for quashing the orders of sealing pertaining to the property of M/s UR Sinter Pvt. Ltd. Umesh Singh Pradeep Singh and others;



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- ii) Issue the writ for certiorari for quashing the orders of attachment of movable properties which does not pertain to M/s UR Sinter Pvt. Ltd.
- iii) Issue the writ for mandamus for conducting independent inquiry against Mr. Rakesh Bhartiya who is fix in gloves with the Assistant Commissioner and trying his level best to ruin the business of the petitioner which is apparent from the working and sealing process;
- iv) Issue Writ of mandamus for conducting the inquiry against the officers who are exercising their powers arbitrarily and also sealing the residential premises of other persons who has no link with M/s UR Sinter (P) Ltd."

10. The collateral reading of the averments made in CWP No. 5057/2021 titled as M/s UR Sinter Pvt. Ltd. Vs. State of HP & Ors vis-à-vis the writ petition filed by the Applicant revealed that the averments made in both the writ petitions and relief claimed thereto are identical. Not only this, M/s UR Sinter Pvt. Ltd in the writ petition No. 5057/2021 annexed (as annexure P-3) notice for attachment and sale of immovable/movable goods/ shares under section 79 which includes also the schedule for movable, immovable and shares (marked as Annexures 1,2 and 3 respectively). This schedule of movable property contains the stock of inventory which was attached in respect of M/s UR Sinter Pvt. Ltd.

11. Incidentally, the Applicant while filing the CWP No. 7662/2021 M/s BL Seth Agro Mills Ltd. has also annexed the same schedule containing the stock of inventory in the said writ petition. In other words, the subject matter i.e. list of inventories of movable properties involved in the writ petition filed by the M/s UR Sinter Pvt. Ltd. are same which are directly and substantially in issue in the writ petition filed by the Applicant firm.



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12. Significantly, the CWP filed by M/s UR Sinter Pvt. Ltd. was disposed of by the Hon'ble High Court vide its order dated September 15, 2021 wherein it was stated by the M/s UR Sinter Pvt. Ltd. that the NCLT Chandigarh has granted the stay in favour of them and as a result of which the writ petition filed by M/s UR Sinter has become infructuous. It is crystal clear from both the petitions that M/s UR Sinter Pvt. Ltd. has not arrayed M/s BL Seth Agro Mills Ltd as party in the Writ Petition no. 5057/2021 though the relief has been claimed even on behalf of M/S BL Seth Agro Mills Ltd. Similarly, M/s BL Seth Agro Mills Ltd. has also not arrayed M/s UR Sinter Pvt. Ltd as party in the CWP No. 7662/2021 filed by them, though relief has been claimed in favour of M/s UR Sinter Pvt. Ltd. It is evident from the record that the M/s UR Sinter initiated insolvency proceedings under Sections 10 and 65 of IBC before the NCLT Chandigarh and the Ld. Tribunal vide its order dated 15th September, 2021 ordered interim moratorium during the pendency of the main petition file by M/s UR Sinter Pvt. Ltd. under Section 10 of the IBC. The said proceedings are already pending before the NCLT Chandigarh.

13. Notably, the subject matter involved in the proceedings pending before the NCLT Chandigarh are directly and substantially in issue in the present proceedings especially when the list of inventory qua the movable properties are same and the Hon'ble Tribunal has already passed interim moratorium qua the insolvency proceedings initiated at the instance of M/s UR Sinter Pvt. Ltd.

14. As far as the premises are concerned, it is evident from the record that the Applicant firm has not filed any return after February, 2013 and its TIN No. was also suspended on



04.09.2015 and the Applicant firm admittedly has not migrated to the GST regime and the Applicant firm was reported to be closed since long time. Further the factum of closure of business have been admitted by M/s BL Seth Agro Mills Ltd. Further, it is evident from the record that there is only one main gate whereas sign board in the name of UR Sinter has been affixed and there is no other sign board of any other firm existed at the spot despite of the fact that as per revenue entry the land is joint. Furthermore, it is evident from the Jamabandi for the the year 2014-2015 of Up- Mohal ,Bumbloo that in the land comprised in Khewat No. 218/203 Khatauni No. 270/260 , a land comprised of share 10723 out of the total share of 32169, is in the name of Sh Vikram Seth, M/s BL Seth Agro Mills Ltd Notably, Sh. Vikram Seth ^{has} is also appeared as CEO of M/s U R Sinter before the Respondent Authorities and has also filed a Copy of the Board of Resolution in the present proceedings wherein Sh. Vikram Seth appeared as Authorized signatory on behalf of the M/s UR Sinter.

15. Not only this, during the course of present inquiry one certificate issued by the Electrical Sub- Division, HPSEBL, Gagret, H.P has been placed on record. It is evident from the said certificate that the electrical meter installed at the premises has been changed from M/s BL Seth Agro Mills Ltd. to M/s UR Sinter Pvt. Ltd on 28.10.2016 which clearly establishes the fact that the premises in question are operated by M/s UR Sinter Pvt. Ltd and none else.

16. As far as the release of vehicles are concerned, the Applicant firm has annexed the Registration Certificates of the



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sealed vehicles along with present application details of which mentioned hereunder:

Sr. No.	Registration No.	Type of vehicle	Owner
1	HP20G-4546	Motor Car	M/s Sumit Enterprises
2	HP20C-0478	Truck	Sh. Rajesh Kumar
3	PB09H-6504	Motor Car	M/s VS Traders
4	PB09H-5306	Motor Car	M/s BL Seth Steel Ltd.

It is evident from the above said list that none of the vehicles are registered in the name of M/s BL Seth Agro Mills Ltd. in as much as even the present application has been filed by the Applicant as Director of M/s BL Seth Agro Mills Ltd. whereas the registration certificate of the vehicle mentioned at Sr. No.4 is in the name of M/s BL Seth Steel Ltd. No document has been filed by the Applicant in order to show that the Applicant's firm as well as M/s BL Seth Steel Ltd. are the same or the Applicant is also the Director of M/s BL Seth Steel Ltd.

Significantly, the Respondent-State Authorities served a final notice dated 11.12.2020 qua the intimation of liability under Section 74(1) and (3) read with Section 67 under HPGST Act, 2017 wherein it was specifically mentioned that during investigation and after further investigation it was revealed that M/s UR Sinter purchased inward supply from M/s RS Traders, DK Trading Company, and Sumit Enterprises and



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the raw material i.e. Pig iron scrap MS round, hard coke were never purchased by UR Sinter suppliers and hence their sale was found to be fake and ITC so claimed was accordingly rejected.

17. The M/s UR Sinter Pvt. Ltd. thereafter filed a detailed reply on 19.12.2020 to the said notice wherein M/s UR Sinter Pvt. Ltd. specifically clarified that though the RCs/permit of the vehicles which were used for transportation stood cancelled but still the vehicles are in working conditions and M/s UR Sinter Pvt. Ltd. were using the same for the purpose of transportation. M/s UR Sinter Pvt. Ltd. specifically admitted in the said reply that M/s UR Sinter Pvt. Ltd. is still in possession of the vehicles which are lying at their premises and were being used on daily basis by M/s UR Sinter Pvt. Ltd. It is the specific case of the Respondent authority that they have only sealed the premises of the UR Sinter. Therefore, the admission made by the UR Sinter in their reply completely falsifies the stand taken by the Applicant in the present application.

In view of discussion made hereinabove especially the factum of pendency of insolvency proceedings initiated at the instance of M/S UR Sinter qua the same subject matter before the NCLT Chandigarh, I found no merit in the application and the same is liable to be dismissed and is accordingly dismissed. Let the copy of this order be supplied to all concerned. File after completion be consigned on record room.

Announced on 24th Day of August, 2022

**Commissioner of State Taxes & Excise
Himachal Pradesh**



Endst. No. STE/CoSTE-Reader/2022-23/26499-503 Dated: 24-08-2022

Copy for information and necessary action to:

1. M/s B.L. Seth Agro Pvt. Ltd. Village Bumbloo, near RTO Barrier, Hoshiarpur Road, Gagret, District Una through Advocate Shri Sardvinder.
2. M/s UR Sinter Pvt. Ltd. Village Bumbloo, near RTO Barrier, Hoshiarpur Road, Gagret, District Una through Advocate Shri Nitin Kant Setia.
3. The Jt. Commissioner ((State Taxes & Excise), Central Enforcement Zone, Una, HP.
4. Shri Sandeep Mandyal, Senior Law Officer, Legal Cell, HQ.
5. IT Cell.



Reader to the
Commissioner of State Taxes & Excise
Himachal Pradesh