


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 19636/2023

M/s Apar Fragrances

----Petitioner

Versus

Union Of India

----Respondent

For Petitioner(s)	:	Mr.Amit Malani with Mr.Akshay Sharma
For Respondent(s)	:	Major RP Singh, AAG with Mr.Jaivardhan Singh Mr.RD Rastogi, ASG with Mr.CS Sinha & Mr.Devesh Yadav Mr.Ajay Shukla

HON'BLE MR. JUSTICE ARUN BHANSALI
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

18/12/2023

1. Learned counsel for the petitioner, inter-alia, submitted that the authority, while passing the order dated 16th August, 2023 (Annexure – 10), has only looked at form GSTR - 2A of the supplier and has not taken into consideration the plea, raised by the petitioner, as reflected in the response, regarding having paid the amount to the supplier through banking channel.
2. Submissions have been made that Calcutta High Court in MAT 1218/2023 : *Suncraft Energy Private Limited & Anr. Vs. The Assistant Commissioner, State Tax Ballygunge Charge & Ors.*, decided on 02nd August, 2023, in similar circumstances, has come to the conclusion that without following the norms wherein press release has been issued by the respondents requiring to establish the fact about missing dealer, closer of business by the supplier or

supplier not having adequate asset, could not have passed the order impugned.

3. Advance copy of the petition has been served on learned counsel for the respondents, who pray for time, however, submissions have been made that the petitioner has an adequate alternative remedy by way of appeal against the order impugned. Therefore, the petition may not be entertained by the Court.

4. In view of the submissions made by learned counsel for the petitioner and on perusal of the order impugned, passed by the authority, the matter requires consideration.

5. Issue notice. Issue notice of the stay application as well.

6. As the respondents are represented through their counsel, notice need not to be issued.

7. Learned counsel for the respondents are directed to file reply to the petition on or before the next date of hearing.

8. Let this petition be listed on 07th February, 2024.

9. In the meanwhile and till further order, further recovery from the petitioner, pursuant to the order dated 16th August, 2023 (Annexure - 10) shall remain stayed.

10. As interim order, in favour of the petitioner, has been passed in the presence of learned counsel for the respondents, they would be free to file an application seeking vacation of interim order after filing reply to the petition.

(ASHUTOSH KUMAR),J

(ARUN BHANSALI),J