IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO. 3070 OF 2019

M/s. Akshar Developers .. Petitioner.
v/s.
City and Industrial Development
Corporation of Maharashtra Ltd.,
& Others .. Respondents.

Ms. Ritika Agarwal with Mr. Salman Balbate, for the Petitioner.
Mr. B. B. Sharma, for Respondent No.1.
Mr. Pradeep S. Jetly with Mr. J. B. Mishra, for Respondent Nos. 2 to 4.
Ms. Shruti D. Vyas, 'B' Panel Counsel for Respondent No.5-State.

CORAM: M.S.SANKLECHA &
NITIN JAMDAR, JJ.
DATE : 16th OCTOBER, 2019.

P.C:-

This Petition under Article 226 of the Constitution of India, seeks a refund of the amount paid as Goods & Services Tax (GST), comprising of the Central Goods & Service Tax (CGST) and the State Goods & Service Tax (SGST) [SGST Act]. The amount of which refund is sought from the Revenue, is in respect of the amounts paid as GST to the City Industrial & Development Corporation Ltd., (CIDCO) in respect of additional lease premium paid for change of user of land and extension of time limit to construct thereon. It is undisputed that CIDCO on collection of the amount from the Petitioner had paid over the same to the Respondent-Revenue under the GST Act as GST.

2 After the Petition was heard for some time, Ms. Agarwal, on instructions, seeks to withdraw this Petition with liberty to make appropriate application for refund under Section 54 of the GST Act. However, she states that, time limit provided under Section 54 of the Act to claim a refund is two years from the relevant date which has been defined in Explanation to Section 54 of the GST Act as the date of receipt of goods & service by the person claiming such refund. In this case, the Petitioner had admittedly received service from CIDCO on 1st June, 2017. Therefore, a refund claimed now before the authority under the Act, would be time barred.

3 However, we note that this Petition was filed in May, 2018. Therefore, the time spent from May, 2018 till today, be excluded by the Authority to whom the refund application is made for considering the issue of time bar. This direction is being given by us as the Petitioner was bona fide prosecuting this Petition, seeking refund of an amount paid under the GST Act. If after exclusion of the above period, the Petitioner's refund application under Section 54 of the Act is within the prescribed period, then it would be decided by the Authority on its own merits.

4 Accordingly, **Writ Petition disposed of** as **withdrawn** with the above directions.

(NITIN JAMDAR,J.) **(M.S.SANKLECHA,J.)**