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Advocate-Client Privilege No Bar To Investigating Advocate's Premises: Delhi High Court Upholds GST Search At Law Firm

The Hon'ble Delhi High Court in ***Puneet Batra v. Union of India & Ors. [W.P.(C) 11021/2025 dated September 18, 2026]*** dismissed the writ petition filed by an Advocate challenging the search conducted under Section 67(2) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) at the his premises, including his own cabin, and the consequential seizure of his CPU and documents, and held that once the premises stood validly authorised to be searched on recorded reasons to believe, the search cannot be declared unauthorised merely because one cabin therein was used by an Advocate, and that advocate-client privilege, which is a privilege of the client and not of the Advocate, cannot operate as an absolute bar against investigation into the Advocate's own conduct where the Department has placed *prima facie* material indicating that he may have acted beyond the role of a legal adviser and been involved in the affairs under investigation.

Facts:

Mr. Puneet Batra (**"the Petitioner"**), an Advocate, practises from the office of M/s Bass Legal LLP (**"Bass Legal"**), a tax consulting firm constituted by his father, comprising a staff hall and two cabins, one used by the Petitioner's father and the other by the Petitioner. M/s Matkarma Technology Pvt. Ltd. (**"MTPL"**), an online gaming company, engaged the Petitioner from June 2023 for GST, ROC, Income Tax, TDS, IPR and cyber-crime related work. According to the Petitioner, from October 2023 onwards MTPL took over its own compliances and he only extended legal assistance as and when required.

On September 04 and 05, 2024, the Anti-Evasion Branch, CGST Delhi East (**"the Respondent"**) searched the registered premises of MTPL, where the Petitioner acted as an authorised representative. On September 06, 2024, the Petitioner withdrew his *vakalatnama* citing non-responsiveness of MTPL. Thereafter, summons dated September 22, 2024, October 01, 2024, June 10, 2025 and June 19, 2025 were issued to him; he filed replies invoking professional privilege and ultimately appeared on June 27, 2025 and furnished his statement.

On July 25, 2025, pursuant to an authorisation dated July 24, 2025 issued by the Additional Commissioner, Anti-Evasion, CGST Delhi East under Section 67(2) of the CGST Act, the Respondent searched the premises of Bass Legal in the absence of the Petitioner. Loose documents relating to MTPL, the LLP Agreement and the supplementary agreement of Bass Legal were resumed, and the CPU (1250 GB) installed in the Petitioner's cabin was seized under GST INS-02, as recorded in the *panchnama* dated July 25, 2025. A summons for appearance on July 28, 2025 was also served. The Petitioner alleged that the officers compelled his father to disclose the password and accessed a computer containing privileged material of MTPL as well as of his other clients.

The Petitioner approached the Hon'ble High Court, which, by interim orders dated July 28, 2025, September 09, 2025 and November 13, 2025, directed that the CPU shall not be opened without the presence of the Petitioner, called upon the Respondent to place *prima facie* material regarding the Petitioner's personal involvement in a sealed cover, and prescribed detailed safeguards under which the CPU was cloned and examined in the presence of two Local Commissioners (IT officials of the Delhi High Court), counsel for the Petitioner and officers of the Respondent, with parsing at the DGGI-NFSU (MHA) Lab. The Local Commissioners recorded that the Petitioner declined to release even admitted MTPL e-mails citing privilege, and the disputed files were segregated in a folder titled "Dispute". The Petitioner also admitted that certain files were deleted from a remote location while the search was underway, and declined the Court's offer at the rebuttal stage to identify the files of his other clients so that they could be excluded.

The Petitioner contended that (i) production of material in a sealed cover was impermissible in view of ***Madhyamam Broadcasting Ltd. v. Union of India & Ors. [(2023) SCC OnLine SC 366]***; (ii) there was no authorisation to enter the premises of an Advocate and the material was protected by advocate-client privilege; (iii) no Show Cause Notice (**"the SCN"**) had been issued to MTPL; (iv) the Respondent had changed its stand, having earlier described one Mr. Suraj Kumar as the mastermind in the remand applications; (v) the procedure prescribed under Instruction No. 02/2022 dated August 17, 2022, the Master Circular on SCN, Adjudication and Recovery dated March 10, 2017 and Clause 16.24 of the CBI Manual, 2020 on seizure of digital evidence had not been followed; and (vi) no reasons to believe were recorded, and the Board Resolution of MTPL dated September 29, 2025 waiving privilege was subsequent to the search and could not validate it.

The Respondent contended that MTPL was one of several Indian entities created to route deposits of Indian users to offshore gambling websites such as winner11.com, having received approximately Rs. 1,306 crores on which GST at 28% aggregating to Rs. 365.68 crores was payable; that statements of employees and directors of MTPL disclosed that the Petitioner was deeply embedded in and instrumental in controlling its affairs and allegedly received 0.7% of every rupee deposited; that he had access to the website and to MTPL's bank account, generated invoices without supply, visited Hong Kong to meet the management of the website, threatened witnesses and remotely deleted data during the search; that the Petitioner's cabin formed an integral part of the authorised premises; that privilege does not extend to a participant in crime merely because he is a lawyer; and that Section 132 of the Bharatiya Sakshya Adhiniyam, 2023 (**"the BSA"**) itself contemplates waiver, which had occurred by the Board Resolution.

Issues:

- Whether the search conducted on July 25, 2025 at the premises of Bass Legal, including the cabin used by the Petitioner, and the consequential seizure of the CPU and documents, can be held to be unauthorised or illegal on the ground that the Petitioner is an Advocate and the material seized may contain communications protected by advocate-client privilege?

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- Whether the production of investigative material before the Court in a sealed cover, without furnishing copies to the Petitioner, is impermissible?
- Whether the absence of an SCN against MTPL affects the legality of the search or the summons issued to the Petitioner?
- Whether the subsequent attribution of an active role to the Petitioner amounts to a change of stand by the Respondent vitiating the proceedings?
- Whether alleged non-compliance with Instruction No. 02/2022, the Master Circular dated March 10, 2017 and Clause 16.24 of the CBI Manual, 2020 renders the search void ab initio?
- Whether the authorisation for search was issued after recording the requisite reasons to believe under Section 67(2) of the CGST Act?

Held:

The Hon’ble Delhi High Court in ***W.P.(C) 11021/2025*** held as under:

- **Observed that,** the premises searched were those of Bass Legal and the authorisation was for search of the said premises; the photographs and the Petitioner’s own letterhead established that his cabin is inside and part and parcel of the office of Bass Legal. On examining the reasons to believe recorded by the competent authority, the Court was satisfied that they disclosed a sufficient basis for authorising the search under Section 67(2) of the CGST Act, the satisfaction required at that stage not being a finding of guilt. Once the premises were validly authorised to be searched, the fact that one cabin therein was used by an Advocate would not, by itself, render the search of that cabin unauthorised.

- **Observed that,** advocate-client privilege attaches to the nature of the communication and the circumstances in which it came into existence, and does not follow merely because material is found in the office or possession of an Advocate; material relating to the independent affairs, transactions or activities of the Advocate himself cannot, merely by reason of its location, be placed beyond the reach of a lawful investigation. The privilege under Section 132 of the BSA is conferred for the protection of the client and is not a personal privilege of the Advocate, the Advocate's obligation of confidentiality being only a consequence thereof.

- **Noted that,** the Respondent had placed statements of various persons and material concerning the alleged financial benefit received by the Petitioner, his access to the affairs of MTPL and the admitted remote deletion of data during the search. Such material was considered only for the limited purpose of deciding whether the investigation could be interdicted altogether on the ground of privilege, and not as establishing guilt or liability; the fact of deletion, by itself, establishes no wrongdoing but is a circumstance the Respondent is entitled to examine.

- **Noted that,** the sealed cover comprised investigative material, including statements of persons examined, placed only to enable the Court to examine the basis of the investigation. Applying the principle underlying Section 192(5) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and Section 130 of the BSA, and the decisions in *Balakram v. State of Uttarakhand & Ors.* [2017 INSC 365] and *Sidharth v. State of Bihar* [(2005) 12 SCC 545], disclosure of investigative material during pendency of investigation cannot be directed as a matter of course; *Madhyamam Broadcasting Ltd.* (supra) was rendered in a different context and does not apply. Copies of the sealed cover material were accordingly not to be furnished at this stage.

- **Held that,** the absence of an SCN cannot render the search or summons illegal, as issuance of an SCN is a subsequent stage following investigation; there is no inconsistency in the Respondent's stand merely because the investigation, which is not static, subsequently brought forth material concerning the role of another person; and administrative instructions, the Master Circular and the CBI Manual may regulate the manner of exercise of the statutory power of search but cannot curtail or extinguish it, so that a procedural deviation, absent a demonstrated violation of a mandatory statutory requirement affecting the authorisation or jurisdiction, would not render the search void ab initio. The objection of no personal hearing before seizure was likewise rejected.

- **Held that,** the Board Resolution of MTPL dated September 29, 2025, by which the client expressly consented to handover of all its material including e-mail exchanges to the CGST authorities, cannot retrospectively validate the search but is relevant to record that, as on date, the client itself has consented to production of its material, which materially differs from a situation where an Advocate resists disclosure for want of client consent. Such consent, however, neither dispenses with the confidentiality owed to other clients nor authorises examination of unrelated third-party client data.

- **Held that,** the search of the premises of Bass Legal, including the Petitioner's cabin, was carried out pursuant to a valid authorisation under Section 67(2) of the CGST Act and cannot be held to be unauthorised merely because the Petitioner is an Advocate; privilege cannot operate as an absolute bar against an investigation into the conduct of the Advocate himself where *prima facie* material indicates that he may have acted beyond the role of a legal adviser. The Writ Petition was accordingly dismissed and the pending applications closed, with the interim orders vacated save the safeguards concerning examination and use of the seized data.

- **Directed that,** the Respondent shall, for further investigation, use only the cloned copy of the data prepared under the orders of the Court, shall confine its examination to material relevant to the investigation, and shall not open, access or examine the data of any other client of the Petitioner unrelated to MTPL, without prejudice to its liberty to seek appropriate orders should material of any other client become relevant. It was clarified that the judgment lays down no general proposition diluting advocate-client privilege or permitting unrestricted search of an Advocate's premises, the conclusion being confined to the peculiar facts where the Advocate's own role and conduct formed the subject matter of investigation. The prayer for stay of operation of the judgment for one week was declined.

Our Comments:

Section 67(2) of the CGST Act empowers the proper officer, not below the rank of Joint Commissioner, who has reasons to believe that any goods liable to confiscation or any documents, books or things useful for or relevant to any proceedings are secreted in any place, to authorise in writing any officer to search and seize such goods, documents, books or things. The provision contains no carve-out for the premises of an Advocate or a professional; the only jurisdictional preconditions are the rank of the authorising officer and the existence of recorded reasons to believe. The Hon'ble Delhi High Court has, consistent with its earlier line of decisions on Section 67, confined its review to whether material existed on which the satisfaction could have been reached, and declined to test the sufficiency of that material as an appellate authority would. The judgment also reiterates the settled position that CBIC Instructions (including Instruction No. 02/2022-23 dated August 17, 2022 on issuance of summons and Instruction No. 01/2020-21 dated February 02, 2021 on conduct of search) and the Master Circular No. 1053/02/2017-CX dated March 10, 2017 are directory guidance on the manner of exercise of statutory power; their breach may attract departmental consequences but does not, by itself, invalidate a search backed by a valid authorisation.

Section 132 of the BSA (corresponding to Section 126 of the Indian Evidence Act, 1872) prohibits an Advocate from disclosing, without the express consent of his client, any communication made to him in the course and for the purpose of his engagement, the contents of any document with which he became acquainted in such course, or any advice given. The two provisos carve out (i) communications made in furtherance of any illegal purpose and (ii) any fact observed by the Advocate in the course of his engagement showing that a crime or fraud has been committed since the commencement of the engagement. The Court's reasoning that the privilege belongs to the client, that it attaches to the character of the communication and not to the physical location of the material, and that it cannot immunise the Advocate's own commercial dealings, is a faithful application of this scheme. Notably, the Court did not rest its conclusion on the "crime-fraud" proviso as a finding of fact; it proceeded on the narrower footing that *prima facie* material justified investigation into the Advocate's own role, leaving admissibility and probative value to be determined at the appropriate stage.

The decision must be read together with the ruling of the Hon'ble Supreme Court in *In Re: Summoning Advocates who give legal opinion or represent parties during investigation of cases and related issues* [Suo Motu W.P. (Crl.) No. 2/2025, 2025 INSC 1275, dated October 31, 2025], which the Hon'ble High Court had itself flagged for consideration in its order dated November 13, 2025. The Hon'ble Supreme Court held that Sections 132 to 134 of the BSA confer an immunity on both the client and the Advocate, that an investigating officer cannot summon an Advocate merely for having represented or advised a client, that summons may issue only where the case falls within the statutory exceptions and with prior written approval of a superior officer amenable to judicial review, and that a client's own documents lying with the Advocate are not themselves privileged, though objections to their production are to be decided by the Court and not by the investigating officer. The present judgment is not in conflict with that ruling; rather, it occupies the space expressly reserved by the Hon'ble Supreme Court for the "occasional black sheep", where the allegation is not that the Advocate advised or represented the client but that he was a participant in and beneficiary of the transactions under scrutiny. Equally, the detailed protocol adopted by the Hon'ble High Court for the CPU (examination only in the presence of the Advocate and Court-appointed Local

Commissioners, cloning with hash-value certification, identification of client-specific files and segregation of disputed material) operationalises the Hon'ble Supreme Court's insistence that access to an Advocate's digital devices must be Court-supervised and confined to the matter under investigation.

On the sealed-cover question, the Hon'ble Supreme Court in *Madhyamam Broadcasting Ltd. v. Union of India & Ors.* [(2023) SCC OnLine SC 366] had deprecated routine reliance on sealed-cover material in adjudicatory proceedings as offending natural justice and prescribed a structured proportionality enquiry before public interest immunity is claimed. The Hon'ble Delhi High Court distinguished that decision on the ground that the material here comprised the record of a live investigation, examined only to test whether a basis for the investigation existed and not for any adjudication of liability, and drew support from the case-diary jurisprudence in *Balakram* (supra) and *Sidharth* (supra). Taxpayers facing similar situations should note the consequence: where the challenge is to the very initiation of an investigation, the Court may examine the Department's file and witness statements without sharing them, and the assessee's remedy lies in demonstrating the absence of jurisdictional facts rather than in contesting the credibility of the withheld material. Where, however, the sealed-cover material is sought to be used to fasten liability at the adjudication or appellate stage, *Madhyamam Broadcasting Ltd.* (supra) would continue to govern and copies would have to be furnished.

Two aspects of the judgment merit particular attention from a practitioner's standpoint.

First, the Court expressly declined to lay down any general proposition that an Advocate's office may be searched or his devices opened as a matter of course; the caution issued in the order dated September 09, 2025, that an Advocate's computer ought not to be opened without his presence save in exceptional circumstances and subject to Court orders, survives the dismissal of the petition.

Second, the Court treated the Petitioner's admitted remote deletion of files during the search and his refusal to identify and segregate third-party client data as circumstances which weighed against him. Professionals whose premises are searched would therefore be well advised to insist on presence during any access to electronic devices, to seek immediate cloning and hash certification, to cooperate in identification of the material of the client under investigation, and to preserve rather than remove data, since the protection of privilege for genuine client communications is strengthened, not weakened, by such conduct. The Board Resolution of the client waiving confidentiality, though held incapable of validating the search retrospectively, illustrates that once the client itself consents, the Advocate has no independent standing to withhold that client's material.

Given that the Hon'ble High Court declined to stay the operation of its judgment, the matter is likely to travel to the Hon'ble Supreme Court, and the interplay between Section 67 of the CGST Act and the immunity recognised in *In Re: Summoning Advocates* (supra) in the context of searches, as distinct from summons, may receive authoritative consideration.

Until then, the position emerging from this judgment is that the status of an Advocate neither immunises the premises from a validly authorised search nor places beyond investigation the Advocate's own role in the affairs of a client, while genuinely privileged communications and the data of unconnected clients continue to enjoy protection through Court-supervised safeguards.

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