IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1842 of 2019

Getty Images Media India Pvt. Ltd. & Anr. .. Petitioners

v/s.

Deputy Commissioner of Central Goods and Service Tax and Anr. .. Respondents

Mr. Nikhil Sakhardande a/w Ms. Sonali Mathur and Nafisa Khandeparkar i/b AZB and Partners for the petitioners
Mr. Pradeep Jetly a/w Mr. J.B. Mishra for the respondents

CORAM : M.S. SANKLECHA &
NITIN JAMDAR, J.J.

DATED : 7th NOVEMBER, 2019

P.C.

1. This petition under Article 226 of the Constitution of India challenges recovery notices issued to the petitioners in respect of the alleged non-payment of service tax dues under the Finance Act, 1994. The alleged dues of service tax are of respondent no.4 M/s. Photolibrary India Pvt. Ltd. consequent to the order dated 17th May, 2017 passed by the Commissioner of Service Tax. Besides, the petitioners have also challenged the Garnishee Notice issued by the respondent no.1 i.e. Deputy Commissioner of Central Excise to respondent no.3 HSBC Bank in respect of the petitioner's bank

account for the alleged dues of respondent no.4.

2. It is the case of the petitioners that they are in no way concerned with the respondent no.4 M/s. Photolibrary India Pvt. Ltd. by whom alleged dues of service tax are payable. Thus, the proceedings of recovery of third party from the petitioners is completely without jurisdiction.

3. On the other hand, it is the case of the respondent nos. 1 i.e. the Deputy Commissioner of Service Tax that respondent no.4 M/s. Photolibrary India Pvt. Ltd. had passed a Board Resolution on 29th March, 2011, which *inter alia* provides that the petitioners would be liable for the tax liabilities of respondent no.4 - M/s. Photolibrary India Pvt. Ltd. It is on the basis of the above and in the belief that by virtue of take over of companies in Australia it is the petitioners, who are liable for the dues of respondent no.4.

4. The petitioners dispute the stand of the respondents. Therefore, the issue would requires determination of facts and thereafter application of the appropriate law.

5. It is an agreed position between the parties that given the above facts and the nature of the dispute between the parties, it would be best adjudicated upon by the Commissioner of CGST and CE, Mumbai Central Commissionerate. This adjudication by the Commissioner of CGST and CE, Mumbai Central would be on the basis that the impugned communications dated 6th February, 2018, 13th March, 2018, 10th April, 2019, 17th July, 2018 and 4th January, 2019 issued by respondent no.1 – Deputy Commissioner of Service Tax would be construed as show-cause notices to the petitioners. The petitioners would file its representation / reply to the show-cause notices i.e. the impugned communications herein within a period of 15 days from today. The Commissioner of CGST and CE would pass an appropriate order on the representation by following due process of law including the principles of natural nustice.

6. Needless to state the Commissioner of CGST and CE would decide the dispute as expeditiously as possible. If the order of the Commissioner of CGST and CE is adverse to the petitioners then, the respondent nos. 1 and 2 will not act upon the same for a period of 2 weeks from the date of communication of the adjudication order to

the petitioners herein. The ad-interim relief granted on 6th May, 2019 in this petition would continue till such time as the Commissioner of CGST and CE passes an order on the representation filed by the petitioners and for a period of 2 weeks thereafter.

7. The petition is disposed of in the above terms.

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