

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 25TH DAY OF JANUARY, 2021

BEFORE

THE HON' BLE MR. JUSTICE ASHOK S. KINAGI

WRIT PETITION No.148059/2020 (T-RES)

PETITIONER

M/S ZEENATH TRANSPORT COMPANY
NO.24, MAIN ROAD, COWL BAZAAR,
BALLARI-583104, KARNATAKA,
(REPRESENTED BY SYED AHMED,
MANAGING PARTNER,
AGED ABOUT: 64 YEARS,
S/O SYED ABDUL THWAB.)

(BY SRI. V.RAGHURAMAN AND SHASHANK S. HEGDE, ADVS.)

Vs

RESPONDENTS

1. PRINCIPAL ADDITIONAL DIRECTOR GENERAL
DIRECTORATE GENERAL OF GST INTELLIGENCE,
BENGALURU ZONAL UNIT,
#112, K.H. ROAD, S.P. ENCLAVE,
ADJ. TO KARNATAKA BANK,
BENGALURU-560027.

2. PRINCIPAL ADDITIONAL DIRECTOR GENERAL
DIRECTORATE GENERAL OF GST INTELLIGENCE,
MUMBAI ZONAL UNIT,
3RD FLOOR, NTC HOUSE, 15,
N.M. ROAD, BALLARD ESTATE,
MUMBAI-400001.

3. CENTRAL BOARD OF
INDIRECT TAXES AND CUSTOMS,
NORTH BLOCK,
NEW DELHI-110001.
REPRESENTED BY ITS CHAIRMAN.

4. UNION OF INDIA
MINISTRY OF FINANCE,
REPRESENTED BY SECRETARY,
NORTH BLOCK,
NEW DELHI-110001.



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(SKL.M.B.KANAVL ADV. ACCEPTS NOTICE FOR R1 TO R4)

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Whereas, a Writ Petition filed by the above named petitioner under Articles 226 & 227 of the Constitution of India, has been registered by this Court.

READ: The interim prayer, praying to grant the following interim reliefs:

- a) For the reasons already submitted, the petitioner humbly prays that this Honourable Court may be pleased to stay the operation of the impugned show cause notice SCN 47/2020-21 dated:09.07.2020 enclosed as (Annexure-B) issued by the respondent no.1.
- b) Stay the operation of Notification No.2/2017-CT enclosed as (Annexure-C) dated:19.06.2017 issued by respondent 3.
- c) Stay the operation of Notification no.14/2017-CT enclosed as (Annexure-D) dated:01.07.2017 issued by the respondent no.3 to the extent of appointment of officers of DGGST as 'Central Tax Officers' having jurisdiction throughout the territory of India.
- d) Stay the operation of the Notification No.22/2014-ST enclosed as (Annexure-E) dated:16.09.2014 issued by the respondent No.3 to the extent of appointment of officers of DGCEI as 'Central Excise Officers' having all India jurisdiction.

After hearing, the Court made the following:

ORDER

"Sri. M.B. Kanavi, learned counsel accepts notice for respondent Nos.1 to 4.

Heard the learned counsel for the petitioner.

The petitioner is challenging the constitutional validity of Section 174 Central Goods and Services Tax Act, 2017 is ultra virus the constitutional (101st) Amendment Act 2016 being violative of Article 14/19/265 of the Constitutional of India and also sought for quashing the show cause notice dated 09.07.2020.

Learned counsel appearing for the petitioner submits that similar issue is pending before Hon'ble Apex Court in SLP No.(C) 37236/2017. The Hon'ble Apex Court has granted the interim order for payment of service tax of the grant of Mining lease/Royalty by the petitioner.

Following the interim order passed by Hon'ble Apex Court the Gujarat High Court has also passed the interim order regarding payment of service tax for grant of Mining Lease /Royalty by the member of petitioner's Society subject to petitioner filing of an undertaking.



His submission is placed on record and perused the order passed by the Hon'ble Apex Court as well as the order passed by the Gujarat High Court.

In the light of discussion made above, the petitioner has been made out ground for granting of interim order. It is ordered that until further orders, payment of service tax for grant of Mining Lease/Royalty shall remain stayed subject to petitioner filing of the undertaking before this Court that in case, if the petitioner did not succeed in the petition, the petitioner would discharge the obligation for payment of service tax on the royalty.

The petitioner has filed I.A.No.1/2020 seeking dispensation of production of certified copy of Annexure-A, C, D and E.

Accepting the reasons assigned in I.A.NO.1/2020, production of certified copy of Annexure A, C, D and E is dispensed for a period of 8 weeks."

Sd/-
Judge

//COPY//

[Handwritten Signature]
ASSISTANT REGISTRAR

RS-01.02.2021

- a) The date on which the application was made
..... 27/11/24
- b) The date on which charges and additional charges. If any, are called for.....
- c) The date on which charges and additional charges, if any are deposited /Paid.....
- d) The date on which the copies ready... 3/2/24
- e) The date of notifying the copy is ready for delivery.....
- f) The Date on which the applicant is required to appear on before.....
- g) The date on which copy is delivered to the applicant.....
- h) Examined by..... *[Handwritten Signature]* 4/2/24



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