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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8183/2018 & CM APPL. 31317-18/2018

BAGADIYA BROTHERS PVT. LTD.

..... Petitioner

Through: Mr. Alok Krishna Agarwal and
Mr. Mayank Bughani, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Sanjeev Narula, CGSC with
Mr. Abhishek Ghai, Advocate for
UOI.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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06.08.2018

Petitioner complains that the Goods and Services Tax Council which considered its contentions that the Integrated Goods and Services Tax (IGST) is applicable for its commercial activities, has given an opaque ruling which is not decisive in any manner whatsoever.

The petitioner is registered under GST Regime and is involved in iron export business. It was recipient of services by suppliers at Paradip Port Trust, Odisha on which 9% CGST and 9% SGST is levied upon its supplies. Relying on Section 7 of the IGST Act, it emphasises that the locale of its supply and the locations of the supplier are at different States, the supplies are to be treated as those undertaken in the course of inter-state trade or commerce. So emphasising it is stated that IGST is applicable and that the determination of the place of service supplier is to be in terms of

Section 12 of the Customs Act, 1962.

Learned counsel for the Revenue, who appears on advance notice, urges that the pleadings nowhere reflect that this Court has territorial jurisdiction to enter into controversy and adjudicate on merits. It is submitted that as to the petitioner's claim of applicability of IGST Act or otherwise the most appropriate course would be to allow the concerned GST Officer to adjudicate on merits.

Having regard to the nature of the grievances articulated in these proceedings and further keeping in mind the petitioner's grievance that unless its concerns are properly dealt with or adjudicated, it is likely to lose substantial amounts on account of the impending finality with respect to the refund claimed (the last date mandated for the purpose is 30.09.2018), the Court is of the opinion that in case the petitioner urges these along with any other contention before the concerned GST Officer, he should while ruling upon them deal with all arguments and ensure that the assessments are complete before that date i.e. 30.09.2018.

The writ petition is disposed of in terms of the above directions. Pending applications stand disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 06, 2018

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